

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. _____

DIVISION " AE _____

FREDERICK R. HEEBE, Plaintiff

VERSUS

JAN MASELLI MANN, Defendant

FILED: _____

DEPUTY CLERK

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Frederick R. Heebe, who respectfully represents as follows:

PARTIES

1. Plaintiff is a person of age and a citizen, resident, and domiciliary of the State of Louisiana who resides and is domiciled in the Parish of Orleans.
2. Defendant Jan Maselli Mann is a person of age and a citizen, resident, and domiciliary of the State of Louisiana who resides and is domiciled in the Parish of Jefferson.

JURISDICTION AND VENUE

3. Jurisdiction and venue for this action are proper in this judicial district, pursuant to Article 74 of the Louisiana Code of Civil Procedure.

FACTUAL ALLEGATIONS

I. Introduction.

4. Mr. Heebe filed a pre-suit discovery petition in this Court on March 12, 2012, seeking to conduct discovery in order to verify the identity of the person responsible for making libelous and defamatory statements about Mr. Heebe and his family on the *Times-Picayune* website, Nola.com, under the handle, "Henry L. Mencken1951" ("Mencken"). Three days later, Jim Letten, the United States Attorney for the Eastern District of Louisiana held a press conference in which he revealed that "Mencken" was one of his chief lieutenants, (now former) Assistant United States Attorney Salvador Perricone. During the press conference Letten took

great umbrage at the suggestion that others in his office were involved in surreptitious online activity, insisting that despite Perricone’s obvious lapse in judgment, the U.S. Attorney’s Office (“USAO”) as a whole “recognize[s] the absolute duty of all U.S. Attorney’s office personnel to refrain from publicly commenting on any pending matters pending before the Department except in strict accordance with established DOJ and U.S. Attorney’s office policies, procedures, and guidelines.”

5. However, Perricone was not the only member of Letten’s staff who regularly used the Nola.com comment boards as a forum for lashing out against—and in some cases defaming—persons associated with USAO investigations. In a four-month period spanning from November 2011 to March 2012, someone posting under the handle “eweman” posted over three dozen comments on Nola.com. These comments—like the “Mencken” comments—reflect not only a keen interest in USAO investigations and prosecutions, but a highly detailed knowledge of the office’s activities and inner workings going back decades. Like “Mencken,” “eweman” displayed a particular interest in the USAO’s ongoing investigation of Mr. Heebe and his company, River Birch, Inc. And, like certain of “Mencken’s” comments, at least two of “eweman’s” comments about Mr. Heebe were libelous and defamatory.¹

6. Moreover, like “Mencken’s” writings, “eweman’s” writings contain thematic and linguistic signposts that point unmistakably in the direction of the USAO and, in particular, to Letten’s second-in-command, First Assistant United States Attorney Jan Maselli Mann:

- The “eweman” posts are replete with examples of a unique typographic error—superfluous spacing before punctuation marks—that is evident in writings attributable to Ms. Mann.
- One post contains an obscure slang term—“fender lizard”—that Ms. Mann is known to use in conversation.
- In addition, the “eweman” posts repeatedly castigate two New Orleans criminal defense attorneys—Arthur A. “Buddy” Lemann III and former U.S. Attorney Eddie J. Jordan, Jr.—for whom Ms. Mann is known to harbor great personal disdain.

7. The “eweman” comments are also notable because of the degree to which they coincided with the “Mencken” comments—over sixty percent of the “eweman” comments were posted to stories on which “Mencken” also commented. Indeed, in some cases, the “eweman”

¹ The Nola.com profile page for eweman indicates that 40 comments were posted to the site under that handle. Plaintiff thus far has been able to locate only 35 comments. Plaintiff intends to subpoena the full set of eweman postings from Nola.com and reserves the right to amend this petition to account for other defamatory comments eweman may have posted about Mr. Heebe.

and “Mencken” comments were posted minutes apart and evince some degree of coordination between their authors.

8. Significantly, all activity on the “eweman” account ceased abruptly after the unmasking of Perricone. “Eweman” posted at least 40 comments on the Nola.com site between November 2011 and March 2012, including at least nine relating to the River Birch investigation. Since the filing of Mr. Heebe’s pre-suit discovery petition on March 12, 2012, the *Times-Picayune* has published dozens of stories about the investigation—including an extensive, multi-part series of articles published in September. Yet, nary a word from “eweman.”

9. Mr. Heebe files this action to seek redress for damages he has suffered as a result of Ms. Mann’s libelous and defamatory statements about him.

II. “Eweman’s” Comments About USAO Investigations.

10. Like “Mencken” before her, “eweman” stood out from other commenters on the Nola.com website because of the deep knowledge she exhibited of the USAO and, in particular, investigations and prosecutions in which Ms. Mann is known to have played a role. For example:

- In one post, “eweman” defended the reputation of former U.S. Attorney John Volz, who left office in 1990:

Brlawyer – you’re a racketeering-convicted EWE admirer, a Judge Porteous impeached defender, a prosecutor basher and god knows what else. Under your type of viewpoint politicians are above the law and your way of thinking is exactly why La is 50th in everything. **You don’t have to know Volz to know that under his leadership politicians and other previously untouchable criminals began to learn that their actions would not be tolerated.** You complain about folks who had negative things to say about EWE as hitting below the belt but yet you deride a dead man. Hypocritical eh?

Ex. 1 at 307 (emphasis added) (January 19, 2012, 1:22PM).

- In another post, “eweman” waxes philosophical about the motivations of David Duke, whom Ms. Mann received an award for prosecuting:

No need to get all heavy about the Duke man. He has no real beliefs – it’s all about cute young things and the con. the whole Holocaust-denial thing or when he was in the U.S. the racist garbage - is all the equivalent of a flim flam man. He doesn't care about anything other than he found a way to support himself in the lifestyle he accustomed himself to.

Id. at 83 (emphasis added) (November 30, 2011, 8:30AM).

- In a November 5, 2011 post, “eweman” compared River Birch CFO Dominick Fazzio to a string of other persons prosecuted by the USAO, suggesting in a not-so-subtle way that Fazzio is foolish for exercising his Sixth Amendment rights: “Fazzio is certainly entitled to take his chances at trial just as **his predecessors Renee Gill Pratt, Mose Jefferson, Mark St. Pierre etc** did.” *Id.* at 6 (emphasis added) (November 05, 2011 at 10:20AM).

11. All told, 21 of the 35 “eweman” comments recovered from Nola.com either discuss the USAO and persons it has investigated or prosecuted or were posted to stories reporting on USAO investigations or prosecutions.

12. Moreover, “eweman” did not simply discuss USAO matters; she used the comment boards zealously to defend the office and to attack its detractors. For example:

- “Eweman” defended Letten in unusually personal terms against charges that he was taking too much credit for the work of the USAO:

Letten is not taking credit for all of the cases his office prosecutes, he is the face for his office. **If you have ever heard him give a speech he gives all of the credit to his employees and takes very little for himself.** No one in their right mind thinks Letten personally handles the cases.

Id. at 24 (emphases added) (November 09, 2011, 9:00AM).

- “Eweman” rebutted the suggestion that the USAO was responsible for leaking the existence of a wire-tap in the high-profile “Wrinkled Robe” investigation:

ANyone who knows anything knows that if the FBI thought they had evidence proving a federal prosecutor had leaked a case they would have been salivating to charge the prosecutor. They literally would have been falling all over each other to tag the prosecutor. They could have gone to DOJ, had the local office recused and had someone from D.C. or another office come to NOLA and handle the case. Nobody gets a pass, no agent and no prosecutor. All this tells me is that there may have been a concern by a know nothing Agent but it never panned out much to his chagrin and the case against the Judges and Marcotte succeeded in spite of him being out of his depth.

Id. at 57 (emphasis added) (November 27, 2011, 1:19PM).

- In response to postings from other commenters suggesting that the USAO had been too lenient in charging former Jefferson Parish President Aaron Broussard, “eweman” wrote:

They have been accused of stealing hundreds of thousands of our dollars and are charged with felonies galore. It sounds like a couple of you out there think that won't land em in the pen. Haven't you been paying attention? You take the king down for anything you got him on. **Al Capone went to jail for taxes, remember?**

Id. at 119 (emphases added) (December 02, 2011, 4:37PM).

- Responding to comments that the USAO was too aggressive in the prosecution of former Governor Edwin Edwards, “eweman”² wrote: “The Feds did not go after EWE for fun. He kept committing crimes and left them no choice.” *Id.* at 251 (January 14, 2012, 5:34PM).

13. “Eweman” displayed particular interest in the River Birch investigation. From November through March 2012, “eweman” posted at least nine comments that either directly

² Indeed, the nom de plume “eweman” appears to have been inspired by Governor Edwards’s initials—perhaps in combination with Ms. Mann’s own last name. And it is worth noting that Ms. Mann’s husband, Assistant United States Attorney James Mann, was involved in the prosecution of Edwards and former Louisiana Insurance Commissioner James Brown.

referenced Mr. Heebe or persons connected to the River Birch investigation or were posted to stories reporting on the investigation. For example “eweman” made the following comments about Fazzio and New Orleans-area radio personality Garland Robinette:

- “Like Renee Gill Pratt and Mose Jefferson and Mark St Pierre did, **Fazzio is certainly entitled to take his best shot at beating the odds for conviction.** The juries in federal court seem to uniformly find that the prosecutors are doing the right thing and proving their cases beyond doubt. **Too bad for Fazzio if he is only taking this route because he's afraid of his boss.** Does anyone see a pattern here? He used to work for Al Copeland and now he works for Fred Heebe/Jim Ward? Birds of a feather....” *Id.* at 5 (emphases added) (November 05, 2011, 10:15AM).
- “**Luckily Mr. High Profile attorney won't be able to put the fix in in federal court for Fazzio like he did for Cinel in Orleans Parish.** Lemann actually referred to himself as a Dragon Slayer in his book – you got to be kidding. This guy looks like Boss Hog and hasn't looked at a law book since he left school. He's better than those last 3 jokers but **couldn't you have come up with somebody better on the 2nd try Fazz?**” *Id.* at 245 (emphases added) (January 13, 2012, 6:27PM).
- “Like the Board at Penn State, whoever runs **WWL needs to fire Garlando.** His disgrace was selling his opinions to the highest bidder. How can any listener trust his statements on air after that? How do his bosses justify him not disclosing this before he got caught? **If hypocrisy is one of the most damning traits, Mr Robinemblind is the poster boy.** He is a two bit journalist/artist/con man who needs to go ASAP. If Penn State didn't feel it was necessary to show JoePa loyalty after 46 years, WWL doesn't owe it to Vincent Van Robinette!” *Id.* at 46 (emphases added) (November 12, 2011, 7:15PM).
- “\$250,000 loan to build a 400 square foot art studio ...are the floors paved with gold? What a crock. I don't know much about construction costs but that must be some helluva 20 X 20 room. B.S. on its' face. **Couldn't Garlando have come up with a better story than that?** If he has a lot of money in the bank then this story won't hold water in court. Has anyone been to this palatial studio ? **Does anyone know if Garland is tap city or flush?**” *Id.* at 357 (emphases added) (February 04, 2012, 11:59AM).

14. Yet, remarkably, the “eweman” handle went silent after Mr. Heebe filed his pre-suit discovery petition, which revealed that Perricone was anonymously posting about USAO investigations on Nola.com and led to his resignation. “Eweman’s” silence has persisted, despite the fact the *Times-Picayune’s* coverage of the River Birch investigation has not abated since March 2012. Indeed, the paper has published dozens of articles on the investigation in the past eight months, including numerous stories about “Mencken,” dramatic developments in the Fazzio case (namely the allegation that the USAO entered into a secret plea deal with Fazzio’s alleged co-conspirator), and a six-part, in-depth series on River Birch that was published in September. The fact that “eweman” has not posted a single comment to the site since March 12, 2012 indicates that the person behind these posts stopped because she had something to fear if she continued posting, namely career repercussions similar to those that the disgraced Perricone ultimately faced.

15. The “eweman” comments are notable as well for the degree to which they overlap with the “Mencken” comments. Twenty-two of the 35 “eweman” comments recovered (63 percent) appear on comment boards on which “Mencken” also posted. Some of these posts appeared within minutes of each other. *Compare, e.g.*, Ex. 1 at 211 (“eweman” post of January 2, 2012, 10:39AM), *with id.* at 212 (“Mencken” post of January 2, 2012, 10:51AM). And there is a remarkable degree of consistency in the points of view expressed by the two commenters, including:

- **Shared outrage at the mistrial in the Danziger Bridge Case.** Regarding the decision of U.S. District Judge Kurt Engelhardt to declare a mistrial in the case of former New Orleans Police Sergeant Gerard Dugue, “eweman” wrote: “This Judge declared a mistrial because his best buddy the defense attorney asked for it as a result of the butt whippin’ his client was taking on the stand.” Ex. 1 at 335 (January 28, 2012, 4:42PM). “Mencken” wrote: “If the federal system had the supervisory writ system like the state, this judge would be reversed” Ex. 1 at 332 (January 28, 2012, 9:26AM).
- **Mutual admiration for former U.S. Attorney Volz.** In response to criticism of Volz by another commenter, “eweman” posted, “You don’t have to know Volz to know that under his leadership politicians and other previously untouchable criminals began to learn that their actions would not be tolerated. You complain about folks who had negative things to say about EWE as hitting below the belt but yet you deride a dead man. Hypocritical eh?” Ex. 1 at 307 (January 19, 2012, 1:22PM). “Mencken” (adopting the false persona of a 75-year old retired lawyer) commented as well: “I went to law school with John Volz and admired him and still do. I believe that the standards he set in that office are still there.” Ex. 1 at 306 (January 19, 2012, 7:24AM).
- **Shared disgust that convicted attorney Bryan White regained his law license:** In response to an article announcing that attorney Bryan White regained his law license after his conviction in the “Wrinkled Robe” prosecution, “eweman” stated, “Every judge who voted for this crook to get his law license back should be sent packing. White tried to corrupt a judge in order to fix a child custody case for his boss, Al Copeland. He committed a crime as a lawyer. Now they let him back in. there are over 20,000 lawyers in La _ do we really need this one? Outrageous .” Ex. 1 at 311 (January 20, 2012, 8:54PM). Similarly, “Mencken” posted: “This is a disgrace for the Loooooooziana Supreme Court. How do they expect the public of have ANY confidence in ANY judgment they render if they let a convicted felon become a lawyer???? Incredible!!! Disgusting! Unbelievable and typical of this haven for criminals.” Ex. 1 at 311 (January 20, 2012, 9:48PM).
- **Mutual disdain for retired FBI Agent Charles McGinty:** In response to an article by *Times-Picayune* reporter Drew Broach outlining retired FBI supervisor Charles McGinty’s concerns over a leak in the “Wrinkled Robe” investigation, “Mencken” suggested that McGinty himself was the leak (Ex. 1 at 58 (November 27, 2011, 3:34PM) (“Well, Mr. Broach, it appears you found your leak!”)) and “eweman” dismissed McGinty as a “know nothing Agent” (Ex. 1 at 57 (November 27, 2011, 1:19PM)).
- **Animosity toward Jefferson Parish District Attorney Paul Connick:** In response to the suggestion by a fellow commenter that the Jefferson Parish District Attorney, rather than the USAO, should have handled Aaron Broussard’s prosecution, “eweman” stated, “It would be nice if the DA could do some public corruption cases but he’d have to charge his own father in this case who was also a ghost employee - could be a little tough.” Ex. 1 at 102 (December 2, 2011 at

12:07PM). “Mencken” said, “The DA???????????????? Connick????????????? Don't make me laugh!!!!!!!!!!.” Ex. 1 at 99 (December 2, 2011, 12:38PM).

- **Jealousy toward members of the Sugar Bowl Committee:** Responding to an article profiling several members of the Sugar Bowl committee, “Mencken” stated that “I nearly choked on my croissant when I read about the degree of volunteerism required by the Sugar Bowl Committee. I know some of these amoeba on the committee and the word volunteer is not in their vocabulary.” Ex. 1 at 196 (January 1, 2012, 10:51AM). Echoing “Mencken’s” criticism, “eweman” wrote: “who are the members of this super volunteer committee? Can we know? I want to venerate their civic minded posteriors along with everyone else.” Ex. 1 at 196 (January 1, 2012, 1:52PM).

16. The temporal proximity of the “eweman” and “Mencken” comments and the similarity in views they express imply some degree of coordination between “Mencken” and “eweman.” Thus to the extent “eweman,” like Perricone, was also a member of the USAO, “eweman’s” apparent knowledge of “Mencken’s” agenda and true identity flatly contradicts Letten’s assertion at his March press conference that no one in the USAO, other than Perricone, “authored, participated in or had knowledge of the formulation or posting of the Henry L. Mencken1951 comments.”

III. Evidence of “Eweman’s” True Identity.

17. Along the way, “eweman” left several pieces of evidence revealing her true identity. Among these are a series of unique typographic errors that appear both in the “eweman” posts and in a series of writings attributable to Ms. Mann.

18. The “eweman” posts contain at least eleven examples where the author added a superfluous space before punctuation marks:

- “Letten is not taking credit for all of the cases his office prosecutes , he is the face for his office.” Ex. 1 at 24 (November 09, 2011, 9:00AM).
- “Nobody gets a pass , no agent and no prosecutor.” *Id.* at 57 (November 27, 2011, 1:19PM).
- “Someone has to come up with an answer .” *Id.* at 211–12 (January 02, 2012, 10:39AM).
- “Eddie Jordan is as pathetic as Edwards is evil .” *Id.* at 251 (January 14, 2012, 5:34PM).
- “Had he not been elected DA our crime problem would not have spun so far out of control .” *Id.*
- “They don't care who you are .” *Id.* at 250 (January 15, 2012, 4:55PM).
- “How he got elected is one of the great mysteries .” *Id.* at 299 (January 17, 2012, 8:31PM).
- “Now they let him back in. there are over 20,000 lawyers in La __ do we really need this one? Outrageous .” *Id.* at 311 (January 20, 2012, 8:54PM).
- “Defense attorney knew he was about to lose and hit the Eject button plain and simple and his friend the Judge gave him a way out .” *Id.* at 336 (January 28, 2012, 4:42PM).

- “If he has a lot of money in the bank then this story won't hold water in court. Has anyone been to this palatial studio ?” *Id.* at 357 (February 04, 2012, 11:59AM).
- “Open file discovery is not the norm anywhere in this country and could endanger the lives of witnesses who all too rarely feel they can safely come forward .” *Id.* at 398 (February 29, 2012, 10:31AM).

19. Ms. Mann authored a series of eleven e-mails from August 14 through October 14, 2012, which contains at least six examples of superfluous spacing before periods, commas, and question marks. In addition, a pleading Ms. Mann signed in *United States v. DeCay*, No. 05-186, contains another example of the same error. Ex. 2 at 3 (Gov't Mem. of Law Re: Rule 404(b) Evid.) (“Vincent funneled approximately \$60,000 to Stan Barré’s bank account .” (emphasis added)).

20. One of the “eweman” posts misspells the possessive form of pronoun “it” as “its”: “I don’t know much about construction costs but that must be some helluva 20 X 20 room. B.S. on **its’** face.” Ex. 1 at 357 (emphasis added) (February 04, 2012, 11:59AM). Likewise, one of the e-mails Ms. Mann sent during the August 14 through October 14, 2012 period contains an identical error.

21. Another typographic feature that links the “eweman” postings to Ms. Mann is the use of ellipses without spacing between the periods. Both the “eweman” postings and a pleading that was filed under Ms. Mann’s signature in the *DeCay* matter contain ellipses without spaced periods:

- *Compare, e.g.,* Ex. 1 at 5 (“eweman” post of November 05, 2011, 10:15AM) (“He used to work for Al Copeland and now he works for Fred Heebe/Jim Ward? Birds of a feather...”), *and id.* at 269 (“eweman” post of January 15, 2012, 4:24PM) (“On the taxpayers dime...Unbelievable!”), *with*
- Ex. 3 at 2 (Gov’t Mem. in Opp. to Deft’s Request for Additional Peremptory Challenges) (“Defendants claim there exists, ‘...the reasonable likelihood to receive an unfair trial before a partial jury...’”), *and* Ex. 4 at 2 (Gov’t Mot. Regarding Time Limits for Voir Dire) (“The use of inflammatory and racially charged language by the defense such as ‘...the Morial Administration has been investigated by the Government, as if it were a crime syndicate.’ (Rec. Doc. No. 208, p. 5); ‘...this case is all about Mayor Morial’s DBE program, and the real victims of the case are the African American minority businesses...the prosecutors...elected not to treat the African American minority businesses as the victims...’ (Rec. Doc. No. 205, p. 2); ‘the genesis of all these illicit funds came from the “set aside” or DBE money.’ (Rec. Doc. No. 205, p. 3); and, ‘Morial’s open access plan was one of entitlement’ and ‘involved the expenditure of public funds to the disadvantaged based upon a political judgment...’ (Rec. Doc. No. 205, p. 4).”).

This distinctive feature of Ms. Mann’s legal writing is another factor that, in combination with the typographic errors discussed above, links Ms. Mann to “eweman.”

22. One of the “eweman” posts stands out for its use of a seldom-used slang term used to describe a woman who has an affinity for law enforcement officers—“fender lizard.” Ex. 1 at 336 (January 28, 2012, 4:42PM) (“The rest of you commenters are NOPD fender lizards.”). Ms. Mann is known to have used this term in conversation. On one such occasion, she explained that “fender lizard” is a synonym for “cop groupie.”

23. The “eweman” posts are notable as well for the degree to which they attack individuals for whom Ms. Mann is known to feel great personal antipathy.

24. Ms. Mann has worked in the USAO since the late 1980s. She quickly rose to become the chief of the office’s criminal division. But she was demoted in 1994 when Eddie J. Jordan, Jr. was appointed U.S. Attorney. Ms. Mann is known to harbor deep resentment toward Mr. Jordan as a result of her demotion. And hostility toward Mr. Jordan is one of the hallmarks of the “eweman” posts:

- **“Eddie Jordan was nothing but Bill Jeffersons puppet. Eddie has no original thoughts.** Hilariously he is now a criminal defense attorney. The prosecutors don’t deserve to be this lucky. If Eddie had been the least bit his own man or intelligent he would have done more damage but he was too busy firing experienced employees to make way for the Jefferson crowd. Oh and picking out new hats to make him look taller.” Ex. 1 at 145 (emphasis added) (December 04, 2011, 12:59PM).
- “Does anyone see a massive problem with the DA’s second in command voicing a different opinion from his boss? He did that to create a defense to any perjury charge that might result. He says the officers mistatements were a mistake and as a prosecutor he could be called as a defense witness to reiterate that. Martin’s letter clearing the cops was intentional and unethical and hurts good government efforts spectacularly. **Martin makes Eddie Jordan look better. At least Jordan was too dumb to pull a stunt like that.**” Ex. 1 at 221 (emphasis added) (January 02, 2012, 10:25AM).
- “The Feds did not go after EWE for fun. He kept committing crimes and left them no choice. **Eddie Jordan is as pathetic as Edwards is evil** . Luckily Jordan was sensible enough to keep his mouth shut for the entire trial. Even EWE said Jordan slept the whole trial. EWE was smart and wasted it on greed and self-service. **Jordan was dumb and used by smarter crooks to advance their own agendas. Had he not been elected DA our crime problem would not have spun so far out of control** . He virtually did not convict anyone as DA. Those killers who walked are the ones still out there killing.” Ex. 1 at 251 (emphases added) (January 14, 2012, 5:34PM).

25. Another of the targets of “eweman’s” online rants was attorney Arthur A. “Buddy” Lemann III, who currently represents Mr. Fazzio. As is evident from public pleadings, Ms. Mann and Mr. Lemann repeatedly clashed during the hard-fought *DeCay* matter. Ms. Mann signed a pleading in that case complaining to the Court about public statements by Mr. Lemann suggesting race-based motives for the prosecution. Ex. 5 at 2–3 (Gov’t Mot. in Limine & Incorporated Mem. in Support of Excluding Evid. Of Race/ Politics or Prosecutorial Motives). And, at one point, the relationship between Mr. Lemann and Ms. Mann soured to the point that

Ms. Mann shouted at Mr. Lemann during a discovery conference, “Fuck you, Buddy Lemann.” Ex. 6 at 9 (Mem. in Support of DeCay’s Mot. to Dismiss Counts 14 & 18 of Superseding Indictment).

26. One of the “eweman” posts evinces similar hostility toward Mr. Lemann. In response to a *Times-Picayune* article reporting that Mr. Lemann had been retained to represent Mr. Fazio, “eweman” posted the following:

Luckily Mr. High Profile attorney won't be able to put the fix in in federal court for Fazio like he did for Cinel in Orleans Parish. Lemann actually referred to himself as a Dragon Slayer in his book – you got to be kidding. **This guy looks like Boss Hog and hasn't looked at a law book since he left school.** He's better than those last 3 jokers but couldn't you have come up with somebody better on the 2nd try Fazz?

Ex. 1 at 245 (emphasis added) (January 13, 2012, 6:27PM). Later that evening, “Mencken” chimed in on the same comment board with his own criticism of Lemann: “Looks like Fazio got a lemon. That book you refer to Mr. Rioux is about all of his losses. The guy is a clown and Fazio is going down.” *Id.* (January 13, 2012, 10:36PM).

IV. “Eweman’s” Libelous and Defamatory Statements About Mr. Heebe.

27. Like Perricone, Mann’s comments crossed the line between inappropriate commentary and libel/defamation on at least two occasions.

28. On November 5, 2011, in response to a *Times-Picayune* story published the day before about a superseding indictment against Mr. Fazio, “eweman” wrote: “[Fazio] used to work for Al Copeland and now he works for Fred Heebe/Jim Ward? Birds of a feather....” Ex. 1 at 5 (November 5, 2011, 10:15AM). The late Al Copeland, founder of the Popeyes Chicken & Biscuits fast food chain, was a key figure in the USAO’s prosecution of a former Jefferson Parish judge, Ronald Bodenheimer. The government charged Bodenheimer with, *inter alia*, agreeing to issue favorable rulings in a child custody case in which Copeland was involved in exchange for a Copeland-controlled entity’s promise to do business with Bodenheimer’s seafood company. Thus by stating that Mr. Heebe and Copeland were “Birds of a feather,” “eweman” plainly—and falsely—implied that Mr. Heebe has bribed public officials. This allegation is defamatory and libelous per se.

29. “Eweman” further defamed Mr. Heebe by stating that he paid Garland Robinette in order to influence Robinette’s on-air commentary. “Eweman” posted in response to a November 11, 2011 *Times-Picayune* story reporting on the repayment of what the paper described as “a \$250,000 interest-free loan from a company owned by Heebe.” “Eweman”

falsely stated that the transaction was proof that Robinette “was selling his opinions to the highest bidder,” namely to Mr. Heebe. Ex. 1 at 40 (November 12, 2011, 7:15PM).

30. By virtue of her position in the USAO, Ms. Mann was aware of evidence in the government’s possession that exculpates Mr. Heebe against any charge of bribery or having made payments or loans to Mr. Robinette for the purpose of influencing the content of Robinette’s on-air commentary. Ms. Mann made these false statements against Mr. Heebe maliciously and with knowledge that the statements were false.

CAUSE OF ACTION

DEFAMATION

31. Plaintiff hereby adopts, incorporates and realleges all of the allegations made in paragraphs 1 through 30 of his petition.

32. By posting the comments referenced in paragraphs 28 and 29 to a publically accessible website, Nola.com, Defendant published or caused to be published statements to numerous third parties.

33. The comments, specifically those referenced in paragraphs 28 and 29 of this petition are, and at all relevant times were, false, defamatory, and libelous on their face as they apply to Mr. Heebe.

34. Defendant, at all relevant times, knew that the statements referenced in paragraphs 28 and 29 of this petition were false or acted in reckless disregard as to the truth of these statements.

35. The comments referenced in paragraphs 28 and 29 were made intentionally and with actual or implied malice, or, in the alternative, negligently.

36. The comments referenced in paragraphs 28 and 29 are statements of fact, not opinion, that Mr. Heebe has engaged in dishonest, unethical, and illegal conduct and thus are defamatory per se.

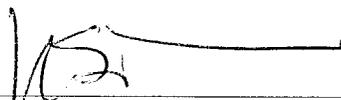
37. The comments referenced in paragraphs 28 and 29 are, and at all relevant times were, of a character that have harmed Mr. Heebe’s reputation, lowered his status in the estimation of the community, deterred others from associating or dealing with him, and otherwise exposed him to contempt and ridicule.

38. As a proximate cause of Defendant's publication of the defamatory statements referenced in paragraphs 28 and 29, Mr. Heebe has suffered loss to his trade, business, and reputation.

WHEREFORE, Plaintiff Frederick R. Heebe, prays that:

After due proceedings are had, judgment be entered in his favor and against the Defendant, Jan Maselli Mann, for all damages as are reasonable in the premises, together with legal interest, thereon, from judicial demand until finally paid, for all costs of these proceedings, and for any other and further legal and equitable relief as the court deems necessary and proper.

Respectfully submitted,



Kyle Schonekas, 11817
William P. Gibbens, 27225
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