IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

DOUGLAS M. GUETZLOE,

Plaintiff,

v.

CASE NO.: 2010-CA-10855
DIVISION: 34

CHERYL MATCHETT, EVERETT WILKINSON, MICHAEL CAPUTO, and TIM McCLELLAN,

Defendants.
_____/

MOTION TO DISMISS COMPLAINT AS TO DEFENDANTS EVERETT WILKINSON AND TIM McCLELLAN

COME NOW Defendants, EVERETT WILKINSON ("Wilkinson") and TIM McCLELLAN ("McClellan"), by and through their undersigned counsel, and pursuant to Rule 1.140, Fla. R. Civ. P., move the Court to dismiss the Complaint filed in this action by Plaintiff, DOUGLAS M. GUETZLOE ("Guetzloe"), and in support therefore state as follows:

Overview, Procedural Background, and Standard of Review

1. On May 5, 2010, Guetzloe filed his Complaint, purporting to seek redress from Defendants for a panoply of perceived slights and ills, apparently involving, to borrow a phrase, a vast right-wing conspiracy of powerful, shadowy figures and the so-called "Republican Party Establishment". The document filed is, in essence, a rambling morass of political conspiracy theories and propaganda, more akin to the documents subject to sanction under Florida's Simulated Process statutes than a serious pleading seeking permissible relief.

2. Notably, although counsel for Guetzloe caused the Complaint to be filed on May 5, 2010, counsel did not at that time cause summons to be issued by the Clerk of Court. Rather, summons were not caused to be issued until weeks later. Further, Guetzloe has made no effort to

actually serve the Complaint upon Defendants. Defendants learned of the existence of the suit filed against them solely through Guetzloe's trumpeting of same in the news media. These circumstances make it obvious that the filing of the Complaint was perpetrated solely for ulterior purposes not intended by the law to effect.

3. Despite Guetzloe's refusal to proceed with serving Defendants in this cause, Defendants Wilkinson and McClellan have elected to defend, so that Guetzloe's ulterior and illicit purposes cannot continue to be effectuated.

4. Guetzloe's Complaint purports to set forth claims for Misappropriation of Corporate Name (Count I), Defamation (Count II), Tortious Interference with Prospective Economic Advantage (Count III), Abuse of Process (Count IV), and Injunction against Harassment (Count V).

5. Because Guetzloe fails to provide proper factual allegations and sufficient legal basis necessary to support the foregoing claims, Defendants Wilkinson and McClellan move to dismiss the Complaint.

6. A motion to dismiss pursuant to Rule 1.140(b)(6), Florida Rules of Civil Procedure, tests the legal sufficiency of the pleading. "The primary purpose of a motion to dismiss is to request the trial court to determine whether the complaint properly states a cause of action upon which relief can be granted and, if it does not, to enter an order of dismissal." *Fox v. Professional Wrecker Operators of Fla., Inc.*, 801 So.2d 175, 178 (Fla. 5th DCA 2001) (citing *Provence v. Palm Beach Taverns, Inc.*, 676 So.2d 1022 (Fla. 4th DCA 1996)).

7. In addition, Rule 1.110(d) provides that "[a]ffirmative defenses appearing on the face of a prior pleading may be asserted as grounds for a motion or defense under rule 1.140(b)."

8. Based upon the allegations contained within the Complaint, dismissal of the Complaint is appropriate because Guetzloe has failed to provide proper factual allegations and sufficient legal basis necessary to support his claims, and thus has failed to state a cause of action upon which relief may be granted.

The Complaint Should Be Dismissed in its Entirety for Failure to Sufficiently Allege a Cause of Action

9. Guetzloe's Complaint should be dismissed in its entirety for failure to sufficiently allege a cause of action in compliance with the Florida Rules of Civil Procedure and Florida case law requiring appropriate factual allegations supporting a legal cause of action.

10. "A complaint in a lawsuit is not a press release." *Rapp v. Jews for Jesus, Inc.*, 944 So.2d 460, 462 (Fla. 4th DCA 2006), (quashed in part on other grounds, *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098 (Fla. 2008)). Nor is it a manifesto for "polemical" disputation to catalog ideological "animosities." *Id.*

11. Yet this is what is to be found in Guetzloe's Complaint, which goes on for paragraph after paragraph, detailing the purported ideological superiority of his public policy positions over those allegedly held by a myriad of public officials and notables, all of whom he has portrayed as a vast cabal of his enemies.

12. Evaluating a complaint suffering from infirmities similar to that in the case at bar, the court in *Rapp* said of a series of allegations:

> [T]hey are redundant, bellicose, and unnecessary to state the causes of action alleged. ***A complaint in a lawsuit is not a press release.*** The hallmarks of good pleading are brevity and clarity in the statement of the essential facts upon which the claim for relief rests "rather than intricate and complex allegations designed to plead a litigant to victory." *Ranger Constr. Indus., Inc. v. Martin Cos. of Daytona, Inc.*, 881 So. 2d 677, 680 (Fla. 5th DCA 2004).
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> 944 So.2d at 462.

13. It is clear that the wide-ranging and polemical allegations of Guetzloe's complaint are intended to plead him to victory, if not in this court, then at least in the court of public opinion.

14. Guetzloe seems to utilize his Complaint primarily to cast gratuitous aspersions upon a wide cast of characters, all non-parties, in a manner not at all necessary to attempt to state a cause of action against any of the Defendants.

15. "It is not permissible for any litigant to submit a disorganized assortment of allegations and argument in hope that a legal premise will materialize on its own." *Barrett v. City of Margate*, 743 So.2d 1160, 1163 (Fla. 4th DCA 1999). "It is a cardinal rule of pleading that a complaint be stated simply, in short and plain language… The complaint must set out the elements and facts that support them so that the court and the defendant can clearly determine what is being alleged." *Id.* at 1162. Further, "It is insufficient to plead opinions, theories, legal conclusions or argument." *Id.* at 1163.

16. Guetzloe's Complaint has utterly failed to adhere to these standards. It is the very definition of "a disorganized assortment of allegations and argument…". *Id.*

17. Further, the allegations of each count of the Complaint provide no legal basis whatsoever for the joint and several liability of all of the Defendants for the alleged tortious acts purportedly committed by given individual Defendant. Notably, the Complaint makes repeated references to "Defendants" in contexts that clearly indicate an alleged action by only one of the Defendants. Guetzloe cannot, through reckless and sloppy drafting, plead his way to establishing joint and several liability among the Defendants.

18. For the foregoing reasons, the Complaint should be dismissed in its entirely.

Count I (Misappropriation of Corporate Name) Should Be Dismissed for Failure to State a Cause of Action

19. Count I of Guetzloe's complaint attempts to set forth an incredibly obscure cause of action under Florida law, styled "misappropriation of corporate name". Its apparent genesis can be found in a single federal Fifth Circuit case from 1941, *Scalise v. National Utility Service, Inc.*, 120 F.2d 938 (5th Cir. 1941). Under the law set forth in this case, Count I of the Complaint utterly fails to state a cause of action and should be dismissed.

20. *Scalise* presents a completely novel set of circumstances, in which a defendant to a Florida state court action sought to defeat the suit of a plaintiff, a foreign corporation, by, first, seeking an abatement of the proceedings based on plaintiff's lack of a permit to do business in Florida. Upon abatement of the suit to enable the plaintiff to acquire a permit to do business in Florida in the foreign corporation's name, "defendant, for the wrongful and malicious purpose of appropriating plaintiff's corporate name, in order to prevent plaintiff from obtaining a permit, and thereby to defeat plaintiff's suit, secretly and corruptly applied for, and obtained a corporate charter in plaintiff's name." *Id.* at 939.

21. The court goes on to further identify an essential element of this cause of action, stating:

> "It is the law too, not only in Florida but generally elsewhere that it is a wrongful act to organize a domestic corporation by the same name as that already known to be used in the state by a foreign corporation, although the foreign corporation is not domesticated, but is doing business, in the state without a permit…"

Id. at 940.

22. Guetzloe's Complaint is utterly devoid of the allegations necessary to sustain this cause of action. There is no allegation that the company Guetzloe references, "Ax the Tax, Inc.", is a foreign corporation that was doing business in the State of Florida without a permit, or that

Defendant McClellan, or any of the Defendants, organized a domestic corporation by the same name for the purpose of preventing Guetzloe's company from obtaining a permit to do business in Florida.

23. In contrast, Paragraph 21 of the Complaint states in pertinent part, "On March 1, 2010, McClellan registered a corporation with the same name as Guetzloe's company, Ax the Tax, Inc. Though it was initially filed, it was later rejected at Guetzloe's request by the Division of Corporations." Taking this allegation as true, the statement on its face belies and is repugnant to the necessary elements of the cause of action alleged.

24. The statement also admits, assuming the truth of the allegation, that the "misappropriation" alleged was merely attempted, and was unsuccessful. Paragraph 29 also brings this fact into clear relief, with its fatal allegation that "Defendant McClellan, and his Co-Defendants are jointly and severally liable for the **attempted** misappropriation of the corporate name 'Ax the Tax, Inc.'" [emphasis supplied]

25. Referring to an "attempted" tort is just another way of saying that one or more of the necessary elements of a cause of action did not occur or obtain. Florida law is clear that no cause of action lies for the attempted commission of a tort.

26. For the foregoing reasons, Count I of the Complaint should be dismissed.

Count II (Defamation) Should Be Dismissed for Failure to State a Cause of Action and For Failure to Satisfy Heightened Pleading Standards as a Public Figure

27. Count II of the Complaint attempts to set forth a claim for defamation. Because the Complaint fails to sufficiently allege the necessary elements of this cause of action with the required specificity, particularly in light of Guetzloe's status as a public figure, Count II of the Complaint should be dismissed.

28. As a preliminary matter, taking the allegations on the face of the Complaint as true, it is clear that Doug Guetzloe is a public figure. The determination of whether a plaintiff is a public figure is a question of law, and the court can make such a determination on a motion to dismiss where the allegations within the four corners of the complaint so demonstrate. *Bianco v. Palm Beach Newspapers, Inc.*, 381 So.2d 371, 372 (Fla. 4th DCA 1980).

29. A "public figure" is a person "involved in the resolution of important public questions or, by reason of their fame, shape events in areas of concern to society." *Id.* (citing *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 94 S. Ct. 2997, 41 L. Ed. 2d 789 (1974)).

30. Allegations of Plaintiff's own Complaint unequivocally bear out, for better or worse, Guetzloe's involvement in the resolution of important public questions and his shaping of events in areas of concern to society, to wit:

a. Paragraph 1: For at least the past twenty years, Guetzloe has been the chairman of an organization known as "Ax the Tax." During that period of time, Ax the Tax opposed many local sales and property tax increases and many public projects supported by local members of the Republican Party Establishment, as defined herein…

b. Paragraph 4: Also in August, 2009, Jim Greer, former Chairman of the Republican Party of Florida, suspended Guetzloe from the Orange County Republican Executive Committee. Greer suspended Guetzloe at the behest of Lew Oliver ("Oliver"), Chairman of the Orange County Republican Executive Committee. Both Greer and Oliver are part of the Republican Party Establishment, as defined herein.

c. Paragraph 5: Prior to his suspension by Greer, Guetzloe had been an active and vocal opponent of the Republican Party Establishment, i.e. those persons in the leadership of the Republican Party of Florida who favored accepting Federal stimulus money, increased spending on public projects and a philosophy that believed it to be a proper role of government to use tax money to subsidize such big businesses as railroads, sugar growers and NBA basketball teams.

d. Paragraph 6: Having been, essentially, "kicked out" of the Republican Party by the Republican Party Establishment, yet still wanting to remain politically

active, Guetzloe joined O'Neal in promoting O'Neal's new Tea Party political party.

31. The court in *Bianco, supra*, dealing with a case strikingly similar to the case at bar[1], enunciated the heightened burden of both pleading and proof incumbent upon a public figure, stating:

> In *Gertz*, the court extended the *New York Times* [*v. Sullivan*, 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964)] test to cover those persons who are ". . . involved in the resolution of important public questions or, by reason of their fame, shape events in areas of concern to society" and specifically went on to hold that such a public figure cannot recover damages for defamatory falsehood unless he proves that the falsehood was uttered with "actual malice." The court then defined actual malice as requiring actual knowledge that the statement is false or with reckless disregard of whether it is true or false. Since such actual knowledge or reckless disregard must be proved, it follows that one or both must also be specifically alleged. Examination of the complaint before us reveals no such allegations except for the lone statement that the publication was "malicious." This is clearly insufficient under the law of *Gertz* which mandates our adherence. [emphasis supplied]

32. Thus, not only is it the case that is Guetzloe required to ultimately prove that an alleged defamatory falsehood was made with "actual knowledge that the statement is false or with reckless disregard of whether it is true or false", but that "one or both must also be specifically alleged". The Complaint utterly fails to make these allegations with specificity, and thus does not come close to meeting the heightened pleading standards imposed by *Bianco* and *Gertz*.

33. As in *Bianco*, where the plaintiff made the conclusory allegation that the publication was "malicious", examination of Guetzloe's Complaint reveals a similarly conclusory allegation that the statements were made with "actual malice", and is thus likewise "clearly insufficient under the law of *Gertz*." *Id.* Nor should Count II be salvaged simply

[1] *Bianco* sustained the "dismissal with prejudice of a libel suit filed by a prominent Palm Beach County citizen against a newspaper" in which a newspaper editorial "accused the appellant of 'amoral manipulation' and attempts to 'shakedown' elected officials."

because of Paragraph 35's singular rote pleading of a mere legal conclusion that Defendants knew all the statements were false or made them with reckless disregard of the truth. Under the enhanced pleading standards incumbent upon a public figure, Plaintiff is required to come forward and plead ultimate facts with specificity, *Id.*, demonstrating that Defendants knew the statements were false or made them with reckless disregard of the truth, not simply recite convenient legal conclusions.

34. Indeed, it seems readily apparent why Plaintiff failed to make certain specific allegations required (falsity, and facts demonstrating actual knowledge of falsity or reckless disregard of truth or falsity by Defendants, and each of them) with regard to each allegedly defamatory statement. Namely, the juxtaposition of each of the allegedly defamatory statements with the allegation that such statement is false would bring into stark relief the fatal fact that almost every single statement complained of is clearly one of non-actionable pure opinion. The menace and chilling effect of Plaintiff's attempt at pleading word-smithing is exactly why Florida and federal courts have interpreted the Constitution to require such strict pleading standards in defamation actions involving public figures.

35. For the foregoing reasons, Guetzloe should be deemed a public figure as a matter of law, and Count II of the Complaint should be dismissed.

Count III (Tortious Interference with Prospective Economic Advantage) Should Be Dismissed for Failure to State a Cause of Action

36. Count III of Guetzloe's Complaint attempts to set forth a claim for tortious interference with prospective economic advantage. Because the Complaint fails to sufficiently allege essential elements of this cause of action, Count III of the Complaint should be dismissed.

37. The elements of tortious interference with prospective economic advantage, also known as tortious interference with an advantageous business relationship, *Hodges v. Buzzeo*,

193 F. Supp. 2d 1279, 1286 (M.D. Fla. 2002), are: (1) the existence of a business relationship, not necessarily evidenced by an enforceable contract; (2) knowledge of the relationship on the part of the defendant; (3) an intentional and unjustified interference with that relationship by the defendant; and (4) damage to the plaintiff as a result of the breach of the relationship. *Magre v. Charles*, 729 So.2d 440, 444 (Fla. 5th DCA 1999).

38. The Complaint presents at least two deficiencies with regard to the pleading of the required element of existence of a business relationship. First, the Complaint fails to allege that there ever was a pre-existing business relationship between State Senator Paula Dockery and Guetzloe.

39. In fact, the language of the Complaint is repugnant to such an allegation, referring to alleged efforts to "encourage Dockery not to hire Guetzloe as a political consultant on her campaign." (Complaint, Paragraph 20) [emphasis supplied]. Such language is tantamount to an admission that any conduct of Defendants or others that allegedly constituted interference occurred prior to the formation of a business relationship between Dockery and Guetzloe.

40. Even if some semblance of a business relationship between Dockery and Guetzloe can be gleaned from the mishmash of allegations of the Complaint, the Complaint utterly fails to plead a sufficient business relationship to survive a motion to dismiss. "The test is whether the parties' understanding would have been completed if the defendant had not interfered." *Hodges*, 193 F. Supp. 2d at 1286 (citing *Ethan Allen, Inc. v. Georgetown Manor, Inc.*, 647 So.2d 812, 815 (Fla. 1994)).

41. Thus, Guetzloe would be required to plead and prove that, *but for* the alleged interference of Defendants, Dockery would have "hire[d] Guetzloe as a political consultant on

her campaign." Guetzloe has utterly failed to plead this allegation, and as a result, Count III of the Complaint should be dismissed.

Count IV (Abuse of Process) Should Be Dismissed for Failure to State a Cause of Action

42. Count IV of Guetzloe's Complaint attempts to set forth a claim for abuse of process. Because the Complaint fails to state a cause of action for abuse of process, Count IV of the Complaint should be dismissed.

43. Guetzloe's purported abuse of process claim "amounts to nothing more than a thinly disguised malicious prosecution claim," *Blue v. Weinstein*, 381 So. 2d 308, 311 (3d DCA 1980), minus, of course, the essential element that the original proceeding was terminated in favor of the present plaintiff. *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So.2d 1352, 1355 (Fla. 1994).

44. The gravamen of Guetzloe's abuse of process claim are set forth in Paragraphs 44 and 47 of the Complaint:

a. Paragraph 44: "This is an action against Defendants, jointly and severally, for damages in excess of $15,000… arising out of the Defendants' abuse of process in filing a lawsuit without legal or factual basis against Guetzloe for the improper purpose of defaming, discrediting and harassing Guetzloe."

b. Paragraph 47: "Defendants are jointly and severally liable to Guetzloe for the filing of Case No. 9:10-CV-80062 against Guetzloe in the Federal District Court for the Southern District of Florida."

45. These allegations demonstrate Guetzloe's confusion between the two causes of action. The action complained of is the alleged filing of the suit without legal or factual basis and for an improper purpose.

46. However, case law is clear that "abuse of process requires an act constituting the misuse of process after it issues. The maliciousness or lack of foundation of the asserted cause of

action itself is actually irrelevant to the tort of abuse of process." *Cazares v. Church of Scientology*, 444 So. 2d 442, 444 (Fla. 5th DCA 1983). Thus an abuse of process action cannot be premised merely upon the assertion that a suit was filed without legal or factual basis, or upon the assertion that the filing of the suit itself was done for an improper or malicious purpose.

47. The Complaint fails to set forth any "acts constituting misuse of process after it issues." At most, Guetzloe complains at Paragraph 18 that:

> … Caputo stated that the purpose of the lawsuit was to stop Guetzloe and other defendants from threatening Wilkenson and McClellan with "trademark litigation" (despite the fact that neither Guetzloe nor any of the defendants had ever threatened anyone with "trademark litigation").

48. Such an allegation amounts to no more than the contention that it is "improper" to sue a defendant for doing something a defendant didn't do; that is, it merely restates Guetzloe's strident assertion that it is improper that plaintiffs in that case sued because Guetzloe thinks he is eventually going to win.

49. Further:

> For the cause of action (of abuse of process) to exist there must be a use of the process for an immediate purpose other than that for which it was designed. There is no abuse of process, however, when the process is used to accomplish the result for which it was created, regardless of an incidental or concurrent motive of spite or ulterior purpose. In other words, the usual case of abuse of process involves some form of extortion[2].
>
> *Bothmann v. Harrington*, 458 So. 2d 1163, 1169 (Fla. 3d DCA 1984).

50. Guetzloe's recitation that "the purpose of the (federal) lawsuit was to stop Guetzloe and other defendants from threatening Wilkenson and McClellan with 'trademark litigation'", regardless of Guetzloe's protestations that he never threatened trademark litigation,

[2] As it is clear that the term "extortion" has so often drifted into the proximity of Guetzloe as to have thoroughly familiarized him with its various contours and implementations, undersigned counsel will not unduly labor to exhaustively define it.

actually demonstrates that "the process [was] used to accomplish the result for which it was created", and thus, "there is no abuse of process". *Id.*

51. Finally, it must be noted that Guetzloe's entire attempt to premise an abuse of process claim upon his contention that he will ultimately prevail in a lawsuit pending against him in federal court is little more than an attempt to end-run the authority of that court, and an attempt to impermissibly invite this court to prematurely rule upon the issues properly pending before that court. Guetzloe's malformed abuse of process claim, if allowed to survive in this case, will necessarily require this court to invade the province of that pending proceeding.

52. For the reasons set for the above, Count IV of the Complaint should be dismissed.

Count V (Injunction against Harassment) Should Be Dismissed for Failure to State a Cause of Action

53. With utterly no basis in Florida law, Count V of the Complaint purports to set for a claim for "Injunction against Harassment" under § 784.048, Florida Statutes.

54. This count was so out of left field that it caused undersigned counsel to genuinely question, if only for a moment, whether the Legislature had just recently thrown out the state's entire well-defined system regulating injunctive relief for violence and stalking. Alas, the Legislature has done no such thing; rather, the cause of action invoked by Guetzloe simply does not exist.

55. § 784.048, Florida Statutes, cited by Plaintiff as the basis of this cause of action, sets forth criminal penalties for stalking and related acts, and provides some definitions that flesh out other sections of the chapter, including § 784.046, Florida Statutes. It creates no causes of action.

56. § 784.046, Florida Statutes, lays out the statutory scheme for the issuance of injunctions for certain types of violence, and explicitly creates causes of action to that end, stating in pertinent part:

> (2) There is created a cause of action for an injunction for protection in cases of repeat violence, there is created a separate cause of action for an injunction for protection in cases of dating violence, and there is created a separate cause of action for an injunction for protection in cases of sexual violence.[3]

57. Dismissing out of hand the thought that Guetzloe intended to plead "sexual violence" or "dating violence", Guetzloe's Complaint utterly fails to satisfy the requirements to seek an injunction based upon repeat violence.

58. § 784.046(1)(B), Florida Statutes, provides in pertinent part:

> "Repeat violence" means two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member.

59. Guetzloe has utterly failed to make such allegations.

60. Further, the statute provides that the petition for such injunction be sworn, and that it be in substantially the form set forth in § 784.046(4)(B), Florida Statutes. Such form requires that petitioner allege:

a. The addresses of petitioner and respondent(s);

b. That "Petitioner has suffered repeat violence as demonstrated by the fact that the respondent has: (enumerate incidents of violence)";

c. That petitioner genuinely fears repeat violence by the respondent;

[3] "The stalking statute was intended to fill gaps in the law by criminalizing conduct that fell short of assault or battery. The stalking statute was also designed to protect women from being harassed by ex-husbands or former boyfriends, by ensuring that victims did not have to be injured or threatened with death before stopping a stalker's harassment." *Curry v. State*, 811 So.2d 736, 741 (Fla. 4th DCA 2002).

d. That petitioner seeks an injunction enjoining respondent from committing any further acts of violence.

61. Guetzloe's Complaint utterly fails to satisfy these required elements. The Complaint is not verified. It fails to allege that Guetzloe has suffered repeat violence at the hands of the Defendants. It fails to allege that Guetzloe genuinely fears repeat violence by the Defendants. It fails to seek an injunction enjoining Defendants from committing any further acts of violence. It fails to plead any of these elements in the required form.

62. The statutory requirements of § 784.046, Florida Statutes, are "clear and mandatory", and no cause of action can ever be stated for the type of injunction sought by Guetzloe where the form of the complaint is not in compliance with promulgated requirements. *Bierlin v. Lucibella*, 955 So.2d 1206, 1207-08 (4th DCA 2007) (reversing a denial of motion for attorney's fees under § 57.105, Florida Statutes, where plaintiff sought injunction under Chapter 784, Florida Statutes, but failed to comply with the "clear and mandatory requirements of section 784.046").

63. For the foregoing reasons, Count V of the Complaint should be dismissed.

Conclusion

64. The Complaint utterly fails to state a cause of action upon which relief can be granted. Accordingly, the Complaint should be dismissed in its entirety.

WHEREFORE, Defendants EVERETT WILKINSON and TIM McCLELLAN, hereby respectfully request that this Court dismiss the Complaint and award such other and further relief as this Court deems just and proper.

Respectfully Submitted,

/s/ Wade C. Vose
Wade C. Vose, Esquire
Florida Bar No. 685021

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been furnished by Electronic Court Filing, Facsimile Transmission and by U.S. Mail to Frederic B. O'Neal, Esq., P.O. Box 842, Windermere, Florida 34786, this 21st day of July, 2010.

/s/ Wade C. Vose
Wade C. Vose, Esquire
Florida Bar No. 685021
Gretchen R. H. Vose, Esquire
Florida Bar No. 169913
Eve Bouchard, Esquire
Florida Bar No. 0035398
Vose Law Firm LLP
324 W. Morse Blvd.
Winter Park, Florida 32789
Telephone (407) 645-3735
Facsimile (407) 628-5670
Attorneys for Defendants
Everett Wilkinson, and Tim McClellan