

FILED**MAR 04 2014****IN THE CIRCUIT COURT OF FORREST COUNTY
STATE OF MISSISSIPPI***Sp. Clk. Allen*
FORREST COUNTY CIRCUIT CLERK**ARTHUR SMITH****PLAINTIFF****VERSUS****CIVIL ACTION NO. CI14-0036****CHARLES E. LAWRENCE, JR.****DEFENDANT****COMPLAINT****JURY TRIAL REQUESTED**

COMES NOW the Plaintiff, Arthur Smith, and files this his Complaint against the Defendant, Charles E. Lawrence, Jr., and for cause would show unto the Court the following facts, to-wit:

1.

Plaintiff, Arthur Smith, is an adult resident citizen of Hattiesburg, Forrest County, Mississippi.

2.

The Defendant, Charles E. Lawrence, Jr., is an adult resident citizen of Hattiesburg, Forrest County, Mississippi upon whom process may be had in the time and manner required by law. Said Defendant, Charles E. Lawrence, Jr., may be served at his regular and usual place of business 1105 Edwards Street, Hattiesburg, Mississippi. The Clerk of the Court is requested to issue process to a private process server for service on said Defendant.

3.

Venue in this matter is proper in Forrest County, Mississippi because the Defendant resides in said county and the herein below described incident substantially occurred in Forrest County, Mississippi.

4.

At all times hereinafter mentioned, the Defendant, Charles E. Lawrence, Jr., was an active member of the Mississippi Bar and duly licensed in the State of Mississippi to practice law. Said Defendant maintained and maintains his regular and usual law office at 1105 Edwards Street, Hattiesburg, Mississippi.

PRELIMINARY STATEMENT

Plaintiff retained Defendant as his attorney for the purpose of resolving misdemeanor charges in Texas arising from checks written for less than \$20 each. After meeting with the Defendant three times without resolution of the Texas issue, the Plaintiff retained a Texas attorney who successfully and properly performed the services. In 2013, however, when the Defendant's friend and supporter, Johnny L. Dupree, was facing an election contest, Defendant used confidential information provided by the Plaintiff to attempt to invalidate Plaintiff's vote and to discredit the Plaintiff's testimony in an election contest trial in late July of 2013. When challenged, Defendant publicly and repeatedly announced that the Defendant had represented the Plaintiff in connection with criminal charges and the Defendant falsely stated—with purported authority as Plaintiff's attorney—that the criminal charges were felonious in nature and falsely opined that Plaintiff had been charged with crimes that rendered Plaintiff ineligible to vote. Defendant's conduct breached his fiduciary duty and his duties as Plaintiff's attorney. As a result of the Defendant's actions, particularly his public disclosure of Plaintiff's confidences and the misrepresentation of Plaintiff's offenses, Plaintiff suffered embarrassment and humiliation in the community.

5.

In 2009, Plaintiff met with the Defendant at the Defendant's law office at 1105 Edwards Street, Hattiesburg, Forrest County, Mississippi for the purpose of retaining the Defendant to provide legal advice and assistance necessary to resolve certain legal matters in the State of Texas. Specifically, Plaintiff advised the Defendant, Lawrence, that the Plaintiff had been charged in Texas with misdemeanors for writing checks in small amounts for insufficient funds and the Plaintiff wanted to get the cases resolved. At no time did the Plaintiff tell the Defendant, Lawrence, that the Plaintiff had allegedly committed a felony or that the Plaintiff had committed any crime other than the alleged misdemeanor check charges in Texas. Plaintiff asked the Defendant, Lawrence, to provide legal advice and assistance necessary to resolve the Texas matter and the Defendant, Lawrence, agreed to provide those services and to act as the Plaintiff's attorney and counsel.

6.

Plaintiff believed an attorney-client relationship had been established with the Defendant Lawrence and that his conversations with the Defendant were confidential and privileged and that the Defendant would acts in the Plaintiff's best interests, protect the Plaintiff's confidences, and deal with the Plaintiff honestly and professionally.

7.

In the meeting, the Defendant accepted the documents the Plaintiff had provided and advised the Plaintiff that the Defendant would look into the Texas situation. The Defendant and the Plaintiff met on at least two other occasions at the Defendant's law office to discuss the Texas situation.

8.

The Defendant did not timely resolve the Texas matter so the Plaintiff retained a Texas attorney to finally resolve the matter.

9.

Plaintiff did not discuss the Texas matter with the Defendant after Plaintiff retained a Texas attorney. Plaintiff has never authorized or consented to the Defendant's disclosure of any information that the Plaintiff provided the Defendant.

10.

In 2009, Defendant was appointed as the City Attorney for the Hattiesburg, Mississippi by Hattiesburg Mayor, Johnny L. Dupree.

11.

In 2013, Dave Ware qualified and ran as an independent candidate for the office of mayor of Hattiesburg against the incumbent mayor of Hattiesburg, Johnny L. Dupree. Both Dave Ware and Johnny L. Dupree campaigned publicly throughout the summer of 2013, leading up to the general election on June 4, 2013.

12.

Prior to the general election of June 4, 2013, Plaintiff, as permitted by law, went to Hattiesburg City Hall and completed an application for absentee ballot and an absentee ballot because the Plaintiff believed that he would be out of town on election day. Plaintiff gave his application and the ballot to the clerks who were accepting applications and ballots.

13.

After the polls closed on June 4, 2013, the Hattiesburg Election Commission counted the votes that were cast that day and opened the absentee ballots. After counting the votes, Johnny L. Dupree had 37 more votes than Dave Ware.

14.

After the election results were announced, Dave Ware's campaign identified multiple irregularities in the voting process, including but not limited to the counting of absentee ballots. One of the irregularities discovered was that the Plaintiff's absentee ballot and application were not included in the documents submitted for counting by the Hattiesburg Election Commission.

15.

Because of the multiple election irregularities, Dave Ware filed an election contest pursuant to Section 23-15-951 of the Mississippi of 1972. The Complaint referred to missing absentee ballot documents of an unidentified voter. In response to Johnny L. Dupree's motion for a more definite statement, Dave Ware identified the Plaintiff as the voter whose absentee ballot documents were missing.

16.

Based on information the Defendant obtained in the course of his representation of the Plaintiff, in late July of 2013, during the course of the election contest, Defendant Lawrence directed Major Hardy Sims of the Hattiesburg Police Department to conduct a criminal background check on the Plaintiff using the federal NCIC system. In turn, Major Sims ordered and directed Lt. Brandon McLemore of the Hattiesburg Police

Department to conduct the NCIC search of Plaintiff at the direction and request of the Defendant Lawrence. The NCIC search disclosed only a speeding violation and no other matters.

17.

After the NCIC search was reported by the local media, Defendant Lawrence publicly stated that he believed the Plaintiff would commit perjury on the witness stand in the election contest trial and that he, Lawrence, had directed the NCIC search "in anticipation of a crime about to be committed." Defendant Lawrence stated publicly that, based on his representation of the Plaintiff, the Plaintiff had a prior felony conviction that could render the Plaintiff ineligible to vote.

18.

On information and belief, Defendant Lawrence repeated these statements and made additional statements regarding the Plaintiff in a closed meeting of the Hattiesburg City Council in August of 2013.

19.

As a result of the Defendant's illegal and unauthorized disclosure of confidential information and other breaches of his duties as the Plaintiff's attorney, the Plaintiff suffered embarrassment, humiliation, worry, mental distress and anguish.

COUNT I

20.

Plaintiff re-alleges and incorporates herein by reference paragraphs 1-19. above.

21.

Plaintiff had an attorney-client relationship with Defendant that the Defendant has never taken any action to end.

22.

Plaintiff requested the Defendant provide legal services for the Plaintiff and confidentially shared information necessary for the Defendant to provide the legal services requested. The Plaintiff reasonably relied upon the Defendant to provide services and to maintain confidences.

23.

As the Plaintiff's attorney, the Defendant owed the Plaintiff a duty to maintain the privacy of their communications and to keep in confidence information learned from the Plaintiff relating to Defendant's representation of the Plaintiff. As Plaintiff's attorney, Defendant owed the Plaintiff a duty to refrain from making unauthorized disclosures of the Plaintiff's confidences.

24.

As Plaintiff's attorney, Defendant was obligation to deal honestly with Plaintiff and to avoid conflicts of interest that would affect his representation of Plaintiff or that would otherwise interfere with Defendant's obligation to provide undivided loyalty and fidelity to Plaintiff.

25.

Defendant failed to maintain the privacy/confidentiality of the communications with Plaintiff, improperly and wrongfully disclosing information that Defendant learned in and during his representation of Plaintiff.

26.

Defendant breached his duty of loyalty to Plaintiff by placing the Defendant's own interests, those of his employer, and those of Johnny L. Dupree, over the interests of Plaintiff. Defendant's unauthorized and improper disclosure of Plaintiff's confidential information was made to advance the interests of the Defendant, his employer, and Johnny L. Dupree in the 2013 mayoral election.

27.

Defendant failed to deal honestly and fairly with Plaintiff by making false representations to the public regarding Defendant's representation of the Plaintiff. Defendant used his representation of Plaintiff to establish the Defendant's credibility, even though the Defendant's statements about the Plaintiff were false.

28.

Defendant's breaches of the duties that he owed his client, the Plaintiff, violated the applicable standards of care and conduct for attorneys.

29.

Defendant's breach of his duties proximately caused damage to the Plaintiff.

30.

Additionally, Defendant's breach of the duties and negligence was so gross, wanton, reckless, and in disregard for the Plaintiff's rights as to constitute gross negligence warranting the imposition of exemplary/punitive damages, attorneys' fees, costs, and prejudgment interest.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, Arthur Smith, demands judgment of, from and against the Defendant, Charles E. Lawrence, Jr., for

compensatory damages in excess of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) and in an amount determined by the jury; prejudgment interest, punitive damages in an amount determined by a jury; attorneys' fees and expenses, court costs, and all other reasonable costs incurred, together with interest and all costs of this action.

COUNT II

COMES NOW the Plaintiff, Arthur Smith, and for a second count/cause against the Defendant, Charles E. Lawrence, Jr., would show unto the Court the following facts, to-wit:

31.

Plaintiff re-alleges and incorporates herein by reference paragraphs 1-30 above.

32.

A fiduciary relationship existed between Plaintiff and Defendant.

33.

Defendant breached his fiduciary duty to Plaintiff because, among other things, Defendant put his own interests, and/or those of third parties, ahead of those of the Plaintiff, improperly and disclosed and/or used Plaintiff's confidences; and made misrepresentations of material fact regarding Plaintiff and Defendant's confidential relationship with Plaintiff.

34.

Defendant's fiduciary duties to Plaintiff included a duty not to engage in conduct detrimental to the interest of Plaintiff; a duty not to disclose Plaintiff's confidences; and a duty not to make misrepresentations of material fact regarding Defendant's confidential relationship with Plaintiff.

35.

Defendant violated his fiduciary duty and the duty of integrity and fidelity to Plaintiff, subordinated the interest of the Plaintiff to his own interest, used Plaintiff's confidences improperly, and took advantage of Plaintiff's trust in making omissions or misrepresentations of material facts, causing serious damage to Plaintiff.

36.

Defendant's breach of his fiduciary duties to Plaintiff was so gross, wanton, reckless and in disregard of Plaintiff's rights as to constitute gross negligence warranting the imposition of exemplary/punitive damages, attorneys' fees, costs and pre-judgment interest.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, Arthur Smith, demands judgment of, from and against the Defendant, Charles E. Lawrence, Jr., for compensatory damages in excess of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) and in an amount determined by the jury; prejudgment interest, punitive damages in an amount determined by a jury; attorneys' fees and expenses, court costs, and all other reasonable costs incurred, together with interest and all costs of this action.

Respectfully submitted,

ARTHUR SMITH, PLAINTIFF

BY: 
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