

Kenner & Cummings PLLC

May 30, 2015

Via Certified U.S. Mail & facsimile (646) 304-6365

Mr. Mike Pospis, Esq.
Popis Law, PLLC
The Woolworth Bld'g, Suite 2320
233 Broadway
New York City, NY 10279

RE: Digital Defamation of David Shavolian.

Dear Mr. Pospis:

This is a cease-and-desist letter.

We write for our client, Mr. David Shavolian, and we do so in the spirit of cooperation. Mr. Shavolian is the victim of digital defamation. To remedy that harm, Mr. Shavolian sought declaratory relief in Florida state court in Leon County (Tallahassee). For your convenience, we attached a copy of the lawsuit and the final judgment—the proceeding was not an *in personam* proceeding, but rather an *in rem* proceeding, where the Florida Circuit Court took jurisdiction over the digital defamation itself. See Exhibit A (lawsuit); Exhibit B (final judgment).

It has come to our attention that your firm has posted on its website information that the Florida Circuit Court deemed defamatory. Unlike search engines such as Google and Yahoo!, for example, your firm does not enjoy immunity, as your firm is the author of the defamatory posting on your firm's website, which we attach here as Exhibit A.

As you likely recognize, an *in rem* judgment binds the world at large, even those with no notice of the proceeding. See, e.g., *Becher v. Countoure Labs.*, 279 U.S. 388 (1929). That said, we hope that you will simply remove the posting from your firm's website, so as to alleviate the need for us to proceed further either back in Florida Circuit Court, or in New York's Supreme Court—something we are loathe to do, and something wholly unnecessary if you will simply and kindly remove the defamatory posting.

For your convenience, we also attached the Florida complaint, Exhibit B; the final judgment, Exhibit C; and a page from Am. Jur. that succinctly explains the law regarding *in rem* proceedings, Exhibit D.

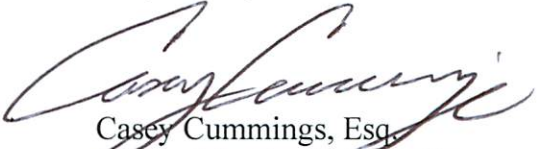
We thank you for your attention to (and assistance with) this matter.

Kenner & Cummings PLLC
175 SW 7th Street, Suite 2410, Miami, FL 33130
C. 267-980-2424 P. 305-384-7370
Casey@Kennercumings.com

Kenner & Cummings PLLC

Should your office have any question, or if we can assist in any way, please contact either Casey Cummings, Esq., at (267) 980-2424, or Scott L. Adkins, Esq. (Cal. Bar No. 194809) at (954) 299-1189.

Respectfully,



Casey Cummings, Esq.
Counsel for David Shavolian

CC/sla
Enclosures

Exhibit B

Florida Circuit Court Complaint

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT, IN AND
FOR LEON COUNTY, FLORIDA

DAVID SHAVOLIAN

Plaintiff,

Case No.:

vs.

ANONYMOUS JOHN DOE 1

Defendant.

COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW Plaintiff, DAVID SHAVOLIAN, (herein also "Plaintiff") by and through the undersigned counsel, and brings this Complaint for Declaratory Judgment against Defendant, ANONYMOUS JOHN DOE 1 (herein "Defendant" or "Doe 1"), as more fully set forth herein:

GENERAL ALLEGATIONS
INTRODUCTION

1. This is an action for Declaratory Judgment in accordance with §86.011, Florida Statutes. Damages are not being sought. The Plaintiff merely seeks a declaration from the Court pursuant to Florida Statutes 86.011 and 86.021 that the words, a written instrument in digital form, authored by the Defendant are constructed in a manner that constitutes defamation per se (the "Digital Defamation") and the Plaintiff is entitled to a judicial declaration as to its legal effect. The Plaintiff is uncertain as to whether such Digital Defamation authored by the Defendant is defamatory per se and requests a declaration from this Court pursuant to Chapter 86 of the Florida Statutes concerning the rights and liability which arise from such Digital Defamation authored by the Defendant.

VENUE IS PROPER IN LEON COUNTY

2. Plaintiff, David Shavolian, is the victim of Digital Defamation which is located within the State of Florida.
3. The Defendant may reside within the State of Florida, although the actual residence of the Defendant is unknown in that the Defendant has chosen to publish the Digital Defamation anonymously on an Internet Service Provider (ISP) known as Therealdeal.com, Nydailynews.com and Ripoffreport.com. Any attempt at service of process so as to obtain in personam jurisdiction would be a futile act based upon the Defendant's concealment of his identity and place of residence.
4. The Defendant acted to conceal his identity and residence in connection with the publishing of Therealdeal.com, Nydailynews.com and Ripoffreport.com. The Digital Defamation is commercial defamatory per se. The Plaintiff is not a public person pursuant to New York Times Co. v. Sullivan, 376 U.S. 254 (1964). The Digital Defamation is not political speech.
5. The Digital Defamation is attached hereto as Exhibit A, B and C. The URL for the Digital Defamations are:
 - a. <http://therealdeal.com/blog/2013/10/03/real-estate-exec-forced-employee-to-bare-breasts-suit/>
 - b. <http://www.nydailynews.com/new-york/brooklyn/boss-made-stand-urinated-harassment-suit-article-1.1474654>
 - c. <http://www.ripoffreport.com/r/eony-/new-york-new-york-10018/eony-executive-offices-of-new-york-rent-fraud-tenant-scam-new-york-new-york-1084470>

These URL site contains the Digital Defamation in the form of a written instrument.

6. The Digital Defamation is digital property and should be considered a *res* which has been continuously located since the date of its publication in Leon County, Florida, as a result of its continuous publication or republication in Leon County, Florida through various Internet search engines such as Google. Venue is thus proper under Florida Statutes 47.011.
7. Although this is a suit for Declaratory Judgment and not a civil action for libel or money damages or other supplemental relief, this Court has all the inherent equitable powers of the Circuit Court available for the proper and complete exercise of its jurisdiction conferred by Chapter 86, Florida Statutes to make a declaration by written Order that the Digital Defamation is in fact defamatory per se or not defamatory per se. See Title and Trust Company of Florida v. Title Guaranty and Abstract Company of Sanford, 103 So. 2d 211 (Fla 2nd DCA 1958) and Porter v. Warner Holding Company 328 U.S. 395 (1946).
8. The Defendant Anonymous John Doe I has at all times since the publication of the Digital Defamation had minimum contacts with the State of Florida pursuant to Shaffer v. Heitner, 433 U.S. 186 (1977) and Internet Solutions v. Marshall, 39 So. 3d 1201 (Fla. 2010).

**EQUITABLE REASONS FOR THE PLAINTIFF SEEKING A
DECLARATORY JUDGMENT**

9. A Declaratory Judgment under Chapter 86, Florida Statutes, in that the author of the Digital Defamation has chosen anonymity and engaged in a pattern of behavior to conceal his identity, thus making a Declaratory Judgment by this Court the least onerous remedy directed at the Defendant. Defamatory speech is not protected free speech under

the Free Speech Clause of the First Amendment to the United States Constitution.

Lastly, the Plaintiff requests no supplemental relief of a monetary nature.

10. The Plaintiff in this action is a real estate executive in New York City. Within its competitive space the Plaintiff has numerous, but smaller, competitors. From time to time competitors of the Plaintiff post anonymous defamatory material on various websites which are accessed and republished on Google.com.
11. The Plaintiff asserts that the defamatory speech, which the Plaintiff seeks a declaratory speech on it, is commercial defamation and is expressly not political speech, but **speech related to tamping down competition within the competitive space.**
12. The Declaratory Judgment sought herein is only a declaration by the Court that the defamation within control of Florida courts is, in fact, defamatory. The Declaratory Judgment does not seek to expose the identity of Defendant, Anonymous John Doe 1 and thus, does not violate the Defendant's First Amendment right associated with his anonymity.
13. Further, because the defamation was originally published on the Therealdeal.com, Nydailynews.com and Ripoffreport.com, which is an internet service provider who has immunity from any state court action, the Plaintiff cannot bring a defamation action against the Therealdeal.com, Nydailynews.com and Ripoffreport.com enjoy immunity from any state court claim pursuant to 47 U.S.C. §230 Communications Decency Act (CDA 230). See attached Exhibits D and E.) Because Therealdeal.com, Nydailynews.com, Ripoffreport.com as well as Google.com are an interactive computer service providers under CDA §230 and enjoy complete preemptive federal civil immunity from state court claims. Thus, Therealdeal.com, Nydailynews.com,

Ripoffreport.com and Google.com cannot be sued for defamation for posting anonymous defamatory material leaving as the Plaintiff's only remedy a claim against the author of the Digital Defamation who chosen to remain anonymous.

14. CDA §230(2) provides that no provider of an interactive computer service, such as Therealdeal.com, Nydailynews.com, Ripoffreport.com and Google.com shall be held liable and treated as the publisher or speaker of defamatory statements in a digital format provided by another including another information content provider. In this instance, neither Therealdeal.com, Nydailynews.com, Ripoffreport.com nor Google.com, which re-publishes Therealdeal.com, Nydailynews.com and Ripoffreport.com articles within Google's search algorithm, can be sued for state court including declaratory judgments provided that Therealdeal.com, Nydailynews.com, Ripoffreport.com and Google.com do not create or edit the content posted on their sites. The Plaintiff does not allege that either Therealdeal.com, Nydailynews.com, Ripoffreport.com or Google.com are the authors of the Digital Defamation.
15. Any anonymous defamatory posting on Therealdeal.com, Nydailynews.com and Ripoffreport.com is generally reposted on Google.com by way of a live URL link on the Google search engine pages. This posing and reposting is federally preempted and hence, no claims can be filed by the injured party, which in this case is the Plaintiff.
16. The scope of CDA 230 immunity has been recognized by the various States' Attorneys' General as being so broad as to protect victims of child sex trade and human slavery. See attached Exhibit F.
17. Accordingly, the only cause of action that can be maintained by the Plaintiff in connection with the internet posting of commercially defamatory speech is a state court

claim against the defaming author who creates a post on an internet service provider. Again, in this instance, the defaming party has elected to remain anonymous most likely based upon the fact that the Defendant is a competitor of the Plaintiff.

18. The scope of CDA 230 immunity has been litigated several times in Florida. See Giordano et al. v. Donna Romeo and Xcentric Ventures LLC, '76 So.3d 1100 (Fla. 3rd DCA 2011); Whitney Information Network, Inc. v. Xcentric Ventures, LLC, 2008 U.S. Dist. LEXIS 1632. The Florida Supreme Court has held that CDA 230 provides absolute immunity for state court civil claims to interactive computer services like Therealdeal.com, Nydailynews.com Ripoffreport.com and Google.com. See Doe v. America Online, Inc., 783 So. 2d 1010 (Fla. 2001). Further, the Florida Supreme Court relying on the 4th District Court of Appeals in Zeran v. America Online, Inc., 129 F.3d 327 (4th Cir. 1997), held that "section 230 expressly bars any actions and we are compelled to give the language of this preemptive law its plain meaning". Generally see compendium of cases filed herewith.

GOOGLE.COM'S VOLUNTARY DE-INDEXING POLICY TO REMOVE DEFAMATORY CONTENT FROM ITS ALGORITHM PAGES

19. Google.com has recognized that from time to time anonymous defamatory Digital Defamation is published within its search pages. Google.com has adopted a voluntary policy that it will de-index (remove from its search algorithm and its search pages) defamatory postings from other internet service providers such as Therealdeal.com, Nydailynews.com and Ripoffreport.com so long as Google.com is presented with a judgment that the anonymous posting is in fact defamatory. In this instance, the

¹ The Third District Court of Appeals, by way of *dicta*, condemned the business practices of these types of websites, nonetheless granting summary judgment for the defendant based upon the CDA 230 exemption.

commercial defamation posted by Defendant Anonymous John Doe 1 will only be removed from Google.com pursuant to the voluntary policy but will remain posted on Therealdeal.com, Nydailynews.com and Ripoffreport.com. (See attached Exhibit G for the Google.com policy for de-indexing).

20. In essence, this claim for Declaratory Judgment is akin to merely taking away, not the podium, but the public electronic megaphone, which is the Google search engine. The Google search engine used by approximately 90% of persons doing searches provided that Google.com adheres to its voluntary policy of removal and reliance upon a Court order declaring the content defamatory. However, a Declaratory Judgment from this Court will not remove the commercially defamatory statements from any internet service provider who does not offer the same policy, i.e., Therealdeal.com, Nydailynews.com and Ripoffreport.com. This acts as a *defacto* balancing test between the rights of the Plaintiff not to be defamed and the First Amendment rights of Defendant Anonymous John Doe 1.²
21. In essence and in reality, the only claim that the Plaintiff has to have any chance to remove the commercial defamation, appearing on Google.com, is through this action for Declaratory Judgment against the author, Defendant Anonymous John Doe 1 and Google.com's voluntary de-indexing policy remaining in effect.

**THIS COURT HAS IN REM JURISDICTION OVER THE DIGITAL
DEFAMATION PURSUANT TO CHAPTER 49, FLORIDA STATUTES,
CONSTRUCTIVE SERVICE OF PROCESS**

² Plaintiff asserts, however, that there is no First Amendment implication to defamatory commercial speech. The defamation, over which the Plaintiff seeks a Declaratory Judgment, is clearly not political speech or speech which communicates information with general public interest.

22. This Court has in rem jurisdiction over the Digital Defamation based upon its location, publication, and republication within Leon County, Florida. The Digital Defamation is digital property which is located within the State of Florida and as such is sufficient to confer in rem jurisdiction on this Court. The Plaintiff must invoke the in rem jurisdiction conferred by Chapter 49, Florida Statutes.
23. Florida Statute 49.011(5) allows for service of process by publication when a party requests the legal interpretation and construction of a written instrument such the Digital Defamation which is the subject matter of this Declaratory Judgment.
24. It is the conduct of the Defendant who necessitates constructive service of process, pursuant to Chapter 49, Florida Statutes, by such Defendants choosing to publish the Digital Defamation anonymously.
25. Absent such constructive service of process, the Plaintiff has no remedy.
26. Further, Courts have long held that unless otherwise explicitly disallowed by the statute providing for constructive service and conferring in rem jurisdiction, all the inherent equitable powers of the Circuit Court are available for the complete exercise of its in rem jurisdiction conferred by Florida Statutes, Chapter 49. The comprehensiveness of this Court's equitable jurisdiction is not to be denied or limited *in the absence of a clear and valid legislative command*. Unless a statute in so many words, or by a necessary or inescapable inference, restricts this Court's jurisdiction in equity, the full scope of that jurisdiction is to be recognized and applied. Porter v. Warner Holding Co., 328 U.S. 395, 398 (1946). Through the exercise of its equitable jurisdiction conferred by Chapter 86, Florida Statutes, the Court may accord full justice to the parties in interest so that rights in the subject matter (Digital Defamation) may be determined. Only through the exercise

of its equitable jurisdiction can this Court do complete rather than truncated justice. *Id.* at 397-98; see also *Camp v. Boyd*, 229 U.S. 530, 551-52 (1913).³

27. The Plaintiff has conducted a pre-filing diligent search to discover and locate the identity and address of the Defendant, and has been unsuccessful in obtaining this information. The Plaintiff has exhausted all non-judicial remedies to attempt locating the Defendant, but the Defendant has concealed himself in a manner which would prevent him or her from having to enter a legal forum to answer for their defamatory statements about the Plaintiff.

**DEFAMATORY ALLEGATIONS FOR WHICH THE PLAINTIFF REQUESTS
A DECLARATORY JUDGMENT**

28. The Defendant, anonymously caused a written document, created on October 3, 2013, and the Digital Defamation, to be located, published, republished, and accessible in digital form on various Internet search engines. The Digital Defamation continues to be republished as the date of the filing of this Complaint.
29. The Defendant created the defamatory and false posting. Digital Defamation is not protected speech. The Plaintiff is not a public figure. The Digital Defamation:
- a. Was published in the State of Florida;
 - b. Is false;
 - c. Defendant, Anonymous John Doe 1, acted with either knowledge of the Digital Defamation falsity or acted negligently;
 - d. The Plaintiff suffered actual damages; and

³ See Florida Statutes 49.011(5) wherein the Legislature has conferred in rem jurisdiction regarding the construction of a written instrument. The Plaintiff here merely requests that the Court make a declaration and construct the "written instrument" (Digital Defamation) to determine if such written instrument in digital form is defamatory per se.

- e. The Digital Defamation is, in fact defamatory.
30. The various titles of the Digital Defamation are "Real estate exec forced employee to bare breast: Suit", "Boss made her stand beside him while he urinated: harassment suit" and "EONY – Executive Offices of New York Rent fraud, tenant, scam, new York New York".
31. The Digital Defamation also states the following falsities:
- a. The Plaintiff has been arrested three times for the sale of narcotics in the past three years.
32. This constitutes commercial defamation per se, is not an opinion, and is not protected speech under the Free Speech Clause of the First Amendment.
33. The statements are false and defamatory because:
- a. The Plaintiff has not been arrested three times for the sale of narcotics in the past three years and has never been arrested for the sale of narcotics.
- DECLARATORY RELIEF**
34. Plaintiff reasserts and alleges the allegations set forth in paragraphs 1-33, above and incorporates same by reference in this Count I.
35. The Defendant posted the Digital Defamation concerning the Plaintiff.
36. The Digital Defamation authored by the Defendant was an unprivileged publication to a third party by publishing the materials on the Internet;
37. The Defendant acted at least negligently in publishing the Digital Defamation,
38. The Defendant acted intentionally, with malice, and or with reckless disregard for the truth; and

39. The Plaintiff has suffered special harm caused by the publication of the Digital Defamation and damage to the reputation of the Plaintiff and his business.
40. Plaintiff has suffered damages to his reputation and the reputation of his business.
41. The Plaintiff requests that the Court enter a declaratory judgment finding as follows:
- a. That the Digital Defamation is defamatory per se;
 - b. That the Digital Defamation is not protected speech under the Free Speech Clause of the First Amendment based upon its defamatory nature;
 - c. That the Digital Defamation is not opinion or otherwise privileged under common law;
 - d. That the Defendant be ordered to remove the Digital Defamation. In the event that the Defendant does not remove the Digital Defamation or cannot remove the Digital Defamation, the Plaintiff, may submit this Order, which is directed to the Defendant, to request any Internet search engine to remove the Digital Defamation from their search results (de-index).
 - e. That the Court's Declaratory Judgment provide that the Court's Order would not be res judicata or have any preclusive effect on Defendant Anonymous John Doe 1, if his identity is established in the future in defending a claim for damages on the merits.

WHEREFORE, Plaintiff, David Shavolian, respectfully requests that this Court enter a Declaratory Judgment as requested above.

**DESIGNATION OF EMAIL
ADDRESSES FOR STEVEN R. ANDREWS**

The undersigned, Steven R. Andrews, as attorney for Plaintiff, and pursuant to Florida Rule of Judicial Administration 2.516(b)(1)(A), requests that copies of all pleadings be furnished to the email addresses designated below:

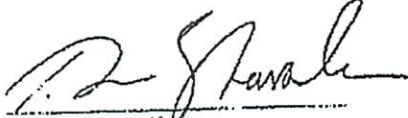
Primary e-mail: service@andrewslawoffice.com

Second e-mail: sandrews@andrewslawoffice.com

Third e-mail: binnerty@andrewslawoffice.com

VERIFICATION

As authorized by § 92.525, Florida Statutes, under the penalty of perjury, I declare that I have read that foregoing Complaint are true.

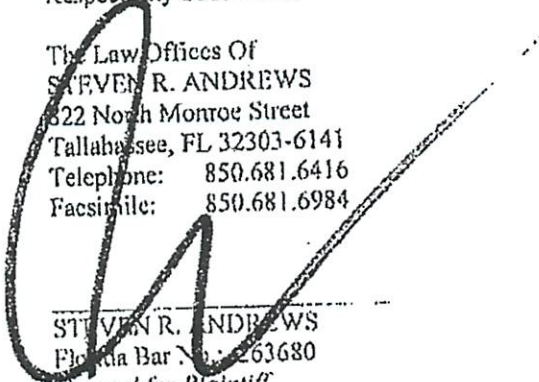


David Shavolian

DATED this 31 day of March, 2014.

Respectfully Submitted,

The Law Offices Of
STEVEN R. ANDREWS
822 North Monroe Street
Tallahassee, FL 32303-6141
Telephone: 850.681.6416
Facsimile: 850.681.6984



STEVEN R. ANDREWS
Florida Bar No.: 263680
Counsel for Plaintiff

Exhibit C

Florida Circuit Court Final Judgment

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

DAVID SHAVOLIAN

Plaintiff,

Case No.: 2014-CA-000845

vs.

ANONYMOUS JOHN DOE 1

Defendant.

FINAL DEFAULT JUDGMENT

THIS CAUSE came before the Court on a Motion for Entry of a Final Default Judgment requesting a declaration that is certain written defamation published in a digital format (Digital Defamation) within the State of Florida be declared defamatory. This Judgment is entered on the sole issue as to whether such Digital Defamation is defamatory.

The Court being duly advised in the premises, it is hereby declared that:

1. On March 31, 2014, Plaintiff filed its Complaint against John Doe 1. The Plaintiff verified the Complaint and stated that all of the factual recitations contained therein were true and accurate.
2. On April 10, 2014, the Plaintiff gave notice in the Tallahassee Advertiser of this Action. The notice ran for thirty (30) days.
3. The Defendant has received constructive notice and has been constructively served pursuant to Florida Statutes 49.011(5) and 49.21 and has not defended this action. Constructive service is proper under Florida Statutes 49.011(5) and 49.21.

4. The Court finds that the Plaintiff has been unable to effectuate *in personam* service based upon the Defendant John Doe 1 concealing his name and address as reflected in the Affidavit of Diligent Search.

5. Although this is not a case wherein the Plaintiff relies upon the Florida long-arm statute (Florida Statute 48.193(1) and merely seeks *in rem* or *quasi in rem* jurisdiction over Digital Defamation published in Florida, the Court finds that Defendant John Doe 1 has satisfied the minimum contact requirements with the State of Florida as set forth in *Shaffer v. Heitner*, 433 U.S. 186 (1977) (wherein the United States Supreme Court found that *in rem* jurisdiction, *quasi* and *in rem* jurisdiction and *in personam* jurisdiction require an analysis of the minimum contact standards elucidated in *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). See also *Caiazza dba The Beatles Autographs v. American Royal Arts Corp.*, 70 So. 3d 245 (Fla. 4th DCA 2011) and *Internet Solutions v Marshall*, 39 So. 3d 1201 (Fla. 2010) (posting of defamatory material continually accessible on Google.com in Florida constitutes a tortious act in Florida sufficient to satisfy the minimum contact standards of *International Shoe Co.*, *supra*). See also *Wendt v. Horowitz*, 822 So. 2d 1252 (Fla. 2002); *Bedford Computer Corp. v. Graphic Press, Inc.*, 484 So. 2d 225 (Fla. 1986); *Zeiman v. Costa*, 578 So. 2d 332 (Fla. 3d DCA 1991) and *Meiliunas v. O'Leary*, 483 So. 2d 509, 510 (Fla. 4th DCA 1986) (*in rem* or *quasi in rem* jurisdiction pursuant to constructive service is only allowable when a Plaintiff does not seek money damages, thus no Fourteenth Amendment substantive due process rights arising from a money judgment are implicated). See also *Hugenor v. Hugenor*, 420 So. 2d 344 (Fla. 5th DCA 1982).

6. The Court finds that applying the cases set forth in paragraph five above, the Defendant John Doe 1's conduct in connection with the State of Florida are such that the Defendant could reasonably anticipate being "hauled into Court" in Florida and "do not offend traditional

notions of fair play and substantial justice". See *Execu-Tech Bus. Sys., Inc. v. New Oji Paper Co.*, 752 So. 2d 582, 584 (Fla. 2000) (quoting *International Shoe Co. v. supra* at 316 and *World-Wide Volkswagen Corp. v. Woodsen*, 444 U.S. 286, 297 (Fla. 1980).

7. The Plaintiff is requesting that the Court enter an Order construing the Digital Defamation as defamatory in its format as a written instrument. The Court finds that this is an *in rem* or *quasi in rem* request for jurisdiction. As a result of the Defendant's choice to not defend this lawsuit and to conceal his true identity and whereabouts thus avoiding *in personam* jurisdiction, the Clerk of Court entered a Clerk's default on May 8, 2014.

8. The Court finds that the Plaintiff could not obtain *in personam* jurisdiction by service of process over Defendant John Doe 1, through no fault of the Plaintiff.

9. The Court finds that the Plaintiff's Affidavit of Diligent Search contained in the Court file is sufficient to establish the Plaintiff's inability to perfect service of process and *in personam* jurisdiction.

10. The Court finds that the Plaintiff properly published constructive notice pursuant to Florida Statute 49 as evidenced by the Proof of Publication contained in the Court file.

11. The Court finds that the Plaintiff has set forth a *prima facie* case that the Digital Defamation is, in fact, defamatory and false.

12. The Court finds that the Defendant John Doe 1's speech is not otherwise protected by the First Amendment.

13. The Court finds that the Defendant's Fourteenth Amendment, substantive due process rights, are not implicated and that the Plaintiff seeks only Declaratory Judgment and no award of costs and no request for supplemental relief.

14. The Court also rules that this Declaratory Judgment shall not be deemed *res judicata* or have any preclusive effect in the event that the identity of Defendant John Doe 1 is later determined and the Plaintiff brings a claim for damages, i.e., this Judgment will not preclude Defendant John Doe 1 from defending a damage claim on the merits at a later date in the future.

15. The Court finds that the venue is proper in Leon County in that the Digital Defamation was published in Leon County and therefore under Florida Statute 770.05 had this claim be brought in defamation as opposed to a request for a Declaratory Judgment, venue would be proper in Leon County.

16. The Court orders that the Defendant shall remove the Digital Defamation (attached hereto as **Exhibit A, B and C**) contained at:

- a. <http://therealdeal.com/blog/2013/10/03/real-estate-exec-forced-employee-to-bare-breasts-suit/>
- b. <http://www.nydailynews.com/new-york/brooklyn/boss-made-stand-urinated-harassment-suit-article-1.1474654>
- c. <http://www.ripoffreport.com/r/eony-/new-york-new-york-10018/eony-executive-offices-of-new-york-rent-fraud-tenant-scam-new-york-new-york-1084470>


17. That if the Defendant cannot in fact be located and cannot request that the Digital Defamation be removed or cannot remove the Digital Defamation from the Internet, the Plaintiff can submit this Order to Google, Yahoo, Bing, or any other Internet search engine so that the link can be removed from their search results pursuant to their existing policies concerning de-indexing of defamatory material;

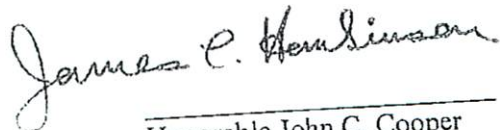
18. That the Plaintiff has sought no monetary damages, costs, or supplemental relief against the Defendant in this Declaratory Action and this Judgment merely a declaration that the Digital Defamation is defamatory pursuant to Florida Statute 86.

19. The Court orders that if the name and address of the Defendant is in fact determined at a later date, the Plaintiff shall serve by service of process upon the Defendant.

20. That the Defendant or the Plaintiff may submit this Order to Google, Yahoo, Bing or any other Internet search engine to have the Digital Defamation removed from that search engine's search results. The Plaintiff is free to submit this Order to any Internet Service Provider to cause such defamation to be removed or otherwise de-indexed at any time now or in the future.

DONE AND ORDERED in Tallahassee, Leon County, Florida, this 8 day of

 2014.



Honorable John C. Cooper

Copies furnished to:

Steven R. Andrews, Esq.