

KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE NUMBER: 16-2-16400-5 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY OF KING

TRACY S. MCNAMARA, an individual, ) NO.  
Plaintiff, ) VERIFIED COMPLAINT FOR  
vs. ) DAMAGES AND FOR INJUNCTIVE  
RELIEF

KAREN KOEHLER; AKA "THE VELVET )  
HAMMER;" JOHN DOE KOEHLER; )  
JOHN DOE "HAMMER"; )  
STRITMATTER KESSLER WHELAN )  
KOEHLER MOORE KAHLER, a )  
Washington professional corporation, )  
Defendant. )

Plaintiff, TRACY S. MCNAMARA, through her attorneys of record, Law Offices  
of John Henry Browne, P.S., by John Henry Browne, for cause of action against the  
Defendant herein, alleges as follows:

**I. PARTIES**

1.1 Plaintiff Tracy S. McNamara ("Ms. McNamara") is and at all times material  
hereto was a resident of Grant County, Washington.

VERIFIED COMPLAINT FOR DAMAGES AND FOR  
INJUNCTIVE RELIEF

Page 1 of 14

Stritmatter Complaint With CPA.docx

LAW OFFICES OF  
JOHN HENRY BROWNE, P.S.  
DELMAR BUILDING, SUITE 200  
108 SOUTH WASHINGTON STREET  
SEATTLE, WA 98104  
(206) 388-0777

1           1.2     Defendant Stritmatter Kessler Whelan Koehler Moore Kahler ("SKW") is  
2     and at all times relative hereto was a Washington professional corporation providing  
3     professional legal services throughout Washington State, including King County. SKW's  
4     principle place of business is located in King County.

## 5                               **II.     JURISDICTION AND VENUE**

6           2.1     This is an action for damages and for injunctive relief. Jurisdiction is vested  
7     in this Court.

8           2.2     Venue is appropriate in the King County Superior Court pursuant to RCW  
9     4.12.025(1).

## 10                           **III.    FACTS**

### 11                   Background

12           3.1     Ms. McNamara is the Defendant in a wrongful death action involving the  
13     death of Tim McNamara on December 25, 2014. The lawsuit was filed on August 31,  
14     2015, in Grant County, Washington; Cause No. 15-2-01064-2. Tim McNamara died from  
15     a gunshot wound to the head suffered in the backyard of his and Ms. McNamara's residence  
16     in Belize. SKW is the attorney of record for the Plaintiffs in that action, Jennifer Ralston  
17     and Caleb McNamara. Ms. Ralston and Caleb McNamara are the biological children of  
18     Tim McNamara. Ms. McNamara is Tim McNamara's biological niece.

19           3.2     Tim McNamara's death was originally ruled a suicide, but after a visit to  
20     Belize by Caleb McNamara and Jennifer Ralston in May of 2015 and a meeting between  
21     them and Belize authorities, Tim McNamara's cause of death was changed to murder and,

1 on information and belief, a warrant was issued by Belize authorities for Ms. McNamara's  
2 arrest.<sup>1</sup> At this point, Ms. McNamara had already been questioned by Belize authorities  
3 and given permission to freely leave the country, which she did, returning to her home in  
4 Soap Lake, Washington.

5 3.3 The claims alleged by Jennifer Ralston and Caleb McNamara against Ms.  
6 McNamara are unsupported and unsupportable. They are based on purchased opinions and  
7 inadmissible reports manufactured by charlatan "experts." Their suit is nothing more than  
8 a spiteful money grab by two children whom Tim McNamara rejected because they could  
9 not accept his relationship with Ms. McNamara. Ultimately, Ms. McNamara will be found  
10 not liable for the death of Tim McNamara.

11 3.4 Because admissible evidence against Ms. McNamara is nonexistent, SKW  
12 has sought to try its clients' case in the court of public opinion. Immediately after filing  
13 suit, SKW launched a prolific publicity campaign to besmirch Ms. McNamara and taint  
14 the potential juror pool, including interviews with SKW's clients on regional television and  
15 in newspapers.

#### 16 SKW's False Statements

17 3.5 SKW focuses its practice on personal injury plaintiffs' claims. SKW  
18 maintains a website (<http://www.stritmatter.com>) where it touts its purported prowess as  
19 aggressive and zealous plaintiffs' advocates and encourages injured parties to retain SKM  
20

---

21 <sup>1</sup> Counsel for Ms. McNamara has requested access to evidence in Belize and a copy of any  
arrest warrant. Belize authorities have refused to provide this information.



1 to represent them in matters involving their injuries.

2           3.6     In an effort to aggressively and zealously advertise for additional business  
3 and to prejudice potential jurors against Ms. McNamara, SKW featured their clients' suit  
4 against Ms. McNamara on multiple pages of its website, including on its home page.  
5 SKW's featuring of Ms. McNamara's case is so prevalent and pervasive on the internet  
6 that a Google search of the single term "Nessl" (Ms. McNamara's maiden name and the  
7 name SKW prefers to use) returns as the first result a link to a page on SKW's website  
8 dedicated entirely and exclusively to Ms. McNamara's case:  
9 "http://www.stritmatter.com/case/ralston-v-nessl-a-k-a-tracy-mcnamara/". This link to  
10 SKW's website is more prevalent than even the links to reports on New York Daily News  
11 and King 5 websites. A true and correct copy of a January 8, 2016 Google search of the  
12 term "Nessl" is attached to this Complaint as Exhibit 1.

13           3.7     SKW's website contained and contains numerous false statements, which  
14 Ms. McNamara's counsel, in phone conversations, written demands, emails, and pleadings,  
15 repeatedly notified SKW about and demanded correction. Despite these repeated  
16 notifications and demands, SKW refused to correct its false statements and continues to  
17 include numerous false statements on its website. Such false statements have remained  
18 for more than six months. The specific false statements on SKW's website are described  
19 below.

20           3.8     SKW's webpage "http://www.stritmatter.com/case/ralston-v-nessl-a-k-a-  
21 tracy-mcnamara/" contains the following false statements:

1                   3.8.1 Under a photograph of Ms. McNamara, in bright red, all-caps, bold-  
2 face font is the phrase "INTERPOL WARRANT". Interpol does not issue warrants;  
3 therefore, this is a false statement. The gist or sting of this statement is that Ms. McNamara  
4 is wanted by a globally-respected international consortium of law enforcement  
5 investigative bodies. In reality, a warrant may or may not exist for Ms. McNamara's arrest  
6 in Belize—a third-world, Central American country with a long and recent history of law-  
7 enforcement corruption. However, no warrant has ever been disclosed or presented to Ms.  
8 McNamara by Belize authorities. SKW removed this false statement on or about January  
9 4, 2015. On information and belief this false statement was published on SKW's website  
10 for at least four months prior to its removal.

11                   3.8.2 Under a photograph of Ms. McNamara is the phrase "Murder &  
12 incest in Belize with ties to WA State: Defendant Tracy Nessler a.k.a. McNamara is a Grant  
13 County resident with a warrant out for her arrest/prosecution." "Murder" is a criminal  
14 charge that must be proved to a jury beyond a reasonable doubt. Ms. McNamara has not  
15 been convicted of murder. Therefore this is a false statement. The gist or sting of this false  
16 statement is that Ms. McNamara has already been tried and convicted for the murder of  
17 Tim McNamara. "Incest" is a criminal charge that must be proved to a jury beyond a  
18 reasonable doubt. Ms. McNamara has not been convicted of Incest. Therefore this is a  
19 false statement. The gist or sting of this false statement is that Ms. McNamara has already  
20 been tried and convicted of Incest. In addition, under the criminal codes of both  
21 Washington State and Belize, Ms. McNamara's relationship with Mr. McNamara does not

1 and cannot constitute Incest. Therefore, the gist or sting of this false statement also is that  
2 Ms. McNamara has been involved in a criminally-prohibited relationship with Tim  
3 McNamara when she has not.

4  
5 3.8.3 A true and correct copy of “<http://www.stritmatter.com/case/ralston-v-nessl-a-k-a-tracy-mcnamara/>” is attached to this Complaint as Exhibit 2. The false statements  
6 described in Paragraph 3.8.2 of this Complaint are also published on SKW’s home page,  
7 “<http://www.stritmatter.com/>”, a true and correct copy of which is attached to this Complaint as  
8 Exhibit 3.

9  
10 3.9 A true and correct copy of SKW’s webpage <http://www.stritmatter.com/cases/>  
11 is attached hereto as Exhibit 4. This webpage contains the following false statements:

12 3.9.1 Among pictures of smiling purported clients of SKW is the  
13 following phrase: “Below is small sample of just a few of our over 150 cases resulting at  
14 least seven and eight figures for our clients.” Below this syntactically-flawed sentence is  
15 the following:

16 **Ralston v. Nessler, a.k.a. Tracy McNamara**

17 The wrongful death case involves an alleged murder of Mr.  
18 McNamara by Defendant Tracy Nessler (a.k.a. Tracy McNamara). The motive is believed to include Ms.  
19 McNamara’s wish to acquire Mr. McNamara’s financial assets. These assets included the family farm, property in  
20 North Carolina and a bed and breakfast estate in Belize. Jennifer Ralston, the adult daughter of the decedent  
21 (Timothy Patrick McNamara) and Caleb McNamara are Plaintiffs in this wrongful death case.



1                   3.9.2 The statement that the lawsuit against Ms. McNamara is one of a  
2 “small sample of just a few of [SKW’s] over 150 cases resulting [in] at least seven and  
3 eight figures for [its] clients” is false. Ms. McNamara has been found liable to SKW’s  
4 clients for nothing, much less “seven or eight figures.” The gist or sting of this false  
5 statement is that Ms. McNamara has been found liable for the death of Tim McNamara  
6 and, because of SKW’s zealous and aggressive representation, has at least a \$10 Million  
7 dollar judgment against her.

8                   3.9.3 The sentence “These assets included the family farm, property in  
9 North Carolina and a bed and breakfast estate in Belize” is a false statement. At the time  
10 of Mr. McNamara’s death, Tim McNamara’s “assets” did not include “the family farm,”  
11 or “property in North Carolina.” Rather, the “family farm” had belonged to Ms. McNamara  
12 for years and the “property in North Carolina” was never owned by Tim McNamara. Also,  
13 Ms. McNamara and Tim McNamara owned the “bed and breakfast estate in Belize” jointly.  
14 The gist or sting of this false statement is that Ms. McNamara’s relationship with Tim  
15 McNamara and his purported murder were for the purpose of acquiring assets that he did  
16 not possess. Stated otherwise, this false statement portrays Ms. McNamara as a cold-  
17 hearted gold-digger who murdered Tim McNamara for property she already owned.

18               3.10 On each of the web pages that are of issue in this suit, SKW includes the  
19 phrase “Call Us For A Free Consultation or a Free Online Consultation” along with a phone  
20 number and links to numerous social media accounts maintained by SKW for  
21 advertisement purposes. In other words, SKW posted false statements on its website about

1 Ms. McNamara in order to make more money.

2 3.11 The sting or gist of the false statements on SKW's website as a whole is that  
3 Ms. McNamara has been found guilty of incest and of murdering Tim McNamara for his  
4 money, that there is an international warrant out for her arrest, and that SKW has obtained  
5 at least a seven-figure civil judgment against her. Therefore, potential clients should trust  
6 SKW to do the same for them so that SKW can make more money.

7 The Effect of SKW's False Statements

8 3.12 On November 28, 2015, Ms. McNamara was detained by local police in  
9 public while shopping at the Ephrata Wal-Mart. On information and belief, a customer at  
10 Wal-Mart identified Ms. McNamara from SKW's website as a felon wanted by Interpol  
11 for incest and murder and reported Ms. McNamara's whereabouts to the police. Ms.  
12 McNamara was detained in public while the police officer searched for any outstanding  
13 warrants against Ms. McNamara. Ms. McNamara was released after the police officer's  
14 search returned no outstanding warrants.

15 3.13 Because of SKW's publicity campaign, including the false statements  
16 published on its website, Ms. McNamara has become a pariah in the small town in which  
17 she lives. She cannot find employment, cannot go out in public without being subject to  
18 ridicule, and has lost contact with friends and acquaintances who refuse to speak with her.

19 3.14 SKW's false statements caused Ms. McNamara separate, additional harm  
20 from what would have resulted from an accurate reporting of the facts.

21 3.15 Recognizing that its statements are irrefutably false and defamatory, SKW,



1 by letter to Ms. McNamara's counsel received January 8, 2016, offered to correct its false  
2 statements by "inserting the word 'allege' in applicable forms, in the web post, if you feel  
3 that is fairer to your client." SKW cannot escape liability by couching its false statements  
4 in such terms.

5 3.16 Service of this Complaint and accompanying Summons on SKW constitutes  
6 an adequate request for correction or clarification pursuant to RCW 7.96.040(4).

#### 7 IV. CAUSE OF ACTION: DEFAMATION

8 4.1 SKW made the following false statements about Ms. McNamara:

9 4.1.1 An Interpol Warrant exists for Ms. McNamara's arrest.

10 4.1.2 Ms. McNamara has been found guilty of Murder.

11 4.1.3 Ms. McNamara has been found guilty of Incest.

12 4.1.4 SMK is responsible for obtaining at least a \$10 million dollar  
13 settlement for its clients against Ms. McNamara.

14 4.1.5 Tim McNamara's assets at the time of his death included assets  
15 owned by Ms. McNamara.

16 4.2 SKW's false statements have subjected Ms. McNamara to hatred, contempt,  
17 ridicule, and obloquy separate from what would have resulted from an accurate reporting  
18 of the facts.

19 4.3 SKW's false statements injured Ms. McNamara's reputation by causing her  
20 to be shunned by others and hurt in her business relations separate from what would have  
21 resulted from an accurate reporting of the facts.

1           4.4     SKW's false statements were published such that those false statements  
2     were communicated to one or more third persons via SKW's website. Each and every  
3     viewing, or 'click', by third persons of SKW's false statements constitutes a separate  
4     publication of those false statements.

5           4.5     SKW's false statements were ones of fact and not of nonactionable opinion.  
6     The false statements were published on the internet for the purposes of advertising  
7     professional legal services and were intended to be relied upon by potential clients and did  
8     not imply undisclosed facts.

9           4.6     SKW's false statements are not subject to any absolute, qualified,  
10    conditional, legislative, or governmental proceedings privilege in that they were published  
11    on SKW's website for the purposes of advertising and for the offering of legal services to  
12    potential clients for profit.

13          4.7     As attorneys for Jennifer Ralston and Caleb McNamara in their suit against  
14    Ms. McNamara and therefore familiar with the actual facts of their case, SKW knew or in  
15    the exercise of reasonable care should have known that the statements it published were  
16    false or would create a false impression in some material respect.

17          4.8     SKW acted with actual malice when it published its false statements in that  
18    SKW intentionally published such false statements to exaggerate SKW's prowess as a  
19    plaintiffs' personal injury firm for the purpose of attracting more clients, and for the  
20    purpose of injuring Ms. McNamara's reputation, including in the eyes of potential jurors.  
21    SKW's malice is further evidenced by the fact that it published its false statements in

1 | contravention of Rules of Professional Conduct (RPC) 3.6, 7.1, and 7.2—Rules which as  
2 | licensed practitioners in the state of Washington, SKW was required to know and follow  
3 | but chose to ignore.

4 |         4.9 SKW's false statements constitute defamatory statements for which SKW  
5 | is liable to Ms. McNamara. As a direct and proximate result of SKW's publishing of  
6 | defamatory statements, Ms. McNamara suffered actual damages to be proven at trial  
7 | including harm to Ms. McNamara's property, business, trade, profession, and occupation;  
8 | expenses Ms. McNamara incurred; harm to Ms. McNamara's reputation; and Ms.  
9 | McNamara's shame, mortification, and hurt feelings. Ms. McNamara is also entitled to  
10 | presumed damages because SKW acted with actual malice when it published its false  
11 | statements.

12 |         4.10 SKW's false statements that Ms. McNamara has been convicted of Murder  
13 | and of Incest impute to Ms. McNamara's commission of serious crimes and therefore  
14 | constitute defamation per se. As a direct and proximate result of SKW's per se defamatory  
15 | statements, the law assumes that Ms. McNamara has suffered harm to reputation, shame,  
16 | mortification, and hurt feelings without Ms. McNamara presenting evidence of damage.

17 |         **V. CAUSE OF ACTION: VIOLATION OF WASHINGTON CONSUMER**  
18 |                 **PROTECTION ACT, RCW 19.86**

19 |         5.1 Plaintiff re-alleges and incorporates by reference paragraphs 1 through 4.10,  
20 | and further alleges the cause of action of Violation of the Washington Consumer Protection  
21 | Act (CPA), RCW 19.86 *et.seq.*



5.2 The conduct, acts, errors, omissions, deceptive and unfair acts and practices pertaining to the entrepreneurial aspects of defendant SKW's law practice; that is, entrepreneurial aspects of the practice of law that fall within the "trade or commerce" definition of the CPA, pursuant to *Short v. Demopolis*, 691 P.2d 163, 103 Wn.2d 52 (1984), including but not limited to how SKW obtains and retains their clients through their website--or other means that violate the CPA—and how they bill and collect fees, constituted unfair and deceptive acts or practices in the conduct of trade or commerce which has the capacity to harm the public interest, and which violates the CPA.

5.3 Defendant SKW's violations of the CPA proximately caused the Plaintiff, Tracy McNamara, to suffer economic harm and damages.

## VI. RELIEF REQUESTED

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

1. For entry of a judgment in favor of the Plaintiff and against the Defendant in an amount to be proven at trial, including an award of prejudgment interest at the rate provided by law, pursuant to RCW 19.52;

2. For an order enjoining Defendant from publishing false statements about Plaintiff and to remove false statements about Plaintiff from Defendants website;

3. That the Plaintiff be awarded treble damages pursuant to RCW 19.86.090;

4. That the Plaintiff be awarded reasonable costs, disbursements, and attorneys' fees, including but not limited to attorney's fees awarded pursuant to RCW 19.86, and

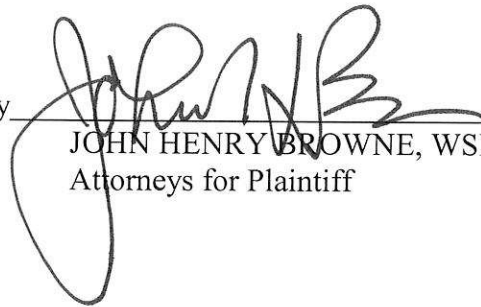
1 prejudgment interest on all liquidated costs and expenses of litigation and additional taxes  
2 resulting from the payment to Plaintiff of all of the foregoing;

3 5. For such other and further relief as the Court deems just and equitable.

4 DATED this 6 day of July, 2016.

5 LAW OFFICES OF JOHN HENRY BROWNE, P.S.

6  
7  
8 By



JOHN HENRY BROWNE, WSBA #4677  
Attorneys for Plaintiff

DECLARATION OF TRACY S. MCNAMARA


TRACY S. MCNAMARA, pursuant to RCW 9A.72.085, declares:

This Declaration is based upon my own personal knowledge. I am over the age of eighteen and competent to testify to the matters asserted herein. I am the Plaintiff in the above-entitled action. I have read the foregoing Complaint, know the contents thereof and believe the same to be true, except those matters therein stated upon information and belief, and as to those matters I believe them also to be true.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

JULY 12, 2016

Date

  
\_\_\_\_\_  
TRACY S. MCNAMARA

EPHRATA, WA

Location of Signing

VERIFIED COMPLAINT FOR DAMAGES AND FOR  
INJUNCTIVE RELIEF

Page 14 of 14

Submitter Complied With CPA Docs

LAW OFFICES OF  
JOHN HENRY BROWNE, P.S.  
DELMAR BUILDING, SUITE 300  
108 SOUTH WASHINGTON STREET  
SEATTLE, WA 98104  
(206) 383-0777