

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN AND
FOR INDIAN RIVER COUNTY, FLORIDA

CASE NO: 3120 10 CA 0969

RANDY HEIMLER,

Plaintiff,

v.

LEONARD KRENEK, SAL DECARO,
RAPHAELLA PATERNOSTER, DELAYNE
KRENEK, and ALBERTO GINOCCHIO,

Defendants.

FILE IN OPEN COURT
Date 11-4-13
By JSB JSB

VERDICT

1. Did LEONARD KRENEK negligently publish statements concerning RANDY
HEIMLER?

YES _____ NO ✓

*If you answered "YES", then please answer Question #2. If, however, you answered
"NO", you do not need to answer Questions #2-10. Please proceed to Question #11.*

2. Did LEONARD KRENEK negligently publish statements concerning RANDY
HEIMLER which tended to expose RANDY HEIMLER to hatred, ridicule, or contempt or
charged that RANDY HEIMLER committed a crime?

YES _____ NO _____

*If you answered "YES", then please answer Question #3. If, however, you answered
"NO", you do not need to answer Questions #3-10. Please proceed to Question #11.*

3. Does the greater weight of the evidence show that at the time the statement was negligently published LEONARD KRENEK knew the statement was false or had serious doubts as to its truth?

YES _____ NO _____

Please answer Question #4.

4. Were the statements negligently published by LEONARD KRENEK concerning RANDY HEIMLER injurious on their face without the aid of extrinsic proof?

YES _____ NO _____

If you answered "YES", then please answer Question #5. If, however, you answered "NO", you do not need to answer Questions #5-10. Please proceed to Question #11.

5. Were the statements which LEONARD KRENEK negligently published concerning RANDY HEIMLER substantially true and made with good motives?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #6-10. Please proceed to Question #11. If, however, you answered "NO", then please answer Question #6.

6. Were the statements which LEONARD KRENEK negligently published concerning RANDY HEIMLER pure opinion?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #7 through #10. Please proceed to Question #11. If, however, you answered "NO", then please answer Question #7.

7. Were the statements which LEONARD KRENEK negligently published concerning RANDY HEIMLER mixed opinion?

YES _____ NO _____

If you answered "NO", you do not need to answer Questions #8 through #10. Please proceed to Question #11. If, however, you answered "YES", please answer Question #8.

8. Did RANDY HEIMLER invite the publication of the statements by LEONARD KRENEK regarding RANDY HEIMLER?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #9 to 10. Please proceed to Question #11. If, however, you answered "NO", then please answer Question #9.

9. Were the statements which LEONARD KRENEK negligently published concerning RANDY HEIMLER qualifiedly privileged?

YES _____ NO _____

If you answered "YES", please answer Question #10. If, however, you answered "NO", you do not need to answer Question #10. Please proceed to Question #11.

10. Did LEONARD KRENEK abuse any privilege he had by acting with express malice, i.e. primary motive to gratify his own ill will, hostility, and intent to harm RANDY HEIMLER when negligently publishing statements concerning RANDY HEIMLER?

YES _____ NO _____

Please answer Question #11.

11. Did SAL DECARO negligently publish statements concerning RANDY HEIMLER?

YES _____ NO

If you answered "YES", then please answer Question #12. If, however, you answered "NO", you do not need to answer Questions #12-20. Please proceed to Question #21.

12. Did SAL DECARO negligently publish statements concerning RANDY HEIMLER which tended to expose RANDY HEIMLER to hatred, ridicule, or contempt or charged that RANDY HEIMLER committed a crime?

YES _____ NO _____

If you answered "YES", then please answer Question #13. If, however, you answered "NO", you do not need to answer Questions #13-20. Please proceed to Question #21.

13. Does the greater weight of the evidence show that at the time the statement was negligently published SAL DECARO knew the statement was false or had serious doubts as to its truth?

YES _____ NO _____

Please answer Question #14.

14. Were the statements negligently published by SAL DECARO concerning RANDY HEIMLER injurious on their face without the aid of extrinsic proof?

YES _____ NO _____

If you answered "YES", then please answer Question #15. If, however, you answered "NO", you do not need to answer Questions #15-20. Please proceed to Question #21.

15. Were the statements which SAL DECARO negligently published concerning RANDY HEIMLER substantially true and made with good motives?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #16-20. Please proceed to Question #21. If, however, you answered "NO", then please answer Question #16.

16. Were the statements which SAL DECARO negligently published concerning RANDY HEIMLER pure opinion?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #17-20. Please proceed to Question #21. If, however, you answered "NO", then please answer Question #17.

17. Were the statements which SAL DECARO negligently published concerning RANDY HEIMLER mixed opinion?

YES _____ NO _____

If you answered "NO", you do not need to answer Questions #18 through #20. Please proceed to Question #21. If, however, you answered "YES", then please answer Question #18.

18. Did RANDY HEIMLER invite the publication of the statements by SAL DECARO regarding RANDY HEIMLER?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #19-20. Please proceed to Question #21. If, however, you answered "NO", then please answer Question #19.

19. Were the statements which SAL DECARO negligently published concerning RANDY HEIMLER qualifiedly privileged?

YES _____ NO _____

If you answered "YES", please answer Question #20. If, however, you answered "NO", you do not need to answer Question #20. Please proceed to Question #21.

20. Did SAL DECARO abuse any privilege he had by acting with express malice, i.e. with the primary motive to gratify his own ill will, hostility, and intent to harm RANDY HEIMLER, when negligently publishing statements concerning RANDY HEIMLER?

YES _____ NO _____

Please answer Question #21.

21. Did RAPHAELLA PATERNOSTER negligently publish statements concerning RANDY HEIMLER?

YES _____ NO

If you answered "YES", then please answer Question #22. If, however, you answered "NO", you do not need to answer Questions #22-30. Please proceed to Question #31.

22. Did RAPHAELLA PATERNOSTER negligently publish statements concerning RANDY HEIMLER which tended to expose RANDY HEIMLER to hatred, ridicule, or contempt or charged that RANDY HEIMLER committed a crime?

YES _____ NO _____

If you answered "YES", then please answer Question #23. If, however, you answered "NO", you do not need to answer Questions #23-30. Please proceed to Question #31.

23. Does the greater weight of the evidence show that at the time the statement was negligently published RAPHAELLA PATERNOSTER knew the statement was false or had serious doubts as to its truth?

YES _____ NO _____

Please answer Question #24.

24. Were the statements negligently published by RAPHAELLA PATERNOSTER concerning RANDY HEIMLER injurious on their face without the aid of extrinsic proof?

YES _____ NO _____

If you answered "YES", then please answer Question #25. If, however, you answered "NO", you do not need to answer Questions #25-30. Please proceed to Question #31.

25. Were the statements which RAPHAELLA PATERNOSTER negligently published concerning RANDY HEIMLER substantially true and made with good motives?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #26-30. Please proceed to Question #31. If, however, you answered "NO", then please answer Question #26.

26. Were the statements which RAPHAELLA PATERNOSTER negligently published concerning RANDY HEIMLER pure opinion?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #27-30. Please proceed to Question #31. If, however, you answered "NO", then please answer Question #27.

27. Were the statements which RAPHAELLA PATERNOSTER negligently published concerning RANDY HEIMLER mixed opinion?

YES _____ NO _____

If you answered "NO", you do not need to answer Question #28-30. Please proceed to Question #31. If, however, you answered "YES", please answer Question #28.

28. Did RANDY HEIMLER invite the negligent publication of the statements by RAPHAELLA PATERNOSTER regarding RANDY HEIMLER?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #29-30. Please proceed to Question #31. If, however, you answered "NO", then please answer Question #29.

29. Were the statements which RAPHAELLA PATERNOSTER negligently published concerning RANDY HEIMLER qualifiedly privileged?

YES _____ NO _____

If you answered "YES", please answer Question #30. If, however, you answered "NO", you do not need to answer Question #30. Please proceed to Question #31.

30. Did RAPHAELLA PATERNOSTER abuse any privilege she had by acting with express malice, i.e. with the primary motive to gratify her own ill will, hostility, and intent to harm RANDY HEIMLER, when negligently publishing statements concerning RANDY HEIMLER?

YES _____ NO _____

Please answer Question #31.

31. Did DELAYNE KRENEK negligently publish statements concerning RANDY HEIMLER?

YES _____ NO

If you answered "YES", then please answer Question #32. If, however, you answered "NO", you do not need to answer Questions #32-40. Please proceed to Question #41.

32. Did DELAYNE KRENEK negligently publish statements concerning RANDY HEIMLER which tended to expose RANDY HEIMLER to hatred, ridicule, or contempt or charged that RANDY HEIMLER committed a crime?

YES _____ NO _____

If you answered "YES", then please answer Question #33. If, however, you answered "NO", you do not need to answer Questions #33-40. Please proceed to Question #41.

33. Does the greater weight of the evidence show that at the time the statement was negligently published DELAYNE KRENEK knew the statement was false or had serious doubts as to its truth?

YES _____ NO _____

Please answer Question #34.

34. Were the statements negligently published by DELAYNE KRENEK concerning RANDY HEIMLER injurious on their face without the aid of extrinsic proof?

YES _____ NO _____

If you answered "YES", then please answer Question #35. If, however, you answered "NO", you do not need to answer Questions #35-40. Please proceed to Question #41.

35. Were the statements which DELAYNE KRENEK negligently published concerning RANDY HEIMLER substantially true and made with good motives?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #36-40. Please proceed to Question #41. If, however, you answered "NO", then please answer Question #36.

36. Were the statements which DELAYNE KRENEK negligently published concerning RANDY HEIMLER pure opinion?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions # 37-40. Please proceed to Question #41. If, however, you answered "NO", then please answer Question #37.

37. Were the statements which DELAYNE KRENEK negligently published concerning RANDY HEIMLER mixed opinion?

YES _____ NO _____

If you answered "NO", you do not need to answer Questions #38-40. Please proceed to Question #41. If, however, you answered "YES", please answer Question #38.

38. Did RANDY HEIMLER invite the publication of the statements by DELAYNE KRENEK regarding RANDY HEIMLER?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions # 39-40. Please proceed to Question #39. If, however, you answered "NO", then please answer Question #41.

39. Were the statements which DELAYNE KRENEK negligently published concerning RANDY HEIMLER qualifiedly privileged?

YES _____ NO _____

If you answered "YES", please answer Question #40.If, however, you answered "NO", you do not need to answer Question #40. Please proceed to Question #41.

40. Did DELAYNE KRENEK abuse any privilege she had by acting with express malice, i.e. with the primary motive to gratify her own ill will, hostility, and intent to harm RANDY HEIMLER, when negligently publishing statements concerning RANDY HEIMLER?

YES _____ NO _____

Please answer Question #41.

41. Did ALBERTO GINOCCHIO negligently publish statements concerning RANDY HEIMLER?

YES _____ NO

If you answered "YES", then please answer Question #42.If, however, you answered "NO", you do not need to answer Questions #42-50. Please proceed to Question #51

42. Did ALBERTO GINOCCHIO negligently publish statements concerning RANDY HEIMLER which tended to expose RANDY HEIMLER to hatred, ridicule, or contempt or charged that RANDY HEIMLER committed a crime?

YES _____ NO _____

If you answered "YES", then please answer Question #43. If, however, you answered "NO", you do not need to answer Questions #43-50. Please proceed to Question #51.

43. Does the greater weight of the evidence show that at the time the statement was negligently published ALBERTO GINOCCHIO knew the statement was false or had serious doubts as to its truth?

YES _____ NO _____

Please answer Question #44.

44. Were the statements negligently published by ALBERTO GINOCCHIO concerning RANDY HEIMLER injurious on their face without the aid of extrinsic proof?

YES _____ NO _____

If you answered "YES", then please answer Question #45. If, however, you answered "NO", you do not need to answer Questions #45-50. Please proceed to Question #51.

45. Were the statements which ALBERTO GINOCCHIO negligently published concerning RANDY HEIMLER substantially true and made with good motives?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #46-50. Please proceed to Question #51. If, however, you answered "NO", then please answer Question #46.

46. Were the statements which ALBERTO GINOCCHIO negligently published concerning RANDY HEIMLER pure opinion?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions #47-50. Please proceed to Question #51. If, however, you answered "NO", then please answer Question #47.

47. Were the statements which ALBERT GINOCCHIO negligently published concerning RANDY HEIMLER mixed opinion?

YES _____ NO _____

If you answered "NO", you do not need to answer Questions #48-50, please proceed to Question #51. If, however, you answered "YES", please answer Question #48.

48. Did RANDY HEIMLER invite the publication of the statements by ALBERTO GINOCCHIO regarding RANDY HEIMLER?

YES _____ NO _____

If you answered "YES", you do not need to answer Questions # 49-50. Please proceed to Question #51. If, however, you answered "NO", then please answer Question #49.

49. Were the statements which ALBERTO GINOCCHIO negligently published concerning RANDY HEIMLER qualifiedly privileged?

YES _____ NO _____

If you answered "YES", please answer Question #50. If, however, you answered "NO", you do not need to answer Question 50. Please proceed to Question #51.

50. Did ALBERTO GINOCCHIO abuse any privilege he had by acting with express malice, i.e. with the primary motive to gratify his own ill will, hostility, and intent to harm RANDY HEIMLER when negligently publishing statements concerning RANDY HEIMLER?

YES _____ NO _____

Please answer Question #51.

51. Did LEONARD KRENEK engage in a conspiracy with any of the other Defendants to defame RANDY HEIMLER?

YES _____ NO

Please answer Question #52.

52. Did SAL DECARO engage in a conspiracy with any of the other Defendants to defame RANDY HEIMLER?

YES _____ NO

Please answer Question #53.

53. Did RAPHAELLA PATERNOSTER engage in a conspiracy with any of the other Defendants to defame RANDY HEIMLER?

YES _____ NO

Please answer Question #54.

54. Did DELAYNE KRENEK engage in a conspiracy with any of the other Defendants to defame RANDY HEIMLER?

YES _____ NO

Please answer Question #55.

55. Did ALBERTO GINOCCHIO engage in a conspiracy with any of the other Defendants to defame RANDY HEIMLER?

YES _____ NO

Please answer Question #56.

56. Did Barbara Smith re-publish any statements published to her by any of the Defendants without the express authorization of the respective Defendants?

YES ✓ NO _____

Please answer Question #57.

57. State the percentage of any fault for the defamation per se claims, which was a legal cause of loss, injury or damage to RANDY HEIMLER that you charge to:

Total must be 100%

LEONARD KRENEK _____ 0 %

If you answered "NO" to Questions # 1, 2, 3 or 4, please place a zero.

If you answered "YES" to Questions # 5, 6 or 8, please place a zero.

If you answered "YES" to Question #9 AND "NO" to Question #10, please place a zero.

SAL DECARO _____ 0 %

If you answered "NO" to Questions # 11, 12, 13 or 14, please place a zero.

If you answered "YES" to Questions #15, 16 or 18, please place a zero.

If you answered "YES" to Question #19 AND "NO" to Question #20, please place a zero.

RAPHAELLA PATERNOSTER _____ 0 %

If you answered "NO" to Questions #21, 22, 23 or 24, please place a zero.

If you answered "YES" to Questions #25, 26 or 28, please place a zero.

If you answered "YES" to Question #29 AND "NO" to Question #30, please place a zero.

DELAYNE KRENEK _____ 0 %

If you answered "NO" to Questions #31, 32, 33 or 34, please place a zero.

If you answered "YES" to Questions #35, 36 or 38, please place a zero.

If you answered "YES" to Question #39 AND "NO" to Question #40, please place a zero.

ALBERTO GINOCCHIO _____ 0 %

If you answered "NO" to Questions #41, 42, 43 or 44, please place a zero.

If you answered "YES" to Questions #45, 46 or 48, please place a zero.

If you answered "YES" to Question #49 AND "NO" to Question #50, please place a zero.

BARBARA SMITH _____ 35 %

RANDY HEIMLER

65 %

Please answer Question #58.

58. What is the amount of damages to RANDY HEIMLER as a result of the defamation per se for loss of reputation and exposure to hatred, embarrassment, humiliation, public shame, and outrage?

- a. In the past? \$ 0
- b. In the future? \$ 0

Please answer Question #59.

59. Please total the amount (100%) of any damages sustained by Plaintiff, RANDY HEIMLER:

TOTAL DAMAGES OF RANDY HEIMLER:

Please add lines 58(a) and (b). \$ 0

Please answer Question 60.

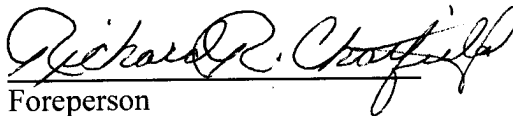
60. State whether you find by the greater weight of the evidence that punitive damages are warranted against:

- LEONARD KRENEK Yes _____ No ✓
- SAL DECARO Yes _____ No ✓
- RAPHAELLA PATERNOSTER Yes _____ No ✓
- DELAYNE KRENEK Yes _____ No ✓
- ALBERTO GINOCCHIO Yes _____ No ✓

If you answered "YES" for any of the Defendants, then we will proceed to the second part of the trial on punitive damages during which the parties may present additional evidence and argument on the issue of punitive damages. You will be given additional instructions, after

which you will decide whether in your discretion punitive damages will be assessed and, if so, the amount. If, however, you answered "NO" to all Defendants, you will not proceed to the second part of the trial on punitive damage and you only need to sign your verdict and return it to the Courtroom.

SO SAY WE ALL, this 4 day of November, 2013.


Foreperson