

CAUSE NO. DC-12-01044-L

STEPHEN PIERCE AND
STEPHEN PIERCE INTERNATIONAL, INC.

Plaintiffs

v.

THEODORE CANTU

Defendant

§ IN THE DISTRICT COURT
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§ OF DALLAS COUNTY, TEXAS
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§ 193RD JUDICIAL DISTRICT

**PLAINTIFFS' FIRST AMENDED PETITION, JURY DEMAND
AND REQUEST FOR INJUNCTIVE RELIEF**

TO THE HONORABLE COURT

Plaintiffs Stephen Pierce and Stephen Pierce International, Inc. ("Pierce" or "Plaintiffs"),
complain of Defendant Theodore Cantu ("Cantu," or "Defendant") and show as follows:

I.

DISCOVERY CONTROL PLAN

1. Plaintiffs intend to conduct discovery under Level 2 in accordance with TEX. R.
Civ. P. 190.3.

II.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff Stephen Pierce is a natural person who resides at 720 Lake Carolyn
Parkway, Apt# 127W, Irving, Texas 75039.

3. Plaintiff Stephen Pierce International, Inc. is a business based in McKinney,
Texas, at 321 North Central Expressway Suite #220, McKinney, Texas 75070. Stephen Pierce is
the CEO of Stephen Pierce International, Inc.

4. Defendant Theodore Cantu is a natural person who resides in Walled Lake, Michigan and may be served with process at [REDACTED] 48390-3211. Upon information and belief, Defendant is the owner, administrator, and author of the blog found at <http://911copywriters.blogspot.com/>.

5. This Court has subject-matter jurisdiction over all claims in this action because the amount in controversy exceeds the court's minimum jurisdictional requirements.

6. This Court has personal jurisdiction over the Defendant because Defendant operates a defamatory blogspot specifically directed at the Plaintiffs in Texas, and intended to cause harm in Texas. Defendant is well aware of where Plaintiffs' home forum is; on his blog he cites the address of Stephen Pierce International, "Stephen Pierce International 321 N. Central Expressway, Suite 220McKinney, TX. 75070-3522" and alleges that "[t]his guy [Pierce] had left for Texas."

7. Venue is proper in this Court pursuant to TEX CIV. PRAC. & REM. CODE §15.002(a)(1), as the events giving rise to the claim occurred in Dallas County, Texas.

III.

FACTUAL BACKGROUND

8. Plaintiffs Stephen Pierce and Stephen Pierce International, Inc., provide education and training with respect to internet marketing. For example, they provide customers consulting, seminars, videos, written materials, and other programs which are designed to teach individuals and businesses how to effectively use the internet to market their business.

9. Upon information and belief, Defendant has written numerous blogposts which attack and defame Plaintiff Stephen Pierce, Plaintiff Stephen Pierce International, Inc., and their business. Among other things, Defendant describes Plaintiffs' entire business as a "scam" in each of the following ways:

- “Stephen Pierce- Scam”
- “Stephen Pierce Internet Scam”
- “Pierce, was ripping off people with his offers on the web.”

10. A scam is defined as “a fraudulent business scheme.” See Webster’s Online Dictionary. Plaintiffs’ business is not a scam, nor is it a fraudulent business scheme. Plaintiffs inform potential customers of a price for various programs to educate them on internet marketing. When the customers pay for the programs, Plaintiffs provide legitimate programs, as advertised. Plaintiffs do not guarantee any outcome from their programs, and expressly disclaim any particular result from buying these training programs.

11. Plaintiffs, have, until the actions of Defendant, had an excellent reputation in the field of internet business marketing. Plaintiffs conduct a large amount of their business on the Internet, and therefore their reputation on the Internet is critical to their business.

12. However, whenever one of Plaintiffs’ potential clients search for the terms “Stephen Pierce,” or “Stephen Pierce International, Inc.,” on Google or other internet search engines, many find the false and defamatory statements published by Defendant.

13. Plaintiffs have been irreparably damaged and suffered significant monetary damages, in an amount to be proven at trial, because of Defendant’s defamatory blogposts and statements.

IV.

CAUSES OF ACTION

A. Count One – Defamation

14. Plaintiffs reallege and incorporate the allegations set forth in the preceding paragraphs as if set forth in full herein.

15. Defendant published statements by written communication on the Internet at <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-updates-part-3.html>; <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-updates-part-2.html>; <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-part-3-staring-todd.html>; and <http://911copywriters.blogspot.com/2010/08/stephen-pierce-fall-from-grace.html> asserting as fact that Plaintiffs' business is a "scam" and a "rip off."

16. The statements are directed towards Plaintiffs.

17. The statements are false because Plaintiffs' business is not a scam or fraudulent, it is a legitimate internet marketing business.

18. Plaintiffs supply their customers with programs that educate them on how to effectively market their business on the internet.

19. Defendant's statements are defamatory because they:

- a. Injure Plaintiffs' reputation and thereby expose Plaintiffs to public hatred, contempt, or ridicule, or financial injury;
- b. Impeach Plaintiffs' honesty, integrity, virtue, and reputation; and
- c. Injure Plaintiffs in their occupations or professions.

20. The defamatory statements require no proof of their injurious character because they were obviously hurtful to Plaintiffs, as the statements have imputations of criminal conduct.

21. Defendant made the statements either negligently, knowingly, or with reckless disregard for their falsity.

22. Defendant's false statements directly and proximately caused injury to Plaintiffs, which resulted in damages in an amount to be determined by the trier of fact.

23. Defendant's unlawful conduct was wanton, willful, and malicious, warranting the imposition of exemplary damages in an amount to be determined by the trier of fact.

24. Defendant's unlawful conduct has caused and will continue to cause Plaintiffs imminent, irreparable injuries for which there is no adequate legal remedy. Accordingly, Plaintiffs are entitled to preliminary and permanent injunctive relief.

25. As Defendant has placed Plaintiffs' character publicly at issue, Plaintiffs are entitled to a declaratory judgment that Defendant's statements are false.

a. Request for Declaratory Judgment

26. Plaintiffs reallege and incorporate the allegations set forth in the preceding paragraphs as if set forth in full herein.

27. As Defendant has placed Plaintiffs' character publicly at issue, Plaintiffs request pursuant to TEX. CIV. PRAC. & REM. CODE § 37.003 (Uniform Declaratory Judgments Act) that the Court determine that Plaintiffs are entitled to a declaratory judgment that Defendant's statements are false.

b. Request for Injunctive Relief

28. Plaintiffs reallege and incorporate the allegations set forth in the preceding paragraphs as if set forth in full herein.

29. Defendant's defamatory and unlawful conduct has caused and will continue to cause Plaintiffs imminent, irreparable injuries for which there is no adequate legal remedy.

30. Plaintiffs are willing to post a bond in support of their request for injunctive relief.

31. Accordingly, Plaintiffs are entitled to preliminary and permanent injunctive relief.

B. Count Two – Intentional Infliction of Emotional Distress

32. Plaintiff Stephen Pierce realleges and incorporates the allegations set forth in the preceding paragraphs as if set forth in full herein.

33. Defendant's conduct, posting false and incredibly derogatory statements regarding Mr. Pierce and his business, was intentional or reckless.

34. Additionally, the posting of the false statements by Defendant was outrageous or intolerable.

35. As a direct result of this conduct by Defendant, Mr. Pierce suffered severe emotional distress.

V.

JURY DEMAND

30. Plaintiffs demand a jury trial for the claims for damages and has tendered the appropriate fee.

VI.

PRAYER

For the foregoing reasons, Plaintiffs ask that the Court issue citation for Defendant to appear and answer, and that Plaintiffs be awarded a judgment against Defendant for the following:

a. Preliminary Injunctive relief that issues the following orders to Theodore Cantu, Defendant in this case, including his agents, servants, employees, independent contractors, attorneys, representatives, and those persons or entities in active concert or participation with him (collectively, the "Restrained Parties"):

i. Remove the blog posts concerning Stephen Pierce at the following addresses:

1. <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-updates-part-3.html>;

2. <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-updates-part-2.html>;
 3. <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-part-3-staring-todd.html>;
 4. <http://911copywriters.blogspot.com/2010/08/stephen-pierce-fall-from-grace.html>.
- ii. Prohibiting the Restrained Parties from making any false statements of fact or statements that imply false statements of fact, publicly or to any person, orally or by written means, including but not limited to email and on the Internet, that defame or disparage Plaintiffs; and
- iii. Mandating that the Restrained Parties take all action, including, but not limited, to requesting removal from the Internet search engines including Google, Yahoo!, and Bing, to remove all defamatory, disparaging, libelous, and false statements about Plaintiffs that Defendant posted on the Internet, including but not limited to the statements on the Internet at:
1. <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-updates-part-3.html>
 2. <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-updates-part-2.html>
 3. <http://911copywriters.blogspot.com/2011/07/stephen-pierce-scam-part-3-staring-todd.html>
 4. <http://911copywriters.blogspot.com/2010/08/stephen-pierce-fall-from-grace.html>

- iv. Mandating, as it is foreseeable that the above-referenced URLs and the statements contained thereon will be referenced on additional webpages in the future, including but not limited to index, directory, and search results pages, that the Restrained Parties take all actions, including requesting removal from the Internet search engines Google, Yahoo!, and Bing, to remove all such webpages from the Internet;
- b. Full permanent injunctive relief for the relief requested in the preliminary injunctive relief, above;
- c. Declaratory judgment that Defendant's statements about Plaintiffs on the Internet are false;
- d. Actual damages in an amount to be determined by the trier of fact;
- e. Exemplary damages in an amount to be determined by the trier of fact;
- f. Prejudgment and post-judgment interest at the highest rate(s) allowed by law;
- g. Reasonable and necessary attorneys' fees in prosecuting its claims through trial and, if necessary, through appeal;
- h. Costs of court; and;
- i. Such other further relief which this Court may deem just and proper.

Respectfully submitted,

Paul Kerlin

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IN THE DISTRICT COURT

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_____ JUDICIAL DISTRICT

AFFIDAVIT OF STEPHEN PIERCE

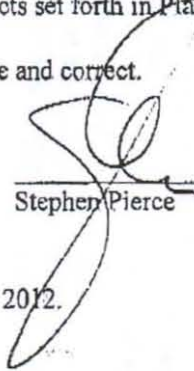
STATE OF TEXAS

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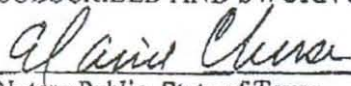
COUNTY OF DALLAS

Before Me, the undersigned notary public, on this day personally appeared Stephen Pierce who, after being duly sworn, stated under oath:

1. I am over 18 years of age and am competent and capable of executing this affidavit.
2. I have personal knowledge of the facts set forth in Plaintiffs' Original Petition and they are within my personal knowledge and are true and correct.


_____ Stephen Pierce

SUBSCRIBED AND SWORN this 27 of January, 2012.



Notary Public, State of Texas

My commission expires: _____

