

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

SHIRLEY STRICKLAND-SAFFOLD)

- and -)

SYDNEY SAFFOLD)

Plaintiffs,)

vs.)

PLAIN DEALER PUBLISHING CO.,)
1801 Superior Avenue)
Cleveland, Ohio 44114-0000)

- and -)

Cleveland Live LLC)
c/o CT Corporation System, Agent)
1300 East 9th)
Cleveland, Ohio 44114)

- and -)

ADVANCE INTERNET INC.)
30 Journal Square)
Jersey City, New Jersey 07306-4101)

- and -)

ADVANCE PUBLICATIONS, INC.)
c/o Corporation Service Company)
80 State Street)
Albany, New York 12207-2543)

- and -)

SUSAN GOLDBERG)
2720 Fairmount Blvd)
Cleveland, OH 44106)

- and -)

John Does 1-1000)

Defendants.)

CASE NO: CV 10723512

JUDGE Janet Burnside

COMPLAINT

(Jury Demand Endorsed)

For their Complaint, Shirley Strickland-Saffold and Sydney Saffold, by and through counsel, avers as follows:

JURISDICTION

1. Plaintiff Shirley Strickland-Saffold is a resident of the City of Cleveland, Cuyahoga County, State of Ohio.
2. Plaintiff Sydney Saffold is a resident of the City of Columbus, Franklin County, State of Ohio.
3. Defendant Plain Dealer Publishing Co. is an Ohio corporation with its principle place of business in the city of Cleveland, Cuyahoga County and State of Ohio.
4. Plain Dealer Publishing Co. is a subsidiary of Advance Publications, Inc.
5. Defendant Cleveland Live Inc. is not a current corporate entity, and has its principle place of business in the city of Cleveland, Cuyahoga County and State of Ohio.
6. Defendant Advance Publications, Inc. is a New York corporation with its principle place of business in New York City, New York.
7. Advance Publications, Inc. does substantial business in Cuyahoga County, Ohio.
8. Defendant Advance Internet, Inc. is a New Jersey corporation with its principle place of business in Jersey City, New Jersey.
9. Advance Internet Inc. is a subsidiary of Advance Publications, Inc.
10. Advance Internet, Inc. does substantial business in Cuyahoga County, Ohio.
11. Defendant Susan Goldberg is a resident of the City of Cleveland, Cuyahoga County, State of Ohio.
12. Goldberg is employed by Defendant Plain Dealer Publishing Co. as its editor.
13. Defendants John Does 1-10 are currently unknown individuals employed by Defendants that conspired to publish Plaintiffs' confidential Registration Information.

14. Defendants John Does 11-1000 are currently unknown individuals that published defamatory and attacking statements against Plaintiffs under anonymous User Names on Cleveland.com that Plaintiffs will be able to locate once Defendants provide their Registration Information.
15. As such, the Court has proper jurisdiction over this matter.

FACTS

16. While living with Plaintiffs, Oscar Saffold created a family email account with America Online ("Family Email Address").
17. The Family Email Address had Oscar Saffold's first initial as part of the email address.
18. The Family Email Address did not contain any reference to Shirley Strickland Saffold.
19. The Family Email Address did not contain any reference to Sydney Saffold.
20. The Family Email Address was used jointly by Oscar, Shirley and Sydney Saffold.
21. After Oscar and Shirley Saffold divorced, Shirley and Sydney Saffold continued to jointly use the Family Email Address as one of their personal email addresses.
22. While using the Family Email Address, Shirley and Sydney Saffold jointly created a user account on Cleveland.com.
23. Defendants have a separate webpage to sign up for a free Cleveland.com account ("Registration Page").
24. The Registration Page initially states:

Become a member of Cleveland.com's community. Access allows you to post comments and interact with other users. Once you join, you will be able to meet and interact with area residents who share your interests, passions and points of view. Whether it's politics, pets, parenting or sports, you'll be able to hear what others are saying, reading, watching and recommending.

We expect all users to behave responsibly and courteously. For more about community guidelines, please read our user agreement.

25. In order to create a Cleveland.com account, Defendants require as consideration the submission of certain information and agreement to abide by certain terms as set forth in the User Agreement.
26. In order to create a Cleveland.com account, users, including Plaintiffs, were required to provide information for the following fields: Username, Display Name, Email Address, Password, Password Confirmation, Password Recovery Word/Phrase, Gender, Year of Birth.
27. Information required in the fields on the Registration Page are defined by the User Agreement as "Registration Information."
28. Registration Information is transmitted to Cleveland Live, Advance Publications, Advance Internet and/or a third party database provider.
29. Registration Information is not posted, uploaded or otherwise communicated to the Website by Users.
30. Defendants profit and/or derive benefit from the submission of Registration Information, including, but not limited to using portions of such in conjunction with potential third-parties for commercial targeting of products and advertisements.
31. Additionally, in order to create a Cleveland.com account, users, including Plaintiffs, were required to review and agree to the terms of the User Agreement and Privacy Policy.
32. As part of the process to create a Cleveland.com account, users, including Plaintiffs, were given the option of opting whether or not to "receive occasional updates about new features, special offers and other information from this website, our affiliated websites, publications and other companies."

33. Every page of Cleveland.com also provides that: "Community Rules apply to all content you upload or otherwise submit to this site."
34. The Community Rules provide in part: "Lively debate and opposing opinions are welcome, but please behave courteously and responsibly."
35. Despite encouraging lively debate and opposing opinions, Defendants used tactics to discourage comments that opposed their editorial viewpoint, including, but not limited to selectively removing opinions that were not favorable to Defendants, and allowing personal attacks against their targets to remain.
36. The User Agreement was last revised on January 8, 2008.
37. The User Agreement incorporates the Privacy Policy as part of its contractual terms.
38. Pursuant to Civ.R. 10(D)(1), a copy of the User Agreement and incorporated Privacy Policy are not attached as they are electronic documents in the possession of Defendants.
39. The User Agreement and incorporated Privacy Policy were drafted exclusively by and/or on behalf of Defendants.
40. Defendants, by and through Henry J. Gomez, in an article published on or about March 26, 2010, stated that the User Agreement and Community Rules "were written by Advance Internet, a separate entity run by The Plain Dealer's parent company."
41. Users, including Plaintiffs, had no opportunity to negotiate the terms of the User Agreement.
42. The User Agreement defines Cleveland Live, Inc. "Service Provider," "we," and "our" to mean Cleveland Live, Inc.
43. The User Agreement does not define the term "you."
44. The User Agreement does not define the term "your."

45. The User Agreement provides in bold: **“Your use of and/or registration on any aspect of the Website will constitute your agreement to comply with these rules.”**
46. The User Agreement and incorporated Privacy Policy applied to all users regardless of whether such users created an account.
47. The User Agreement states that in providing the required Registration Information, users, including Plaintiffs, may not impersonate, imitate or pretend to be somebody else when registering and/or setting up an account on the Website.
48. The User Agreement does not preclude two or more individuals from jointly creating an account.
49. Pursuant to Section III(2)(A) of the User Agreement, users “may not sub-license, transfer, sell or assign your Registration Information and/or this Agreement to any third party without our written approval.”
50. Section III(2)(A) of the User Agreement does not prohibit users, including Plaintiffs, from allowing others to temporarily use users’ User Name, account or logon information.
51. Section III(2)(B) of the User Agreement specifically provides that users, including Plaintiffs, can authorize use of the account by any person.
52. Pursuant to Section IV(1)(D) of the User Agreement, all users are required to “refrain from ethnic slurs, religious intolerance, homophobia, and personal attacks when using the Website.”
53. The User Agreement provides the ramifications of a breach of the terms by any user as follows: “Your failure to follow these rules, whether listed below or in bulletins posted at various points in the Website, may result in suspension or termination of your access to the Website, without notice, in addition to Service Provider’s other remedies.”

54. Public disclosure of the Registration Information does not in any way remedy Defendants.
55. Section IV(1)(D) of the User Agreement provides:

USE OF MATERIAL SUPPLIED BY YOU:

For information regarding use of information about you that you may supply or communicate to the Website, please see our Privacy Policy. Except as expressly provided otherwise in the Privacy Policy or in this Agreement, you agree that by posting messages, uploading text, graphics, photographs, images, video or audio files, inputting data, or engaging in any other form of communication with or through the Website, you grant us a royalty-free, perpetual, non-exclusive, unrestricted, worldwide license to use, reproduce, modify, adapt, translate, enhance, transmit, distribute, publicly perform, display, or sublicense any such communication (including your identity and information about you) in any medium (now in existence or hereinafter developed) and for any purpose, including commercial purposes, and to authorize others to do so. In addition, please be aware that information you disclose in publicly accessible portions of the Website will be available to all users of the Website, so you should be mindful of personal information and other content you may wish to post.

56. Section IV(1)(D) of the User Agreement does not mention Registration Information.
57. To the extent that there is any conflict, Section IV(1)(D) of the User Agreement indicates that such a conflict is resolved by deferring to the terms of the Privacy Policy.
58. In the first paragraph, the Privacy Policy expressly provides that Defendants represents that they will “protect your privacy.”
59. Defendants knew that users, including Plaintiffs, would justifiably rely on their promise to “protect your privacy.”
60. The Privacy Policy expressly provides that Defendants represents that “personally identifying information is protected.”
61. Defendants knew that users, including Plaintiffs, would justifiably rely on their promise that “personally identifying information is protected.”
62. Implicit in having a privacy policy is the indication that users would be provided privacy.

63. Section II of the Privacy Agreement provides:

HOW THE WEBSITE USES INFORMATION PROVIDED BY YOU

Service Provider uses personally identifying information you supply through the Website to provide you with the service you have requested. For example, if you subscribe to any of our publications, we may use your e-mail address to send you a confirmation notice and your mailing address to send you the publication. Similarly, if you enter an online sweepstakes, we will use this information to notify you if you are a winner. We may also use the information to communicate with you about new features, products or services, and/or to improve the services that we offer by tailoring them to your needs.

Unless otherwise specified on the Website, Service Provider may sell or share personally identifying information with our affiliates and with carefully selected companies who we think can offer you services and products of interest to you. If you do not wish to have your personally identifying information shared, write to us at the street address set forth at the end of this document. If you do not wish to receive future commercial communications from us by e-mail, simply follow the unsubscribe instructions contained within the e-mail. If you've registered on any part of the Website, please use the mechanism on the Website that allows you to change or update your member preferences or information, if available, to keep all such data accurate and up-to-date. Otherwise, contact our Privacy Policy Coordinator as described below with your changes.

We also allow access to our database by third parties that provide us with services, such as technical maintenance or forums and job search software, but only for the purpose of and to the extent necessary to provide those services. And if you choose to purchase items through features on the Website, we may forward your information to third parties for services such as credit card processing and order fulfillment. There are also times when you provide information about yourself to us in areas of the site that may be managed or participated in by third parties, such as auction services or shopping areas. In such cases, the information may be used by us and by such third party(ies), each pursuant to its own policies. We may also provide your information to our advertisers, so that they can serve ads to you that meet your needs or match your interests. While Service Provider will seek to require such third parties to follow appropriate privacy policies and will not authorize them to use this information except for the express purpose for which it is provided, Service Provider does not bear any responsibility for any actions or policies of third parties. We may also provide access to our database in order to cooperate with official investigations or legal proceedings, including, for example, in response to subpoenas, search warrants, court orders, or other legal process.

In addition, we reserve the right to use the information we collect about your computer, which may at times be able to identify you, for any lawful business purpose, including without limitation to help diagnose problems with our servers, to gather broad demographic information, and to otherwise administer our Website.

While your personally identifying information is protected as outlined above, we reserve the right to use, transfer, sell, and share aggregated, anonymous data about our users as a group for any business purpose, such as analyzing usage trends and seeking compatible advertisers and partners.

In addition, as our business changes, we may buy or sell various assets. In the event all or a portion of the assets owned or controlled by Service Provider, its parent or any subsidiary or affiliated entity are sold, assigned, transferred or acquired by another company, the information from and/or about our Website users may be among the transferred assets.

64. The Privacy Policy does not authorize the release of Registration Information except as specifically provided.
65. The Privacy Policy does not authorize the release of Registration Information to newspapers, its reporters or other individuals or companies for publication purposes upon request.
66. Defendants reinforced the contractual expectation of privacy by only displaying anonymous screen names on comments from users.
67. Neither the User Agreement nor incorporated Privacy Policy provides for lower expectations of privacy for public officials or their families.
68. Despite the fact that neither the User Agreement nor incorporated Privacy Policy provides for lower expectations of privacy for public officials or their families, Defendants never intended to provide any privacy when it comes to posting their opinions, anonymous or otherwise, in an online forum.

69. On or About March 26, 2010 at 12:27 p.m., Defendants, by and through a post made by Connie Shultz, stated “public officials should have no expectation of privacy when it comes to posting their opinions, anonymous or otherwise, in an online forum.”
70. But, Defendants knew that Plaintiffs actually and justifiably relied on the promises of privacy before breaching the User Agreement, and incorporated Privacy Policy.
71. On or about April 3, 2010, Defendants, by and through an article written by Ted Diadiun, Defendants stated that “lawmiss ... clearly posted her remarks in the belief that they were, and would remain, anonymous.”
72. On or about March 26, 2010 at 1:00 p.m., Defendants, by and through, John Kroll, Director of Training and Digital Development, in a posting on Cleveland.com from the editors, admitted that the Plain Dealer had never previously reported a story based on Registration Information.
73. Defendants conspired to allow Plain Dealer reporters access to confidential private information solely in possession of Cleveland Live, Advance Internet and/or Advance Publications, including but not limited to Registration Information.
74. By publication of March 26, 2010 in an article by James F. McCarty, Defendants admitted that using and publishing the Registration Information was a breach of the User Agreement, and incorporated Privacy Policy.
75. By publication of March 26, 2010 in an article by McCarty, Defendants admitted: “The investigation represents a departure from the newspaper’s general practice of allowing commenters on Cleveland.com to remain anonymous.”

76. The reason that Defendants breached the terms of the User Agreement, and incorporated Privacy Policy, was not because of comments lawmiss made regarding cases pending before Strickland-Saffold.
77. On Monday March 22, 2010, John Doe Online Editor learned of a post using the lawmiss account regarding a relative of Plain Dealer reporter Jim Ewinger.
78. In an article written by Diadiun and published on or about April 3, 2010, Defendants admitted that the “lawmiss comments about our reporter’s relative were clearly not in the public interest.”
79. Nonetheless, on Monday March 22, 2010, upon learning of the post regarding Ewinger’s relative, Doe Online Editor looked up lawmiss’ e-mail address.
80. John Doe Online Editor used Web software to look up lawmiss’ e-mail address.
81. On or about March 26, 2010, by and through an article written by McCarty, Defendants admitted that the reason for breaching the terms of the User Agreement, and incorporated Privacy Policy, was not because of comments lawmiss made regarding cases pending before Strickland-Saffold.
82. On or about March 26, 2010, by and through an article written by McCarty, Defendants admitted that the reason for breaching the terms of the User Agreement, and incorporated Privacy Policy, was a result of a vendetta against lawmiss for publishing comments about a relative of Plain Dealer reporter Ewinger.
83. On or about March 26, 2010, by and through an article written by McCarty, Defendants stated: “A lawmiss comment referencing the mental state of a relative of Plain Dealer reporter Jim Ewinger prompted the newspaper to investigate the source of the comment.”

84. On March 26, 2010 at 12:16 p.m., Defendants, by and through, a posting by Kroll on Cleveland.com from the editors, admitted that “this situation began with a comment that referred to private information about a reporter’s relative.”
85. On or about March 28, 2010, by and through an article written by Shultz, Defendants stated that an “online editor used Web software to look up lawmiss’ e-mail address.”
86. On or about April 3, 2010, by and through an article written by Diadiun, Defendants stated that “a Plain Dealer online editor encountered a disparaging remark about a relative of a Plain Dealer reporter, and went looking to see where it came from.”
87. On or about April 5, 2010, by and through an article written by O’Donnell, Defendants stated that a “Plain Dealer online editor looked up lawmiss’ e-mail address -- which was accessible through software used to post stories to the Web site - after lawmiss posted a comment about the mental state of a Plain Dealer reporter’s relative.”
88. Plain Dealer Editor Goldberg approved the acquisition of the Registration Information and decided to reveal the e-mail address behind dozens of anonymous comments posted on Cleveland.com under the alias *lawmiss*.
89. On March 28, 2010, Defendants, by and through an article published by Shultz, admitted that “Plain Dealer Editor Goldberg decided to reveal the e-mail address behind dozens of anonymous comments posted on Cleveland.com under the alias *lawmiss*.”
90. On or about Thursday, March 25, 2010, a Plain Dealer reporter asked attorney Rufus Sims about a series of comments made on stories on the newspaper’s Internet affiliate, Cleveland.com, under the moniker lawmiss.

91. In two articles published by Defendants on or about March 25, 2010 by James F. McCarty, Defendants admitted that comments posted using the lawmiss account were supposed to be “anonymous.”
92. Defendants have repeatedly referred to the comments posted using the lawmiss account as “anonymous.”
93. On or about Thursday March 25, 2010, a Plain Dealer reporter told Sims that the judge’s personal AOL account was used to set up the lawmiss account.
94. Included in the March 26, 2010 article by McCarty, the Plain Dealer acknowledged that it obtained the internet address from “anonymous online comments” made on Cleveland.com.
95. On or about March 26, 2010, by and through an article by McCarty, Defendants stated that “Someone using a personal e-mail account of Cuyahoga County Common Pleas Judge Shirley Strickland Saffold has written anonymous, opinionated online comments relating to some of the judge’s high-profile cases...”
96. The statement that “Someone using a personal e-mail account of Cuyahoga County Common Pleas Judge Shirley Strickland Saffold has written anonymous, opinionated online comments relating to some of the judge’s high-profile cases...” is false.
97. On or about April 7, 2010, by and through an anonymous editorial, Defendants stated that there were “Comments posted on Cleveland.com from an e-mail address that Saffold is known to use...”
98. The statement that “Comments posted on Cleveland.com from an e-mail address that Saffold is known to use...” is false.
99. None of the anonymous online comments attributed to the lawmiss account were posted by using the personal e-mail account of Strickland-Saffold.

100. Online comments cannot be submitted for posting on Cleveland.com by email.
101. Defendants have never accepted a submission by email to post a comment on Cleveland.com under the username lawmiss.
102. Defendants have never accepted a submission by email to post a comment on Cleveland.com under a story from any registered user.
103. Online comments can only be submitted for posting on Cleveland.com directly through an online submission form.
104. On or about March 26, 2010, by and through an article written by McCarty, Defendants stated that the lawmiss moniker was “created by someone using the judge’s personal America Online account.”
105. On or about April 5, 2010, by and through in an article written by O’Donnell, Defendants stated that that the lawmiss User Account was created using Shirley Strickland Saffold’s AOL email account.
106. The statement that the lawmiss moniker was “created by someone using the judge’s personal America Online account” is false.
107. The Plain Dealer never contacted America Online to confirm this fact.
108. Prior to publishing the that the lawmiss moniker was “created by someone using the judge’s personal America Online account,” the Plain Dealer was informed that the America Online account had been created by Oscar Saffold and was shared by the Saffold family.
109. Prior to publishing that the lawmiss moniker was “created by someone using the judge’s personal America Online account,” the Plain Dealer was informed that the America Online account email address at issue contained Oscar Saffold’s initial.

110. Despite being informed of the fact that Oscar Saffold created the American Online Account, the Plain Dealer selectively decided not to include this information in any of the articles, columns, editorials, or comments that it published regarding the lawmiss account.
111. Despite being informed of the fact that Oscar Saffold's initial was in the email address used to create the lawmiss account, the Plain Dealer selectively decided not to include this information in any of the articles, columns, editorials, or comments that it published regarding the lawmiss account.
112. Defendants intentionally mischaracterized how comments were posted and selectively excluded facts in order to disparage Plaintiffs.
113. On or about March 25, 2010, Defendants contacted Jonathan Coughlin, disciplinary counsel for the Ohio Supreme Court, to question the ethical implication of Strickland-Saffold anonymously commenting online about cases before the bench.
114. On or about March 26, 2010, by and through an article written by McCarty, Defendants confirmed that they contacted Coughlin to question the ethical implication of Strickland-Saffold anonymously commenting online about cases before the bench.
115. On or about March 25, 2010, Defendants contacted Christopher Fairman, a professor at Ohio State University's Michael E. Moritz College of Law, to question the ethical implication of Strickland-Saffold anonymously commenting online about cases before the bench.
116. On or about March 26, 2010, by and through an article written by McCarty, Defendants confirmed that they contacted Fairman to question the ethical implication of Strickland-Saffold anonymously commenting online about cases before the bench.

117. On or about March 25, 2010, Defendants contacted Bob Housel, an attorney, to question the ethical implication of Strickland-Saffold anonymously commenting online about cases before the bench.
118. On or about March 26, 2010, by and through an article written by McCarty, Defendants confirmed that they contacted Housel to question the ethical implication of Strickland-Saffold anonymously commenting online about cases before the bench.
119. Defendants gathered all the comments posted using the lawmiss account so that their readers could review all posting made using the account set up with the Family Email Address.
120. After gathering all the comments posted using the lawmiss account, Defendants published in a March 26, 2010 article by McCarty the subject matters in conjunction with identifying the Registration Information for lawmiss.
121. On or about March 28, 2010 at 1:24 p.m., Defendants, by and through a post made by Shultz, stated “editors ask that we interact with some of those who post anonymous comments.”
122. Providing Plaintiffs’ Registration Information to The Plain Dealer for publication purposes was not done for the purpose to provide Plaintiffs with the services that Plaintiffs have requested.
123. Providing Plaintiffs’ Registration Information to The Plain Dealer for publication purposes was not done for the purpose to send Plaintiffs a confirmation notice and Plaintiffs’ mailing address to send Plaintiffs the publication that Plaintiffs subscribed to.
124. Providing Plaintiffs’ Registration Information to The Plain Dealer for publication purposes was not done for the purpose to notify Plaintiffs if Plaintiffs are a winner of a sweepstakes.

125. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done for the purpose to communicate with Plaintiffs about new features, products or services, and/or to improve the services that we offer by tailoring them to Plaintiffs' needs.
126. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done because Defendants thought that The Plain Dealer was an affiliates or selected company that could offer Plaintiffs services and products of interest to Plaintiffs.
127. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done to also allow access to Advance's database by third parties that provide Advance with services, such as technical maintenance or forums and job search software, but only for the purpose of and to the extent necessary to provide those services.
128. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done in response to Plaintiffs' purchasing items through features on the Website.
129. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done to facilitate a sale by third parties, such as credit card processing and order fulfillment.
130. The Registration Page is not managed by third parties, such as auction services or shopping areas.
131. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done to provide Plaintiffs' information to Defendants' advertisers, so that they can serve ads to users that meet Plaintiffs' needs or match Plaintiffs' interests.
132. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done in order to cooperate with official investigations or legal proceedings,

including, for example, in response to subpoenas, search warrants, court orders, or other legal process.

133. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done for a business purpose.

134. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done to help diagnose problems with Defendants' servers

135. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done to gather broad demographic information.

136. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done to administer Defendants' Website.

137. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done to use, transfer, sell, and share aggregated, anonymous data about our users as a group for any business purpose, such as analyzing usage trends and seeking compatible advertisers and partners.

138. Providing Plaintiffs' Registration Information to The Plain Dealer for publication purposes was not done as part of Defendants' efforts to buy or sell various assets.

COUNT I: BREACH OF CONTRACT

139. Plaintiffs reassert and reallege by reference all the prior allegations contained in their Complaint as if herein fully set forth.

140. The User Agreement and incorporated Privacy Policy constituted a contract between Plaintiffs and Defendants.

141. Defendants breached the contract.

142. Plaintiffs suffered damages as a result of the breach.

COUNT II: TORTIOUS INTERFERENCE WITH A CONTRACT

143. Plaintiffs reassert and reallege by reference all the prior allegations contained in their Complaint as if herein fully set forth.

144. Alternatively, any Defendants that are not found to be a party to the contract formed by the User Agreement and incorporated Privacy Policy knew of the existence of the contract.

145. Alternatively, any Defendants that are not found to be a party to the contract formed by the User Agreement and incorporated Privacy Policy intentionally procured the breach of the contract.

146. Alternatively, any Defendants that are not found to be a party to the contract formed by the User Agreement and incorporated Privacy Policy lacked justification to procure the breach of the contract.

147. Plaintiffs suffered damages as a resulting breach of contract.

COUNT III: PROMISSORY ESTOPPEL

148. Plaintiffs reassert and reallege by reference all the prior allegations contained in their Complaint as if herein fully set forth.

149. Based on this promise set forth in the User Agreement, Defendants should reasonably have expected that users of Cleveland.com would expect Defendants to maintain the confidentiality and privacy of user's personal information including Registration Information and email addresses.

150. When Plaintiffs completed the requirements on the Registration Page and/or posted anonymous comments to Cleveland.com, they reasonably expected, and did, in fact expect, Defendants to maintain the confidentiality and privacy of their personally identifiable information, including Registration Information and email address, based on the promise set forth in the User Agreement.

151. Plaintiffs suffered damages as a resulting of their justifiable reliance on Defendants' promises.

COUNT IV: FRAUD

152. Plaintiffs reassert and reallege by reference all the prior allegations contained in their Complaint as if herein fully set forth.

153. Despite promising all users in the User Agreement and incorporated Privacy Statement that they would protect privacy of every user, including public officials, except under the limited circumstances identified, Defendants had no intention of protecting the privacy of public officials and/or their families.

154. This was confirmed on or About March 26, 2010 at 12:27 p.m., when Defendants, by and through a post made by Shultz, stated "public officials should have no expectation of privacy when it comes to posting their opinions, anonymous or otherwise, in an online forum."

155. Plaintiffs were damaged by Defendants fraud.

156. Said fraudulent conduct was so willful, wonton and intentional as to rise to the level where punitive damages are appropriate.

COUNT V: INVASION OF PRIVACY/FALSE LIGHT

157. Plaintiffs reassert and reallege by reference all the prior allegations contained in their Complaint as if herein fully set forth.

158. Sydney Saffold did not consent, authorize or otherwise grant permission to Defendants to publish her personal information.

159. Defendants, without Sydney Saffold's consent, authorization or permission, intentionally disclosed her personal information, including her Family Email Address and Registration Information.

160. Defendants' invasion of privacy was offensive and objectionable to a reasonable person of ordinary sensibilities as it consisted of an invasion into Sydney Saffold's personal affairs and resulted in her and her family being threatened and harassed by Cleveland.com users and others.

161. Defendants' disclosure of Sydney Saffold's personal information was of no legitimate concern to the public.

162. Defendants cast Sydney Saffold in a false light.

163. Sydney Saffold was damaged as a result of Defendants' invasion of her privacy.

COUNT VI: DEFAMATION

164. Plaintiffs reassert and reallege by reference all the prior allegations contained in their Complaint as if herein fully set forth.

165. Defendants Does 11-1000 knowingly published false statements about Plaintiffs on Cleveland.com.

166. The false statements that Defendants Does 11-1000 knowingly published about Plaintiffs on Cleveland.com were defamatory in nature.

167. Plaintiffs were damaged as a result of the false and defamatory statement that Defendants Does 11-1000 knowingly published about Plaintiffs on Cleveland.com.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs Shirley Strickland Saffold and Sydney Saffold demand from Defendants the following:

- (a) An award against each Defendant of compensatory and monetary damages to compensate Plaintiffs for emotional distress, and other consequential damages, in an amount in excess of \$25,000,000 to be proven at trial;

- (b) An award of punitive damages against each Defendant in an amount in excess of \$25,000,000;
- (c) An award of reasonable attorneys fees and non-taxable costs for her claims as allowable under law;
- (d) An award of the taxable costs of this action; and
- (e) An award of such other relief as this Court may deem necessary and proper.

Respectfully submitted,



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Attorney For Plaintiffs

JURY DEMAND

Plaintiffs demand a trial by jury by the maximum number of jurors permitted.



Brian D. Spitz (0068816)