

CAUSE NO. CV-2017-02365

JASON LEE VAN DYKE,)	IN THE COUNTY COURT
)	
<i>Plaintiff,</i>)	
)	
v.)	AT LAW NO. 2
)	
MOCKINGBIRD PUBLISHING CO. and)	
GERARD BELLO II,)	
)	
<i>Defendants.</i>)	DENTON COUNTY, TEXAS

**DEFENDANT MOCKINGBIRD PUBLISHING CO.’S ORIGINAL ANSWER
and RULE 194 REQUEST FOR DISCLOSURE**

TO THE HONORABLE ROBERT RAMIREZ:

I.

**ORIGINAL ANSWER AND GENERAL DENIAL PURSUANT TO TEX. R. CIV. P. 92 SUBJECT TO THE
SPECIAL APPEARANCE**

Mockingbird Publishing Co. (“Mockingbird”) files his Original Answer to the plaintiff’s first amended petition, along with his Requests for Disclosure and Jury Demand, and would respectfully show the Court as follows:

1. Mockingbird denies each and every allegation made against it and demands strict proof of same by a preponderance of the evidence.
2. Mockingbird specifically reserves it’s right to amend this answer and assert such other and additional defenses, counterclaims, cross-claims and/or third-party claims as may be warranted by discovery in accordance with the Texas Rules of Civil Procedure.

II.

AFFIRMATIVE DEFENSES

3. Mockingbird pleads that Plaintiff has failed to comply with all conditions precedent to recover damages, including but not limited to all attorney’s fees and punitive damages under the Texas Civil Practice and Remedies Code.

4. Mockingbird pleads the affirmative defenses of truth, substantial truth, fair comment or criticism, privilege, opinion, reply, consent, common law qualified privilege, fraud, release, failure to mitigate damages, public figure, public concern, safety issue, allegations not specific, no damages, no actual malice, accord and satisfaction, laches, statute of limitations, estoppel and waiver. See **Exhibit 1**. Mockingbird pleads plaintiff Jason Lee Van Dyke who is a Texas-licensed lawyer stated in public on Twitter, according to attached publication, to an African American singer with over 1 million Twitter followers that:

(a) *“Look good and hard at this picture you fucking nigger. It’s where I am going to put your neck.”* The “picture” is a noose. **Exhibit 1**.

(b) *“Your kiddies are quite a nuisance. My advice: run and hide. If I find you, I WILL kill both you and your family”*

III. **REQUEST FOR DISCLOSURE**

5. Under the authority of TEX. R. CIV. P. 194, Mockingbird requests Plaintiff to disclose, within thirty days of the service of this Original Answer, the information or material described in TEX. R. CIV. P. 194(a) through TEX. R. CIV. P. 194(k).

IV. **JURY DEMAND**

6. In accordance with TEX. R. CIV. P. 216, Mockingbird hereby demands a trial by jury on all issues triable to a jury and tenders the requisite jury fee contemporaneously with the filing of this Original Answer.

V. **Attorney’s Fees and Costs**

7. Paragraphs 1 through 6 of this Original Answer are incorporated herein by reference as if fully set forth below.

8. Mockingbird had to retain the services of the undersigned counsel to defend Plaintiff's meritless claims. When Mockingbird prevails on all claims asserted against it, Mockingbird requests the Court to render a judgment against Plaintiff for all reasonable attorney's fees incurred by in this action, as well as all taxable court costs, prejudgment interest and post judgment interest in the maximum amounts allowed by law.

VI.
PRAYER

WHEREFORE, Mockingbird requests that the Court award final judgment that:

- (1) Orders that Plaintiff take nothing by its suit and that Mockingbird be discharged with his reasonable attorney's fees and costs expended in this matter;
- (2) Awarding all relief, in law and in equity, to which Mockingbird may be entitled.

Respectfully submitted,
KALLINEN LAW PLLC

/s/ Randall L. Kallinen
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Counsel for Mockingbird Publishing, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above and foregoing document on counsel for all other parties on this 13th day of November, 2017, at the address below using the method listed below:

Jason Lee Van Dyke, atty.
108 Durango Drive
Crossroads, Texas 76227

Via e filing and Regular Mail

/s/ Randall L. Kallinen
Randall L. Kallinen