

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NIAGARA

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

**VERIFIED COMPLAINT**

Index No.:

Plaintiff,

vs.

**JOHN RESTAINO**  
2673 Whirlpool Street  
Niagara Falls, New York 14305

Defendant.

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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 JOHN RESTAINO, was and still is an individual residing at 2673 Whirlpool Street, Niagara Falls, New York 14305, County of Niagara.

#### **FACTS**

3. That Defendant Restaino is affiliated with the podcast 'Edge of the Falls' (hereinafter referred to as "podcast") and 'Edge of the Falls' Facebook page.
4. That Defendant Restaino operates another podcast called 'Citizens United with John and Chris' and the 'Citizens United with John and Chris' Facebook page.

5. That the 'Citizens United with John and Chris' podcast is recorded live on the social media platform Facebook.
6. In addition to posting content on the 'Citizens United with John and Chris' Facebook page, Defendant Restaino published posts on his personal Facebook page.
7. On or about August 24th, 2020, Defendant Restaino posted to his personal Facebook page about Plaintiff D'Angelo.
8. Defendant Restaino stated that Nick D'Angelo, "has a job with Niagara Co Social Services, also editor of the Niagara Reporter & own law practice. If you google his name there is an article in Buffalo News and Gazette. He is accused of coercing women to have sex with him for legal aid. Also raped a 14 year old in NFHS but Judge Morinello let him off and said he's a good kid. You can find that to in google." Attached hereto as EXHIBIT A is the Facebook post and specific comment made by Defendant Restaino.
9. In the same post, Defendant Restaino continued, saying, "he hurt a lot of women & one I personally know." *See Exhibit A.*
10. On or about Sunday, August 23rd, 2020, Defendant Restaino published a link to a Niagara Gazette article and stated, "It's always a great day for humanity when a rapist is scared.. see how it feels." Attached hereto as EXHIBIT B is a screenshot of the post made by Defendant Restaino.
11. On or about Saturday, August 22nd, 2020, Defendant Restaino published a link to a Buffalo news article and stated, "this is what justice looks like. Finally the rapist is scared." Attached hereto as EXHIBIT C is a screenshot of the post.

12. Upon information and belief, Defendant Restaino has mentioned Plaintiff D'Angelo as a "rapist" and "sexual predator" in his 'Citizens United with John and Chris' podcast which is recorded and posted live on Facebook.
13. Defendant Restaino, both in posts on 'Citizens United with John and Chris' Facebook page and during live podcasts has stated that Plaintiff D'Angelo "rapes" women despite giving no specific factual allegations.
14. Plaintiff D'Angelo is not a public figure.
15. Plaintiff D'Angelo has never pleaded guilty to rape.

#### **CAUSE OF ACTION FOR DEFAMATION**

16. That Plaintiff repeats and re-alleges all statements from paragraphs one (1) through fifteen (15) of this Complaint as if set forth fully herein.
17. 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.
18. That on multiple occasions specified herein, Defendant Restaino has published false statements in writing on his personal Facebook page, and verbally during 'Citizens United with John and Chris' live broadcasts, regarding Plaintiff D'Angelo.
19. Defendant Restaino's statements were made in writing on his personal Facebook page which are viewable to the public and thousands of Facebook friends who see his posts.
20. The posts made by Defendant Restaino on his personal Facebook page, and verbal comments during live broadcasts of the 'Citizens United with John and Chris' podcast, were then shared, widely disseminated and commented on across the social media platform.

21. Defendant Restaino's intent was for these posts to be widely disseminated, read, interacted with and the information repeated.
22. Defendant, with the intent that the false statements be widely disseminated and repeated, posted defamatory and false statements as referenced herein.
23. Defendant Restaino knows that his personal Facebook page has thousands of followers and that the posts would be widely disseminated across the social media platform.
24. Defendant Restaino's false statements of Plaintiff D'Angelo being a "rapist" or that he "raped a victim" amount to stating that D'Angelo committed a felony which is *defamation per se*.
25. That the statements made by Defendant Restaino are and were false.
26. That Defendant Restaino knew or should have known that the statements were false.
27. That by knowing the falsity of the statements made, Defendant Restaino acted with malice.
28. Upon information and belief, that there are additional false and defamatory statements made by Defendant Restaino.
29. That the plain import of the names used to described Plaintiff D'Angelo made by Defendant Restaino was to impugn the credibility and injure Plaintiff D'Angelo's reputation in the community where he works as an attorney.
30. That as a result of said false allegations, of which Defendant Restaino 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**

31. That Plaintiff repeats and re-alleges all statements from paragraphs one (1) through thirty (30) of this Complaint as if set forth fully herein.
32. 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.
33. That on multiple occasions specified herein, Defendant Restaino has published false statements in writing on his personal Facebook page, and verbally during 'Citizens United with John and Chris' live broadcasts, regarding Plaintiff D'Angelo.
34. Defendant Restaino's statements were made in writing on his personal Facebook page which are viewable to the public and thousands of Facebook friends who see his posts.
35. The posts made by Defendant Restaino on his personal Facebook page, and verbal comments during live broadcasts of the 'Citizens United with John and Chris' podcast, were then shared, widely disseminated and commented on across the social media platform.
36. Defendant Restaino's intent was for these posts to be widely disseminated, read, interacted with and the information repeated.
37. Defendant, with the intent that the false statements be widely disseminated and repeated, posted defamatory and false statements as referenced herein.
38. Defendant Restaino knows that his personal Facebook page has thousands of followers and that the posts would be widely disseminated across the social media platform.

39. Defendant Restaino's false statements of Plaintiff D'Angelo being a "rapist" or that he "raped a victim" amount to stating that D'Angelo committed a felony which is *defamation per se*.
40. That the statements made by Defendant Restaino are and were false.
41. That Defendant Restaino knew or should have known that the statements were false.
42. That by knowing the falsity of the statements made, Defendant Restaino acted with malice.
43. Upon information and belief, that there are additional false and defamatory statements made by Defendant Restaino.
44. That the plain import of the names used to described Plaintiff D'Angelo made by Defendant Restaino was to impugn the credibility and injure Plaintiff D'Angelo's reputation in the community where he works as an attorney.
45. That as a result of said false allegations, of which Defendant Restaino 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.
46. That as a result of said false allegations, of which Defendant Restaino 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.

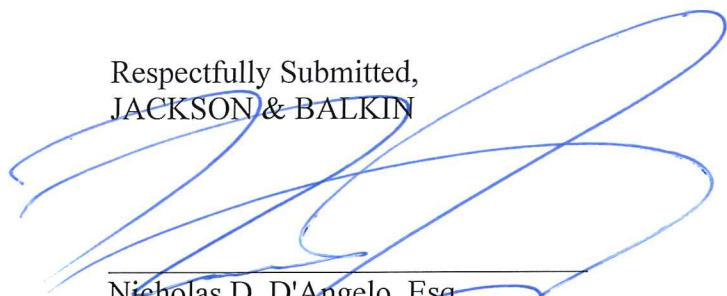
**WHEREFORE**, Plaintiff demands judgment against Defendant JOHN RESTAINO as follows:

- 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

A large, stylized handwritten signature in blue ink, likely belonging to Nicholas D. D'Angelo, Esq., is written over the typed name and firm name.

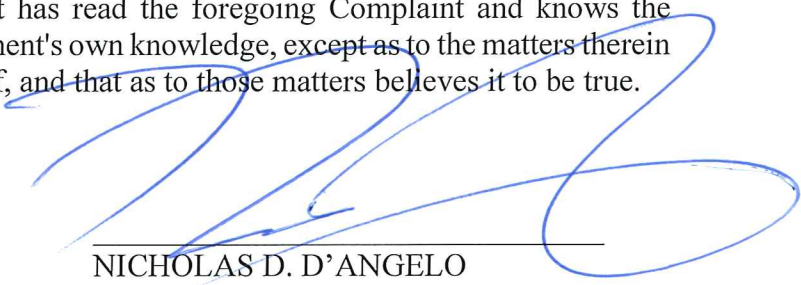
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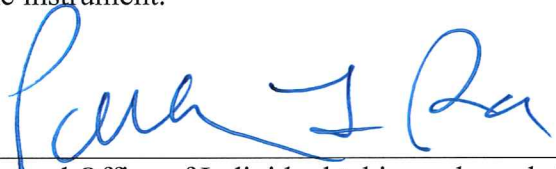
**VERIFICATION**

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 27<sup>th</sup> 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 *ee*



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 27<sup>th</sup> 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