

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA**

ALEX WASILEWSKI

Plaintiff,

v.

**DEAN HANDLEY and
BRIAN PADGETT,**

Defendants.

Case No.: 3:15-CV-00147

COMPLAINT and DEMAND FOR JURY TRIAL
REQUEST FOR INJUNCTIVE RELIEF

The Plaintiff, Mr. Alex Wasilewski (hereafter, “Plaintiff”), by and through its undersigned counsel, files this action (hereafter, “Complaint”) against Dean Handley (aka “Dean Smith” hereafter individually “DEFENDANT HANDLEY” or “HANDLEY”) and BRIAN PADGETT (hereafter “DEFENDANT PADGETT” or “PADGETT”) collectively hereafter as “DEFENDANTS”) for their actions in committing against the Plaintiff: (i) Defamation per se; (ii) Defamation per quod; (iii) False light invasion of privacy; (iv) Injurious falsehood – trade libel; (v) Interference with business relationships; and (vi) Injunctive relief, in support thereof, and upon information and belief, avers as follows:

PARTIES

1. The Plaintiff, Mr. Alex Wasilewski is the principal of PureTick, LLC, which is a Pennsylvania entity that is operated from its principal office in the City of Destin, located in

Okaloosa County, Florida, where the Plaintiff also resides.

2. The DEFENDANT HANDLEY is a citizen of the State of Massachusetts, Worcester County.

3. The DEFENDANT PADGETT is a citizen of the State of Illinois, DuPage County.

JURISDICTION AND VENUE

4. Jurisdiction exists by virtue of diversity of citizenship, 28 U.S.C. § 1332(a) because the parties reside in different states and the amount in controversy exceeds Seventy-five Thousand Dollars (\$75,000), exclusive of interest and costs. Immediate injunctive relief is sought pursuant to Federal Rule of Civil Procedure 65(a).

5. The Court has personal jurisdiction over the Defendants pursuant to *Section 48.193(1)(b), Fla. Stat.* as the Defendants have entered into the State of Florida with *sufficient minimal* contacts and have committed intentional torts directed at the Plaintiff, and have committed tortious conduct outside of the State of Florida with the specific and direct intent and knowledge that an injury would occur in the State of Florida, i.e., to the Plaintiff via the Internet and through consistent use of electronic mail. *See Internet Solutions Corp. v. Marshall*, Fla. 2010 (No. SC09-272, June 17, 2010); *Horizon Aggressive Growth*, 421 F.3d 1162, 1168 (11th Cir. 2005).

6. Venue is proper in this judicial district under 28 U.S.C. § 1391 (a) (2) because of the following: the Defendants' intentional, tortious and unlawful conduct substantially occurred, and continues to occur, having an effect on the Plaintiff within this district in the State of Florida, which is where the Plaintiff's principal business is conducted, and the Plaintiff is continuing to suffer tortious injuries within this district as a result of each of the Defendants' conduct.

7. HANDLEY, has entered into the State of Florida to commit a tortuous act against the Plaintiff who resides in this district, via the Internet and electronic mail.

8. Through Internet postings and direct electronic mail, HANDLEY using his email (*drhandley@yahoo.com*) has defamed the Plaintiff personally and as the principal of a business with its principal place of business located within this district, in the State of Florida, by consistently harassing the Plaintiff directly and publicly. *See* (Composite Exhibit A, p. 1, 4, 5-6, 7-8, 9a., 9b., 10-11, 12, 13-14, 15-17, 18)

See also (Exhibit B 1, 3, 6, 12)

9. HANDLEY's internet postings and electronic mailings are continuous "harassment," substantial and not isolated toward Plaintiff, and are in violation of *Section 784.084, Fla. Stat.*, and subject to *Section 775.083, Fla. Stat.*, whereby they constitute consistent, willful, and malicious harassment of the Plaintiff via email and internet posting on the world wide web.

10. Plaintiff's place of business is a public record, and should reasonably be known by HANDLEY.

11. HANDLEY should have known that his repeated defamatory statements could subject him to litigation in this Court's jurisdiction.

12. PADGETT, has entered into the State of Florida to commit a tortious act by use of electronic mail intending harm on the Plaintiff who resides in this district.

13. Through internet posting, PADGETT has defamed the Plaintiff personally and as the principal of a business with its principal place of business located within this district, in the State of Florida.

14. PADGETT's internet posting has a continuous, substantial effect on the Plaintiff and the tortious intent is not isolated toward Plaintiff, and are in violation of *Section 784.084, et seq., Fla. Stat.*, and subject to *Section 775.083, Fla. Stat.*, whereby they constitute consistent, willful, and malicious harassment of the Plaintiff, via email and internet postings on the World

Wide Web.

15. Plaintiff's place of business, PureTick, is a public record, and should reasonably be known by PADGETT.

16. PADGETT's use of emails in cooperation with HANDLEY, by intent and effect, has entered into the State of Florida to commit a tortuous act having a continuous harmful effect on the Plaintiff, to the extent that both Defendants knowingly caused Plaintiff to lose clients in the hundreds and potentially thousands. (Composite Exhibit A, p. 5, 6, 9a, 9b, 12, 14)

17. This Court has jurisdiction over the subject matter and parties of this action.

FACTUAL BACKGROUND

Plaintiff Alex Wasilewski, Principal of PureTick:

18. The Plaintiff directs PureTick, a trading room that conducts live day trading transactions. PureTick's operation establishes a community for trading education in the United States, Canada, and overseas.

19. The Plaintiff develops educational program products for membership subscribers of PureTick's trading room training.

20. The Plaintiff focuses on PureTick's excellence, which has earned the company a solid reputation and a history of long-term relationships. The Plaintiff works closely with its contracted staff to provide services to its many customers.

21. The Plaintiff markets PureTick's products and services to potential investors who are interested in learning about trading and it sells its trading educational products and services primarily through its direct sales force. The Plaintiff directs PureTick's development of training services for its trading room courses.

AS TO DEFENDANT HANDLEY AND DEFENDANT PADGETT:

22. Upon information and belief, HANDLEY operates day trading rooms in direct competition with the Plaintiff, using rooms named “Tesseract Trading” and “True North Trading, via *www.tesseracttrading.com*. See (Exhibit B, p. 1-26) (Exhibit D)

23. Upon information and belief, HANDLEY operates a website called *http://www.tesseracttrading.com/#!/who/c4nz¹* where HANDLEY represents himself as a neutral analyst comparing trading rooms, by which HANDLEY states defamatory and vexatious statements about the Plaintiff and the Plaintiff’s business operation. See (Exhibit B, p. 1-26) (Exhibit D)

24. Upon information and belief, HANDLEY is the owner of an email, using an aliases as “Dave Smith” named “*pureticksucks@gmail.com*” from which HANDLEY sends, as self-claimed, defamatory emails to potential clients of PureTick, and members of the trading community, as reference is made by HANDLEY’s own admission to stealing customers and corroborated by an anonymous person. (Exhibit A, p. 1, 4, 5-6, 7-8, 9a., 9b., 10-11, 12, 13-14, 15-17, 18)

25. Upon information and belief, HANDLEY uses *pureticksucks@gmail.com* email to harass the Plaintiff personally, to disparage Plaintiff’s public reputation, on an undisclosed email list, and to intentionally seek to commercially harm and tortuously interfere with Plaintiff’s business of administering PureTick, in addition to alleging that the Plaintiff engages in unchaste sex with numerous persons and to have gotten a sickness, all done by DEFENDANT HANDLEY in violation of *Section 784.048, et seq., Fla. Stat.*

¹ Tesseracttrading.com has an IP address of 23.236.62.147. Its host IP is 147.62.236.23.bc.googleusercontent.com. The IDSP is Google Cloud, administered location is Mountain View, California, Los Angeles time zone, at latitude 37.4192/longitude -122.057 (Exhibit D).

(Exhibit A, p. 1, 4, 5-6, 7-8, 10-11, 12, 13-14, 15-17)

26. Upon information and belief, HANDLEY uses “pureticksucks.com”² and related email *pureticksucks@gmail.com*, as he self-claims (see Exhibit A p. 3, 5, 10, 17, and 18) to disseminate negative defamatory statements about the Plaintiff, to Plaintiff’s potential clients, which were garnered through a customer list, illicitly acquired, i.e., misappropriation of trade secrets, through collusion with PADGETT, as he also self-claims, assisting in Plaintiff’s loss of clients in the hundreds if not thousands. (Exhibit A p. 1, 4, 5, 6, 8, 9a, 9b, 11, 11, 12) (Exhibit E)

27. Upon information and belief, PADGETT colluded with HANDLEY, and provided Plaintiff’s customer lists (trade secrets) and potential client leads with emails, telephone numbers, and addresses to HANDLEY in order to defame the reputation of the Plaintiff and to tortuously interfere with Plaintiff’s business and harm Plaintiff’s reputation in the trading room industry. (Composite Exhibit A, p. 5, 6, 9, 12, 14, 15)

28. Upon information and belief, HANDLEY uses a business website called “www.tesseracttrading.com” from which makes negative disparaging statements on the World Wide Web against the Plaintiff, under the guise of being a neutral technical study, while lauding its own trading room’s business success, being itself deceptive and being in violation of fair competition laws.³ (Exhibit B, p. 2-3, 6-8, 9-11, 12, 21, and 22)

29. Upon information and belief, HANDLEY has claimed himself an expert in the trading room industry and has solely taken the mantle to disparage the Plaintiff publicly through electronic mail, blogs, websites posts, an authored commentaries, for the purposes

² Pureticksucks.com’s last IP address #162.254.148.162, with a location of host at latitude 28.0074 /longitude -82.5154, in the City of Tampa, Florida. Last activity of site was Tuesday, November 11, 2014. See Exhibit E.

³ Section 501.203, *Fla. Stat.*, and subject to civil penalty under Section 501.2075, *Fla. Stat.*

of ruining the reputation of the Plaintiff and tortuously interfere with Plaintiff's administering the functions of PureTick's business. (Exhibit B, p. 4, 6, 14, 17, 18, 20, and 24).

30. Upon information and belief, the defamatory statements by and through the emails using the aliases of "David Smith" are attributed to DEFENDANT HANDLEY as a result of HANDLEY's reference to himself as being involved with using the website www.pureticksucks.com, and the email "pureticksucks@gmail.com," including a post on www.tesseracttrading.com that demonstrates the defamatory design, which as well, attributes the defamatory content to HANDLEY, also known as "David Smith." (Exhibit A, p. 10, 11, 18) and (Exhibit B p. 24)

31. Upon information and belief, HANDLEY authored and posted statements alleging that Plaintiff was, and is, engaged in on-going "*phantom records*," or "*phantom track records where P/L records posted at night are derived from trades that are hidden by day*," alludes to fraudulent activity, specifically alluding to that Plaintiff is mis-reporting P/L (profits/losses) for the day's trade cycle, and fraudulently conveying successes to client of the educational trading rooms. *See* (Composite Exhibit B 6, 18, and 24)

32. Upon information and belief, HANDLEY authored and posted statements on the web on it www.tesseracttrading.com website and posts on other site, violating Plaintiff's privacy by alleging that Plaintiff is engaged in unscrupulous sexual activity and asserts that Plaintiff has the conduct that is unbecoming of a day trader. (Exhibit B, p. 4, 6, 14, 17, 18, 20, 24)

33. Upon information and belief, HANDLEY's websites, electronic mailings or weblogs contain numerous defamatory statements designed to expose the Plaintiff to public contempt and ridicule and injure Plaintiff in its businesses. *See* (Exhibit A, p. 7, 8, 9, and

Exhibit B, p. 4, 6, 14, 17, 18, 20, 24)

34. Upon information and belief, the individual statements contained in the posts, including but not limited to those emails set forth herein in Exhibit "A," when taken as a whole, inculcate the Plaintiff with moral turpitude and charge Plaintiff with unfitness and lack of integrity in the performance of its businesses. (Exhibit A, p. 13, 15-16) and (Exhibit B, p. 6)

35. Upon information and belief, HANDLEY authored and published the statements via web (*www.tesseracttrading.com*) and through electronic mail knowing that the posts and statements were false, were vexatiously intended to hurt the Plaintiff and its business, with injurious false trade libel, which is operated from Florida and conducted throughout the United States online. (Composite Exhibits A) and (Exhibit B)

36. Upon information and belief, PADGETT, while employed by PureTick and thereafter, engaged in substantial and not isolated activity to disparage the Plaintiff personally by facilitating false personal information about the Plaintiff to HANDLEY to intentionally hurt the personal reputation of the Plaintiff. (Exhibit C, p. 1-2)

37. Upon information and belief, PADGETT, while employed by PureTick and thereafter, engaged in substantial and not isolated activity to hurt and ruin the Plaintiff's business by facilitating false business information about the Plaintiff's business to HANDLEY, to intentionally tortuously interfere and hurt, by using injurious falsehood trade libel, the Plaintiff's business. (Exhibit A, B, and C as enumerated herein)

38. Upon information and belief, PADGETT colluded with HANDLEY to draw employees and contractors away from working with Plaintiff and to publicly hurt the Plaintiff's public reputation and business by seeking draw away potential clients. (Exhibit A, as enumerated in ¶ 24 herein).

39. Upon information and belief, PADGETT intentionally posted false injurious statements about the Plaintiff, as “Brian P., Woodridge, IL” on www.yelp.com/biz/puretick-trading-destin, to tortuously harm, using injurious falsehood trade libel, the Plaintiff and his business functioning as a day trading room administrator; the effects of which are continuous.

COUNT I-
(Defamation Per Quod)

40. Plaintiff re-asserts and incorporates by reference paragraphs 1 through 39 as if fully alleged herein.

41. Plaintiff avers that its damages prior to this action in equity for damages are in excess of \$75,000.00.

42. HANDLEY made false statements regarding Plaintiff in the performance of its business.

43. HANDLEY published the statements to the general public via the world-wide-web.

44. HANDLEY’s publication of the false and injurious statements was not subject to any available publication or legal privilege.

45. HANDLEY’s false and injurious statements exposed Plaintiff to distrust, hatred, contempt, ridicule and/or obloquy.

46. HANDLEY’s false and injurious statements have the tendency to, and did, in fact, injure Plaintiff’s reputation and business, as actually claimed by DEFENDANTS in emails.

47. HANDLEY’s false and defamatory statements harm Plaintiff’s reputation as to lower Plaintiff in the estimation of the community and to deter third persons from associating or dealing with the Plaintiff, or ascribing to the services provided by PureTick, LLC.

48. HANDLEY’s statements were made with knowledge of their falsity or reckless

disregard of the truth or falsity of the statements.

49. HANDLEY made his false statements with actual malice toward Plaintiff with the specific intent to damage and harm the Plaintiff and the Plaintiff principal business, PureTick, LLC.

50. As a result of HANDELY's actions, Plaintiff has been damaged.

51. Plaintiff demands trial by jury.

COUNT II
(Defamation Per Se)

52. Plaintiff reasserts re-asserts and incorporates by reference paragraphs 1 through 39 as if fully alleged herein.

53. Plaintiff avers that its damages prior to this action in equity for damages are in excess of \$75,000.00.

54. HANDLEY made the false statements about Plaintiff which are *per se* injurious as they accuse Plaintiff of moral and ethical turpitude and corrupt business reporting practices.

55. The nature of the false statements are such that malice and actual damages are presumed because HANDLEY alleged fraudulent conduct by Plaintiff in its administering of the trading room.

56. HANDLEY published the false statements to third parties via posting the statements on the worldwide internet and in mass emails.

57. The falsity of these statements injured Plaintiff's reputation in the business community.

58. PADGETT made false statements about the Plaintiff to HANDLEY, for the purposes of collectively engaging in substantial and not isolated tortious activity to hurt the Plaintiff, including, but not limited to PADGETT's publishing a defamatory self-serving public

announcement in the Destin, Florida YELP site, and to publicly disparage the Plaintiff to potential clients.

COUNT III -
(False Light Invasion of Privacy)

59. Plaintiff re-asserts and incorporates by reference paragraphs 1 through 39 as if fully alleged herein.

60. Plaintiff avers that its damages prior to this action in equity for damages are in excess of \$75,000.00.

61. Plaintiff's action against HANDLEY and PADGETT is for false light invasion of privacy.

62. HANDLEY and PADGETT knowingly and with the intent to violate Plaintiff's rights of privacy placed Plaintiff in a false light in the eyes' of the Plaintiff's business associates, vendors, customers, potential clients, advertisers, general public, members of the trading community, through numerous false statements concerning Plaintiff personal and Plaintiff's business practices; that represented that Plaintiff is dishonest, fraudulent, incredible as a day trader, and commits consumer fraud, by implication.

63. As a result of HANDLEY's and PADGETT's statements and representations, Plaintiff has been placed in a false light.

64. Plaintiff has been damaged as a proximate result of HANDLEY's conduct and PADGETT's conduct.

65. Plaintiff demands trial by jury.

COUNT IV -
(Injurious Falsehood – Trade Libel)

66. Plaintiff reasserts and incorporates by reference paragraphs 1-39 as if fully restated herein.

67. Plaintiff avers that its damages prior to this action in equity for damages are in excess of \$75,000.00.

68. Plaintiff's action against HANDLEY and PADGETT is for injurious falsehood as trade libel.

69. HANDLEY made false statements about Plaintiff's businesses and disparaged the nature and manner in which Plaintiff conducts business.

70. HANDLEY published the untrue statements to third parties through posting the statements over the worldwide internet.

71. HANDLEY and PADGETT knew that the false statements were likely to influence prospective users of Plaintiff's businesses to avoid Plaintiff's businesses.

72. The false statements materially and substantially induced third parties not to utilize Plaintiff's businesses and to not contract with Plaintiff.

73. As a result of HANDLEY publishing the false statements to third parties, Plaintiff has suffered pecuniary loss in the form of lost business revenues and business contracts.

74. Plaintiff demands trial by jury.

COUNT V
INTERFERENCE WITH BUSINESS RELATIONSHIPS

75. Plaintiff re-asserts and incorporates by reference paragraphs 1- 39 as if fully restated herein.

76. PureTick avers that its damages prior to this action in equity for damages are in excess of \$75,000.00.

77. Plaintiff's action against HANDLEY and PADGETT is for interference with Plaintiff's business relationship.

78. Plaintiff established business relationships with industry professionals, consumers, and advertisers through their various business ventures.

79. At all times material hereto, HANDLEY and PADGETT knew of the existing business relationships between Plaintiff and advertisers, business affiliates, employees, independent contractors, internet consumers, industry associations, potential customers.

80. HANDLEY and PADGETT intentionally interfered with the business relationships of the Plaintiff by posting false and defamatory statements for the express purpose of destroying Plaintiff's established and future business relationships.

81. HANDLEY and PADGETT'S interference with Plaintiffs' business relationships was without legal or other justification.

82. As a result of HANDLEY and PADGETT's intentional and unjustified interference, Plaintiff has suffered damages in Florida and across state lines to its existing business relationships and continue to suffer damages.

83. Plaintiff demands trial by jury.

COUNT VI
INJUNCTIVE RELIEF

84. This is an action in equity for temporary and permanent injunctive relief.

85. The Plaintiff re-asserts and incorporates by reference paragraphs 1- 39 as if fully restated herein.

86. Based on the facts as set forth herein, Plaintiff has substantial likelihood of success on the merits of the asserted causes of action.

87. Plaintiff does not have an adequate remedy at law.

88. Monetary damages are inadequate to protect the present and future reputation of the Plaintiff and the Plaintiff's business.

89. Injunctive relief would provide a benefit to, and is in the interest of, the public, as it would deter defamation, libel and other actionable conduct through the internet and through electronic mailings.

WHEREFORE, Plaintiff requests a temporary and permanent injunction against DEFENDANTS HANDLEY and PADGETT, enjoining HANDLEY and PADGETT from hosting, posting, or any manner publishing or disseminating any defamatory or injurious information relating to the Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court grant judgment against DEFENDANTS HANDLEY AND PADGETT as follows:

A. Award the Plaintiff on all Counts I through V, an award of compensatory damages in an amount to be determined at trial, but believed to far exceed \$500,000, together with an award

of punitive damages also in an amount to be determined at trial;

B. Grant on all Counts I through V, a permanent injunction compelling HANDLEY and PADGETT (i) to cease and desist from committing further false, vexatious, malicious, disparaging, harassing, and misleading statements about the Plaintiff personally and about the Plaintiff's business, and (ii) compelling to stop and enjoining HANDLEY and PADGETT from hosting, posting, or any manner publishing or disseminating, whether in his legal identity or under any aliases, whether now created or created in the future, any defamatory false, vexatious, malicious, disparaging, harassing, and misleading statements or injurious information about or related to the Plaintiff;

C. Order HANDLEY and PADGETT to remove from the internet, from any site that HANDLEY is associated with, by actual name or by aliases, and from any other media, including but not limited to Twitter, Instagram, Pinterest, Facebook, Yelp, Google+, etc., where HANDLEY has made actionable statements posted or published against and about the Plaintiff and about the Plaintiff's business, PureTick;

D. Order HANDLEY and PADGETT to issue a retraction of all actionable postings, publications, and to all recipients of actionable electronic mail;

E. Order HANDLEY and PADGETT to disclose the list and to return the list of all individuals who have received defendant's vexatious communication regarding the Plaintiff; and

F. Order appropriate penalty upon HANDLEY and PADGETT under Section 784.048, Fla. Stat. and Section 775.083, Fla. Stat., for their acts enumerated herein.

Demand for Jury Trial

Pursuant to Rule 38, Fed. R. Civ. Proc., Plaintiff demands a trial by jury on every issue in this action, which is a triable right by jury.

Respectfully submitted, on this 31th day of March, 2015 via electronic mail.

Dated: Tallahassee, Florida

LORENZO LAW FIRM, P.A.

s/José B. Lorenzo, Jr./

José B. Lorenzo, Jr.

2040 Delta Way

Tallahassee, FL 32303

850.405.6525 o

855.757.2757 tf

850.807.2991 f

admin@lorenzolawfirm.com

for *Plaintiff Alex Wasilewski*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31th day of March, 2015, a true and correct copy of the foregoing has been delivered via personal service:

s/José B. Lorenzo, Jr. /
José B. Lorenzo, Jr.

Mr. Dean Handley
32 Stoneland Road
Shrewsbury, MA 01545

Mr. Brian Padgett
2225 Wharf Drive
Woodridge, IL 60517