

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

1932-0000000

JOSÉ ALBERTO PUJOLS ALCÁNTARA,)
better known as ALBERT PUJOLS,)
)
Plaintiff,)
)
vs.)
)
JACK ANTHONY CLARK,)
)
Defendant.)
)
Serve at:)
)
5 Lakeway Court)
Defiance, Missouri 63341)

Case No. _____

Div. _____

5

2019 OCT 14 PM 09:10
 CLERK OF COURT
 ST. LOUIS, MISSOURI

PETITION

COMES NOW plaintiff, ALBERT PUJOLS (“Pujols” or “Plaintiff”), by and through his attorneys, and for his cause of action for defamation against defendant Jack Clark (“Clark”), states to the Court as follows:

Summary of the Case

1. Pujols is a preeminent baseball player on and off the field whose character and reputation are impeccable and beyond reproach. His accomplishments in sport are surpassed only by his deep personal commitment to serving as a positive role model and to his charitable works through the Pujols Family Foundation, all of which are both supported by and driven by his outstanding personal character. Clark is a former major league baseball player turned struggling radio talk show host. In an attempt to generate ratings during the first week of his *The King and the Ripper* radio program, for his own personal gain, or for other wrongful reasons yet unknown, Clark targeted Pujols and published and disseminated malicious, reckless and outrageous falsehoods about him, falsely asserting that Pujols used steroids and illegal

performance enhancing drugs (“PEDs”). Clark’s statements accusing Pujols of using any type of steroids or PEDs are brazenly false and defamatory, and utter fabrications that Clark maliciously published with knowledge they were false or while having serious doubts about whether they were true. Pujols has never used steroids and has never taken any illegal PEDs of any kind. In fact, the alleged source of Clark’s statements has completely denounced Clark’s outrageous, false assertions and confirmed that he never said that Pujols used PEDs, nor would he ever say such a thing because it is entirely false. Notwithstanding and with full knowledge of that denouncement, Clark brazenly repeated his false allegations on his Twitter page and in various media interviews. In addition, WGNU and InsideSTL -- the media through which Clark initially made his false defamatory accusations -- have acknowledged the falsity of Clark’s statements, and published a full retraction and apology stating that InsideSTL had “no proof or evidence to substantiate [Clark’s False Statements] and disavow and retract them.”

2. On August 2, 2013, during the first day of his radio program *The King and the Ripper*, Clark ranted that “**I know for a fact he [Pujols] was**” “**a juicer**” who used steroids and PEDs and that trainer Chris Mihlfeld (“Mihlfeld”), who “**worked him out, shot him up.**” Clark made additional, similar false statement about Pujols on his August 5, 2013 radio show when he claimed that Pujols’ trainer “**injected Albert**” with steroids and “**showed [Clark] how he did it**” (collectively, the “False Statements”). The False Statements are fabrications which were concocted by Clark.

3. Astonishingly, Clark claims that Pujols’ alleged use of PEDs was supposedly revealed to Clark thirteen years ago, yet Clark waited until the first days of his new radio show to make his groundless accusations.

4. WGNU and Inside STL—the media through which Clark first published his false, defamatory accusations—have issued a full retraction and apology disavowing Clark’s False Statements and terminating his program. However, cutting Clark off at the microphone will not undo the harm to Pujols’ reputation caused by Clark. Clark’s defamatory falsehoods, which continue to be republished throughout the world, are sullyng the reputation of a great ballplayer

whose integrity and character are beyond repute. As Chief Justice Warren aptly expressed it over 50 years ago: “Freedom of the press under the First Amendment does not include absolute license to destroy lives or careers.” Clark has intentionally defamed and damaged Pujols’ remarkable baseball legacy and damaged his reputation for Clark’s own financial gain. This is unconscionable, and Clark should be held accountable.

5. Pujols brings this action for the purpose of preserving and salvaging his good name and to deter those who would wrongfully and maliciously defame him and others. For that reason, Pujols intends to donate the award of monetary damages received through this lawsuit to charity.

The Parties

6. Pujols is a professional baseball player and at all times relevant was a resident of St. Louis County, Missouri.

7. On information and belief, Clark is, and at all times relevant hereto was, an individual residing in the State of Missouri.

Jurisdiction

8. This Court has subject matter jurisdiction pursuant to Mo. Const. Art. 5, Section 14(a) and R.S.Mo. § 478.070. This Court has personal jurisdiction over the defendant Clark because Pujols was injured by the wrongful acts alleged herein in St. Louis County, Missouri and Clark resides in Missouri and committed the wrongful acts herein alleged in Missouri.

Pujol’s Good Reputation, Character and Accomplishments

9. Pujols is a preeminent ballplayer both on and off the field whose character and reputation are impeccable and beyond reproach.

10. During his career as a professional baseball player, Pujols has been recognized as one of the best professional baseball players to ever play the game.

11. Among Pujols’ many accomplishments:

- As a rookie for the St. Louis Cardinals baseball team in 2001, he unanimously won the National League Rookie of the Year Award.
- In 2005, 2008 and 2009 he was voted the National League's Most Valuable Player, and in 2002 and 2003, he finished second in the National League Most Valuable Player Award voting.
- In 2003, he won the batting title with a batting average of .359.
- In 2004, 2006 and 2011, he started for the St. Louis Cardinals in the baseball World Series, and his team, the Cardinals, won the World Series in 2006 and 2011. In Game 3 of the 2011 World Series, he tied the World Series single game records for home runs, hits and runs batted in.
- Pujols was a major league All Star in 2001 and from 2003 through 2010.

12. Aside from Pujols' impressive list of professional accomplishments, Pujols is also deeply and personally committed to serving as a positive role model for children and aspiring young athletes. Pujols is deeply involved in charitable work through the Pujols Family Foundation, a not-for-profit charitable institution which exists to strengthen families through works, deeds and examples, to help those living with Down Syndrome, and to improve the lives of the impoverished in the Dominican Republic.

13. Pujols' success and accomplishments as a professional baseball player result solely from his physical talent, hard work and dedication to improving his physical attributes and abilities through exhaustive and grueling physical workout programs.

14. Pujols has never used anabolic steroids or any other form of banned or illegal performance enhancing drug ("PEDs").

Clark's False Statements about Pujols

15. On or about August 2, 2013, while acting as a sports commentator on radio station WGNU 920 AM during Inside STL's the *King and the Ripper* radio program ("Show") and while at the WGNU studio in St. Louis, Missouri, Clark falsely stated and published to a wide audience false and defamatory statements that Pujols has used steroids and PEDs.

16. Clark's statements about Pujols were false. The true facts are that Pujols has never used steroids and has never taken any illegal performance enhancing drugs of any kind whatsoever, nor was Pujols ever "shot up" by Mihlfeld.

17. Clark's False Statements about Pujols include the following:

- "I know for a fact he was... a juicer."
- "[Pujols' trainer Chris Mihlfeld] worked him out, shot him up and all that stuff."
- "I know for a fact he was [using PEDs]."
- "The trainer that worked with him, threw him batting practice from Kansas City that worked him out every day, basically told me that's what he did."

18. On dates subsequent to August 2, 2013, Clark reiterated in sum and substance the above-referenced False Statements in various media including the following statement:

- "[Pujols' trainer Chris Mihlfeld] had told me he had done that with Pujols, with steroids"

19. Clark also reiterated the False Statements on his Twitter feed, stating on August 10th, for example: **"I completely stand by the story i told 8 days ago about conversations 13 years ago w/ Mihlfeld."**



Jack Clark
@JackAClark22

Follow

I completely stand by the story i told 8 days ago about conversations 13 years ago w/ Mihlfeld. He will never admit it. Google it.

12:17 PM - 10 Aug 2013

166 RETWEETS 27 FAVORITES



20. Clark's False Statements have been published and republished many times to a wide audience nationwide.

21. Clark's False Statements were published by Clark in numerous media and in a manner which he knew and intended would become widespread, and which would live and be repeated via the Internet, podcasts, and media reports.

22. Knowing that that his False Statements would be widely circulated, Clark published them for the malicious purpose of attracting attention and increasing the audience listening to his new sport's commentary show.

23. Each of the above-referenced False Statements were published of and concerning, or about, Pujols.

The Defamatory Nature of Clark's False Statements

24. Statements to the effect that a professional baseball player was "shot up" or "juiced," such as the False Statements Clark made about Pujols, are commonly understood and inferred to mean that the player used PEDs, and in making the above-referenced False Statements, Clark so fully understood and intended those statements be inferred in such fashion.

25. Statements to the effect that a professional ball player has used steroids or PEDs, such as the False Statements Clark made about Pujols, are defamatory on their face. Such substances have been illegal under the rules of baseball since at least 2000, and using or possessing such substances without a medical prescription is illegal under the law.

26. Each of the above-referenced statements are false and defamatory in that such statements accuse Pujols of engaging in conduct which is potentially criminal; such statements negatively affect Pujols in his business, trade, profession and occupation as a professional baseball player; and such statements naturally and obviously tend to hold Pujols in disrepute in his business, trade, profession and occupation as a professional baseball player.

27. Indeed Clark, himself, in making the False Statements, intended a defamatory connotation, and he has referred to sports figures that use such substances as "cheating," "faking," "phonies," "frauds," "creeps" and "lowlifes."

Clark's Actual Malice

28. Clark published the above-referenced defamatory False Statements with actual knowledge of the falsity of such statements or recklessly while having serious doubts about the truth of such statements.

29. In fact, Clark has conceded that his publication of the aforesaid False Statements was reckless and published with total disregard for whether they were true or false, admitting in a radio interview that he does not know whether the False Statements were true, conceding to interviewer Doug Gottlieb on August 9, 2013 that, "I don't know for a fact" whether Pujols actually used steroids – and despite stating in the same interview to Gottlieb that Mihlfeld told him "I can inject you the same way I inject Albert" and demonstrating to him how the injection would be made under the waistband near the hip.

30. Clark's statement that he knew for a fact that Pujols used PEDs was supposedly based on a statement made to him by Chris Mihlfeld, Pujols' personal trainer, approximately thirteen years ago.

31. Not only were Clark's statements about Pujols' using PEDs completely and utterly false, and known by him to be false, the attribution to Chris Mihlfeld is false. Mihlfeld never made such statements to Clark or to anyone else. Indeed, Mihlfeld has completely denounced Clark's false assertion and confirmed that he never said that Pujols used PEDs, nor would he ever say such a thing because it is entirely false.

32. Mihlfeld has issued a statement categorically denying that he ever had such a conversation with Clark:

"I haven't even talked to Jack Clark in close to 10 years. His statements are simply not true. I have known Albert Pujols since he was 18 years old, and he would never use illegal drugs in any way. I would bet my life on it and probably drop dead on the spot if I found out he has. As before, once again both Albert and myself have been accused of doing something we didn't do."

33. Even after Clark knew that Mihlfeld had issued a statement confirming in no uncertain terms that Pujols never had PEDs and that Mihlfeld never told Clark anything of the sort, Clark continued to repeat and republish the above referenced False Statements with knowledge of their falsity. Given Mihlfeld's statement denying he ever told Clark that Pujols used PEDs, Clark's continued assertions to the contrary are all the more outrageous, since Clark contends the False Statements are based exclusively on a purported conversation he claims to have had with Mihlfeld over a decade ago.

34. In making and repeating the above-referenced False Statements and falsely attributing same to Chris Mihlfeld, Clark acted with actual malice in that he made the aforesaid statements knowing they were not true or in reckless disregard for the truth while having serious doubts whether they were true or not.

35. Notably, and further evidencing that the aforesaid statements are false and known by Clark to be so, although Clark has repeatedly made publicly-reported statements about PEDs in sports, and is well-known to have called out multiple ballplayers by name for use of PEDs, Pujols alleges, on information and belief, that never once during the past thirteen years and the numerous times Clark talked publicly about PEDs did he ever before say anything about Pujols supposedly using PEDs (and, of course, Pujols never has used such substances).

36. Further confirming that Clark knew the aforesaid statements were false when he made them is the fact that Clark personally supported the Pujols Family Foundation for years, attending numerous charitable events for the Foundation and personally calling Foundation representatives, offering to do "anything for Albert," saying he would do "whatever you guys want." In addition, Clark enthusiastically presented a Silver Slugger award to Pujols in 2009. All of this occurred long after Clark claims to have had the (nonexistent) conversation with Mihlfeld, which further serves to establish that Clark did not believe that Pujols used PEDs.

37. Astonishingly, Clark claims that Pujols' alleged use of PEDs was supposedly revealed to Clark thirteen years ago, yet Clark waited until the first days of his new radio show to make his groundless accusations.

38. On information and belief, Pujols alleges that if Clark supposedly knew “for a fact” that Pujols was a cheater who used PEDs, Clark would not have hypocritically supported his charity for all those years and presented him with an award.

39. Clark’s publication of the aforesaid defamatory False Statements were part of an outrageous ploy to generate attention and ratings for *The King and the Ripper* during its first week on the air. Clark’s subsequent numerous media interviews in which he continued to make the False Statements about Pujols, as well as issuing “Tweets” on the Internet reiterating and standing by the defamatory False Statements, and the continuous dissemination thereof, which facilitated republishing of the False Statements throughout the world, further confirms that the False Statements about Pujols were intended to drive ratings for *The King and the Ripper* during its first week on the air and bring Clark financial gain. In fact, when interviewed by Doug Gottlieb who asked Clark why he was making the statements about Pujols, Clark admitted that his statements about Pujols were made in an effort to boost ratings and responded: “We started our radio show last Thursday, brand new radio show 920 CBS here in St. Louis, Inside STL, and we started last Thursday was our first day, was our groundbreaking day.”

40. Pujols has demanded that Clark retract his false and defamatory accusations, but rather than doing so, Clark has persisted and has maliciously repeated such statements, even in the face of his purported source’s (Mihlfeld) unequivocal statement that Pujols has never engaged in the acts alleged.

41. By his acts and conduct, as set forth herein, Clark intended to and did wrongfully and falsely defame Pujols with actual malice, with knowledge of falsity and/or while having serious doubts about the truth of the False Statements.

Damages Caused by Clark's False, Defamatory Statements

42. The False Statements by Clark are naturally and obviously damaging to Pujols' reputation and have damaged his reputation. In addition to impairing his reputation and causing him lost standing in the community, they have caused him to suffer personal humiliation, mental anguish and anxiety.

43. Though utterly false, the False Statements have created suspicion that Pujols' accomplishments do not result from his physical abilities, talent and hard work, but from the unlawful use of an illegal substance and that Pujols has cheated and not performed honestly.

44. Such statements will or could impact Pujols good name and the value of his good name by depriving him of the benefit of potential sponsorships and endorsements and the royalties and income to be derived thereby.

45. Such statements will or could deprive Pujols of the social and societal benefits and accolades frequently granted to athletes who excel in their sport because such statements identify Pujols as a cheater in his sport. Sports figures who have been accused of PED use have suffered loss of public esteem and damage to their reputation.

46. Such statements have also caused Pujols to suffer severe mental anguish and anxiety, public humiliation and embarrassment.

47. As a direct and proximate result of Clark's aforesaid wrongful acts, and as above stated, Pujols has suffered and continues to suffer damages in an amount to be proven at trial, but which is believed to be in excess of the jurisdictional minimum of this Court. When Pujols has ascertained the full amount of damages, he will seek leave of Court to amend this Petition accordingly.

48. Pujols is informed and believes, and based thereon alleges, that Clark, in doing the things herein alleged, acted willfully, maliciously, outrageously, oppressively and despicably, and with full knowledge of the adverse effect of his actions on Pujols and with willful, deliberate and conscious disregard for the consequences to Pujols. By reason thereof, Pujols is entitled to

recover punitive and exemplary damages from Clark in an amount sufficient to punish Clark for his wrongful conduct, and to set an example and deter him and others from future like conduct.

Prayer for Relief

WHEREFORE, Plaintiff Albert Pujols prays for judgment against defendant Jack Clark, as follows:

- A. A declaration and determination that the statements made by Clark are false;
- B. General and special damages against Clark in accordance with proof at trial, together with interest thereon at the legal rate;
- C. Exemplary and punitive damages;
- D. For all costs of suit incurred herein; and/or
- E. For such other and additional relief as the Court deems just and appropriate.

Respectfully submitted,

DATE: October 3, 2013

LAVELY & SINGER,
PROFESSIONAL CORPORATION

By: Martin D. Singer (by Gem)
MARTIN D. SINGER (CAL. BAR NO. 78166)
BRIAN G. WOLF (CAL. BAR NO. 135257)
LYNDA B. GOLDMAN (CAL. BAR NO. 119765)
2049 Century Park East, Suite 2400
Los Angeles, California 90067-2906
Tel. (310) 556-3501; Fax: (310) 556-3615

LEWIS RICE & FINGERSH, L.C.

By: Joseph E. Martineau
JOSEPH E. MARTINEAU (MO BAR NO. 32397)
JOHN M. HESSEL (MO BAR NO. 26408)
600 Washington Avenue, Suite 2500
St. Louis, Missouri 63101-1311
Tel. (314) 444-7600; Fax: (314) 612-7729
jmartineau@lewisrice.com
jhessel@lewisrice.com

Attorneys for Plaintiff ALBERT PUJOLS