

STATE OF NEW YORK
SUPREME COURT : COUNTY OF NIAGARA

NICHOLAS D. D'ANGELO
365 Market Street
Lockport, New York 14094

Plaintiff,

vs.

ELENA DEPAOLO
1055 99th Street
Niagara Falls, New York 14304

Defendant.

**AMENDED VERIFIED
COMPLAINT**

Index No.: E172908/2020

Plaintiff, by its attorneys, JACKSON & BALKIN, Nicholas D. D'Angelo, Esq., of counsel,
as and for its Complaint against the Defendants, respectfully alleges:

1. That at all times hereinafter mentioned, the Plaintiff, NICHOLAS D. D'ANGELO, is an individual with a residence in Niagara County.
2. That upon information and belief, and at all times hereinafter mentioned, the Defendant ELENA DEPAOLO, was and still is an individual residing at 1055 99th Street, Niagara Falls, New York 14304, County of Niagara.

FACTS

3. That on or about August 10th, 2020, Defendant DePaolo posted to her personal Facebook page about Plaintiff D'Angelo.
4. Defendant DePaolo stated, "please don't ever invite me to like The Niagara Reporter – someone who is part of it takes advantage of women.. not my style. Real question though,

how can you be an attorney when you pled guilty to rape? I'm really curious." Attached hereto as EXHIBIT A is a screenshot of the post.

5. Plaintiff D'Angelo, at the time of this post, was the Managing Editor of the Niagara Reporter newspaper and is the individual referred to in Defendant DePaolo's post.
6. That on or about August 22nd, 2020, Defendant DePaolo wrote on her personal Facebook profile, "Nicholas D. D'Angelo, Attorney at Law – you're going dow brother. It's about time you start using your brain instead of your other head. VERY unprofessional. Taking advantage of women and especially CLIENTS of yours. You are a straight up sicko and need to spend time in prison.. I'm sure someone would love to make you their little bitch." Attached hereto EXHIBIT B are screenshots of Defendant DePaolo's post.
7. In the same post, Defendant DePaolo further stated, "everyone share. Do not use Nicholas D'Angelo as your attorney." *See* Exhibit B.
8. On or about Monday, August 24th, 2020, Defendant DePaolo commented on Facebook, in the public forum "The Action 716," that, "[Plaintiff D'Angelo] shouldn't even be an attorney.. how he was able to get a license in law when he plead guilty to rape prior is HORRIBLE." Attached hereto as EXHIBIT C is a screenshot of the message made by Defendant DePaolo.
9. Upon information and belief, Defendant DePaolo has mentioned Plaintiff D'Angelo as having plead guilty to rape, calling him a "rapist," and "sexual predator" in prior Facebook posts.
10. Plaintiff D'Angelo is not a public figure.
11. Plaintiff D'Angelo has never pleaded guilty to rape.

CAUSE OF ACTION FOR DEFAMATION

12. That Plaintiff repeats and re-alleges all statements from paragraphs one (1) through eleven (11) of this Complaint as if set forth fully herein.
13. That Plaintiff D'Angelo is an attorney duly licensed to practice law in the State of New York with offices in both Lockport and Niagara Falls.
14. That on multiple occasions specified herein, Defendant DePaolo has published false statements in writing on her personal Facebook page regarding Plaintiff D'Angelo.
15. Defendant DePaolo's statements were made in writing on her personal Facebook page, and other public group pages, which are viewable to the public and thousands of Facebook friends who see her posts.
16. The posts made by Defendant DePaolo on her personal Facebook page and in other public group pages, were then shared, widely disseminated and commented on across the social media platform.
17. Defendant DePaolo's intent was for these posts to be widely disseminated, read, interacted with and the information repeated.
18. Defendant, with the intent that the false statements be widely disseminated and repeated, posted defamatory and false statements as referenced herein.
19. Defendant DePaolo knows that her personal Facebook page has over 2,000 followers and that the posts would be widely disseminated across the social media platform.
20. Defendant DePaolo's false statements of Plaintiff D'Angelo being a "rapist" or that he "plead guilty to rape" amount to stating that D'Angelo committed a felony which is *defamation per se*.

21. That the statements made by Defendant DePaolo are and were false.
22. That Defendant DePaolo knew or should have known that the statements were false.
23. That by knowing the falsity of the statements made, Defendant DePaolo acted with malice.
24. Upon information and belief, that there are additional false and defamatory statements made by Defendant DePaolo.
25. That the plain import of the names used to described Plaintiff D'Angelo made by Defendant DePaolo were to impugn the credibility and injure Plaintiff D'Angelo's reputation in the community where he works as an attorney.
26. That as a result of said false allegations, of which Defendant DePaolo was aware of their falsity or a high degree of awareness of its probable falsity, Plaintiff D'Angelo was defamed and suffered damage to his reputation as a member of the community and as an attorney practicing in the community.

CAUSE OF ACTION FOR INJURIOUS FALSEHOOD

27. That Plaintiff repeats and re-alleges all statements from paragraphs one (1) through twenty-six (26) of this Complaint as if set forth fully herein.
28. That Plaintiff D'Angelo is an attorney duly licensed to practice law in the State of New York with offices in both Lockport and Niagara Falls.
29. That on multiple occasions specified herein, Defendant DePaolo has published false statements in writing on her personal Facebook page regarding Plaintiff D'Angelo.

30. Defendant DePaolo's statements were made in writing on her personal Facebook page, and other public group pages, which are viewable to the public and thousands of Facebook friends who see her posts.
31. The posts made by Defendant DePaolo on her personal Facebook page and in other public group pages, were then shared, widely disseminated and commented on across the social media platform.
32. Defendant DePaolo's intent was for these posts to be widely disseminated, read, interacted with and the information repeated.
33. Defendant, with the intent that the false statements be widely disseminated and repeated, posted defamatory and false statements as referenced herein.
34. Defendant DePaolo knows that her personal Facebook page has over 2,000 followers and that the posts would be widely disseminated across the social media platform.
35. Defendant DePaolo's false statements of Plaintiff D'Angelo being a "rapist" or that he "plead guilty to rape" amount to stating that D'Angelo committed a felony which is *defamation per se*.
36. That the statements made by Defendant DePaolo are and were false.
37. That Defendant DePaolo knew or should have known that the statements were false.
38. That by knowing the falsity of the statements made, Defendant DePaolo acted with malice.
39. Upon information and belief, that there are additional false and defamatory statements made by Defendant DePaolo.

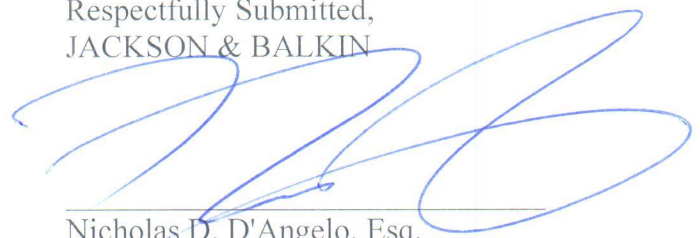
40. That the plain import of the names used to described Plaintiff D'Angelo made by Defendant DePaolo were to impugn the credibility and injure Plaintiff D'Angelo's reputation in the community where he works as an attorney.
41. That as a result of said false allegations, of which Defendant DePaolo was aware of their falsity or a high degree of awareness of its probable falsity, Plaintiff D'Angelo was defamed and suffered damage to his reputation as a member of the community and as an attorney practicing in the community.
42. That as a result of said false allegations, of which Defendant DePaolo were aware of their falsity or a high degree of awareness of its probable falsity, Plaintiff D'Angelo's business has suffered severe monetary damage.

WHEREFORE, Plaintiff demands judgment against Defendant ELENA DEPAOLO as follows:

- A. Damages in an amount to be proven at trial; and
- B. For such other and further relief as the Court may deem just and proper.

Dated: August 26th, 2020
Lockport, New York

Respectfully Submitted,
JACKSON & BALKIN



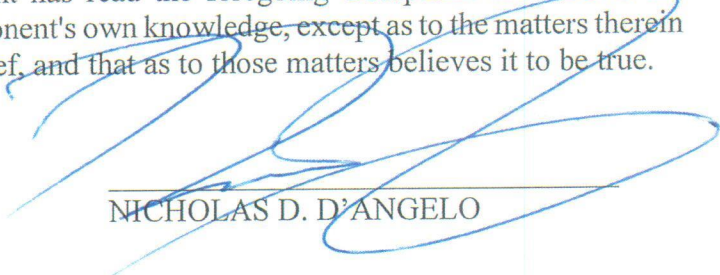
Nicholas D. D'Angelo, Esq.
Attorneys for Plaintiff
365 Market Street, PO Box 468
Lockport, New York 14095
TEL: (716) 434-8891
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CELL: (716) 990-3677

ndangelolaw@gmail.com

VERIFICATION

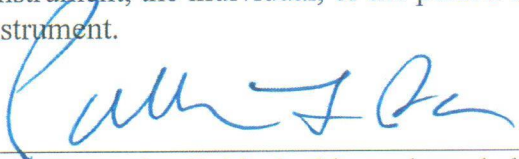
STATE OF NEW YORK)
) ss.:
COUNTY OF NIAGARA)

NICHOLAS D. D'ANGELO, being duly sworn, deposes and says that deponent is the Plaintiff in the within action; that deponent has read the foregoing Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters believes it to be true.



NICHOLAS D. D'ANGELO

On the 27th day of August, in the year 2020, before me, the undersigned, a notary public in and for the said state, personally appeared NICHOLAS D. D'ANGELO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



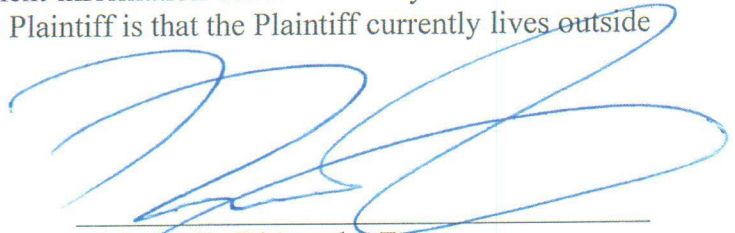
(Signature and Office of Individual taking acknowledgment)

PAULA L. ROSE 01RO4809256
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires 12/31/20 22

ATTORNEY VERIFICATION

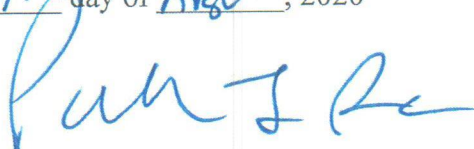
STATE OF NEW YORK)
) ss:
COUNTY OF NIAGARA)

I, the undersigned, an attorney duly admitted to practice in the courts of the State of New York, am the attorney of record for the Plaintiff in the within action. I have read the foregoing Complaint and know the contents thereof, which are true to my own knowledge except as to matters therein stated to be alleged upon information and belief and, as to those matters, I believe them to be true. The grounds of my belief as to those matters therein not stated upon knowledge are based upon facts, records, and other pertinent information contained in my files. The reason this Verification is made by me and not by the Plaintiff is that the Plaintiff currently lives outside of the county where I maintain my office.



Nicholas D. D'Angelo, Esq.

Subscribed and sworn to before me
this 27th day of August, 2020



Notary Public/ Commissioner of Deeds

PAULA L. ROSE 01RO4809256
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires 12/31/20 22