



09-09666

DALLAS COUNTY CIVIL DISTRICT COURT COVER SHEET

FILED

298th-M

STYLED _ "Chase" Douglas Fonteno and Hilton Head Properties, Inc. v. Michael R. Davis

This Civil Cover Sheet must be completed, filed and served with every petition. The information should be the best available at the time of filing, understanding that the information may change before trial. This information does not constitute a discovery request, response, or supplementation, and is not admissible at trial. Check (✓) all applicable boxes. CO., TEXAS

Plaintiff(s) "Chase" Douglas Fonteno and Hilton Head Properties, Inc. Attorney for Plaintiff(s) Eric C. Wood State Bar No. 24037737037737 Scheef & Stone, LLP 500 N. Akard, Suite 2700 Dallas, TX 75201 214.706.4200 Phone 214.706.4242 Fax E-mail _Eric.Wood@solidcounsel.com	Defendant(s) (list separately) Michael R. Davis
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PARTIES MUST CHECK ONE CASE TYPE AND MAY CHECK ONE SUB-TOPIC

<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Code Violations <input type="checkbox"/> Condemnation <input type="checkbox"/> Construction <input type="checkbox"/> Construction <input type="checkbox"/> Debt/Contract <input checked="" type="checkbox"/> Defamation <input type="checkbox"/> Other Commercial Dispute <input type="checkbox"/> Antitrust/Unfair Comp <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Franchise <input type="checkbox"/> Fraud/Misrep <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Non-Competes <input type="checkbox"/> Partnership <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other Commercial <input type="checkbox"/> Discipline <input type="checkbox"/> Discovery <input type="checkbox"/> Rule 202 Depositions <input type="checkbox"/> Commissions <input type="checkbox"/> Subpoena <input type="checkbox"/> Letters Rogatory <input type="checkbox"/> Other Discovery <input type="checkbox"/> Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation	<input type="checkbox"/> Termination <input type="checkbox"/> Other Employment <input type="checkbox"/> Foreclosure <input type="checkbox"/> R 736 <input type="checkbox"/> Other than R 736 <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Insurance <input type="checkbox"/> Mass Tort/MDL/Rule 11 <input type="checkbox"/> Asbestos <input type="checkbox"/> Baycol <input type="checkbox"/> Breast Implant <input type="checkbox"/> Firestone <input type="checkbox"/> Phen-Fen <input type="checkbox"/> Silica <input type="checkbox"/> Other Multi-Party <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Other Personal Injury <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Product <input type="checkbox"/> Premises <input type="checkbox"/> Other Personal Injury <input type="checkbox"/> Name Change <input type="checkbox"/> Post-Judgment <input type="checkbox"/> Professional Liability <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Med/Mal <input type="checkbox"/> Other Prof. Liab. <input type="checkbox"/> Property	<input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass/Try Title <input type="checkbox"/> Other Property <input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Tax Land Bank <input type="checkbox"/> Tax Personal <input type="checkbox"/> Tax Real <input type="checkbox"/> Workers Comp <input type="checkbox"/> Other ADDITIONAL SUB-TOPICS <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Discovery <input type="checkbox"/> Class Action <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Severance <input type="checkbox"/> TRO/Injunction <input type="checkbox"/> Turnover
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DISCOVERY LEVEL

Level 1

Level 2

Level 3

Local Rule 1.08 Certification (Must be completed and signed)

✓ This case is not subject to transfer pursuant to Local Rule 1.07, or
This case is related to another case filed or disposed of in Dallas County:
Court: _____ Style: _____ Case No. _____

Attorney's Signature

CAUSE NO.

09-09666

"CHASE" DOUGLAS FONTENO and
HILTON HEAD PROPERTIES, INC.

Plaintiffs,

v.

MICHAEL R. DAVIS

Defendant.

IN THE DISTRICT COURT

DAVID J. JENNINGS
CLERK OF DISTRICT COURT
DALLAS COUNTY, TEXAS

298th-M DEPUTY
JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

Plaintiffs "Chase" Douglas Fonteno ("Fonteno") and Hilton Head Properties, Inc. ("Hilton Head") (collectively "Plaintiffs"), file this original petition against Defendant Michael R. Davis ("Davis") and respectfully shows the Court as follows:

I.

DISCOVERY LEVEL

1. Discovery in this case is intended to be conducted under Level 2 of Rule 190.3 of the Texas Rules of Civil Procedure.

II.

PARTIES

2. Fonteno is an individual residing in Texas, whose business address is 400 N St. Paul, 14th Floor, Dallas, Texas 75201.

3. Hilton Head is a Colorado corporation doing business in Texas, with its principal place of business located at 400 N St. Paul, 14th Floor, Dallas, Texas 75201.

4. Davis is an individual residing in Texas and may be served with process at: 511 W. Ave A, Garland, Texas 75040, or 1701 Russell Drive, Garland, Texas 75040, or wherever he may be found.

III.

VENUE

5. Venue is proper in Dallas County, Texas, pursuant to Section 15.002 of the Texas Civil Practice and Remedies Code in that Dallas County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

IV.

BACKGROUND FACTS

6. Fonteno is the President and CEO of Hilton Head, a real estate investment company based in Dallas, Texas.

7. Hilton Head's mission is to locate, acquire, invest in and re-sell properties that need specialized help as well as assist others in learning how to profit in this area of the market and in the process, place properties which need help, into the hands of those wanting to own a home, but never thought they would. Additionally Hilton Head provides investors with an opportunity to obtain higher yields with security by seeking distressed properties at significant discounts and reselling after such properties are converted back into well operated income properties.

8. Davis is not a current employee of Hilton Head. However, Davis was employed in late 2008 and early 2009 as an executive for Sterling Partners, LLC ("Sterling"), and he performed some contract work for Hilton Head. Sterling has a working relationship with Hilton Head on many investment opportunities. Further, Davis and Sterling had offices in Hilton Head's offices. As such, Davis had a close working relationship with Fonteno for several months and direct access to Fonteno's and Hilton Head's financial information, tax ID's, account numbers, and other private information.

9. On or about May 17, 2009, when Fonteno announced that Hilton Head was hiring Bob Young as CFO, Davis became nervous and started not showing up for work and unexpectedly quit working for Sterling. Within a day of leaving Sterling's employ, Davis began a campaign to smear Fonteno's reputation.

10. Upon information and belief, Davis has contacted Fonteno's friends, family, directors, investors, existing and prospective business contacts, current and former employees of Hilton Head, shareholders and even Fonteno's girlfriend, making serious false, defamatory and disparaging statements about Plaintiffs' background, ethics, business practices, historical facts, sexual preferences and more. In addition, upon information and belief, Davis has posted such seriously false, defamatory and disparaging statements about Plaintiffs on internet websites such as www.ripoffreport.com, www.twitter.com, www.thedirt.com, and many others.

11. Davis's false, defamatory and disparaging statements were made maliciously and with the express intent of causing injury to Plaintiffs.

V.

DEFAMATION

12. Plaintiffs incorporate by reference the allegations contained in paragraphs 6-11 above.

13. Davis published false, malicious, and defamatory statements about Plaintiffs' background, ethics, business practices, historical facts, sexual preferences and more.

14. Fonteno is not a public person, public official or public figure.

15. Hilton Head is a private investment company.

16. Davis's statements were intended to (a) injure Plaintiffs' reputation and expose them to public hatred, contempt or ridicule, and/or to cause financial injury, or (b) to impeach Plaintiffs' honesty, integrity, virtue or reputation.

17. Davis is aware that Hilton Head is currently going through the largest capital raising effort in its history through a public debt offering on its subsidiary, Hilton Head Finance, and Davis is, *inter alia*, trying to damage that effort.

18. Davis's statements were published without privilege or excuse.

19. Davis's publication of the statements was made with knowledge that the statements were false or with reckless disregard of whether they were true or not, or alternatively, was made negligently.

20. In addition, Davis's statements constitute defamation *per se* since the statements were intended to injure Fonteno in his profession and occupation and Hilton Head in its ongoing business. Thus, Davis is strictly liable to Plaintiffs for their damages.

21. As a result of Davis's actions, Plaintiffs have been damaged in an amount in excess of the minimum jurisdictional limits of this Court, for which they now sue.

VI.

BUSINESS DISPARAGEMENT

22. Plaintiffs incorporate by reference the allegations contained in paragraphs 6-21 above.

23. The above-mentioned statements about Plaintiffs were published by Davis. The statements are false. Davis acted maliciously in publishing the statements. Davis acted without privilege and excuse. Davis's actions proximately resulted in damages to Plaintiffs.

24. As a result of Davis's actions, Plaintiffs have been damaged in an amount in excess of the minimum jurisdictional limits of this Court, for which they now sue.

VII.

TORTIOUS INTERFERENCE WITH EXISTING AND/OR PROSPECTIVE BUSINESS RELATIONSHIPS

25. Plaintiffs incorporate by reference the allegations contained in paragraphs 6-24 above.

26. Plaintiffs have existing business relationships with third parties. Davis's actions willfully and intentionally interfered with Plaintiffs' existing business relationships and proximately caused Plaintiffs to suffer injury.

27. In addition, Plaintiffs can show that they would have entered into additional business relationships with third parties but for the willful and intentional actions of Davis, which have proximately caused Plaintiffs to suffer injury.

28. As a result of Davis's actions, Plaintiffs have been damaged in an amount in excess of the minimum jurisdictional limits of this Court, for which they now sue.

VIII.

EXEMPLARY DAMAGES

29. Plaintiffs incorporate by reference the allegations contained in paragraphs 6-28 above.

30. Davis's actions as alleged above were malicious in that Davis acted with specific intent and design to injure Plaintiffs. Accordingly, Plaintiffs ask that exemplary damages be awarded against Davis in an amount in excess of the minimum jurisdictional limits of this Court, for which they now sue. In connection with the award of exemplary damages, Plaintiffs further allege that the total of their attorney's fees, court costs and

expert witness fees and the conduct and net worth of Davis should be taken into consideration in calculating the exemplary damages to be determined in this case.

IX.

PRAYER

For the reasons stated, Plaintiffs pray that, on final hearing, they have judgment against Davis for the following:

- (1) Actual damages in an amount in excess of the minimum jurisdictional limits of this Court;
- (2) Exemplary damages;
- (3) Reasonable and necessary attorney's fees;
- (4) Pre-judgment interest at the highest rate allowed by law;
- (5) Post-judgment interest at the highest rate allowed by law;
- (6) The award of all costs; and
- (7) All further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

SCHEEF & STONE, L.L.P.

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