

GINGRAS LAW OFFICE, PLLC

June 17, 2014

VIA EMAIL ONLY: [REDACTED]

Ms. Cris Armenta, Esq.
The Armenta Law Firm, P.C.

Re: *Beau Casper Smart v. Nik Lamas-Richie/Dirty World, LLC*

Ms. Armenta,

I represent Nik Lamas-Richie and Dirty World, LLC which operates the website www.TheDirty.com. I have received and reviewed a letter from you dated June 12, 2014 regarding your client Beau Casper Smart.

We have a lot to cover, so let's begin...

First, your letter is addressed to "Hooman Karamian" and yet it begins "Dear Mr. Hooman [sic]". To be clear – my client's name is not Hooman Karamian. As explained on his website [here](#), his full legal name is *Nik Lamas-Richie* although he generally goes by the shorter version—Nik Richie.

I have no idea why lawyers think it's impressive to refer (incorrectly) to another person using their former name. I must have missed that class in law school. Do you think this makes you look smarter? Trust me – not so much.

Next, let's talk about this little snippet of legal genius:

We are well aware that this is not the first time that you been [sic] revealed to have made false and defamatory statements ... [bunch of garbage re: *Sarah Jones* case]. *So, clearly, this is not your first time at the defamation rodeo.*

Well *yee haw!* You're darn tootin' *Cowgirl*—this isn't our first time at the rodeo! But since this apparently *is* your first time, let me set the record straight for you on a few things.

Regarding the tragic case of the ~~cheerleader-turned-convicted-felon~~ Sarah Jones, I regret to inform you that the plaintiff's bar is going to need to find a different weapon for trampling the First Amendment while gleefully milking thousands of dollars in fees from their hapless clients. This is so because yesterday the Sixth Circuit Court of Appeals *reversed* the judgment in favor of Ms. Jones and held—unanimously—that Mr. Richie and Dirty World are entitled to immunity under the Communications Decency Act, exactly as I have been saying for the last five years. *See Jones v. Dirty World, LLC*, --- F.3d ----, 2014 WL 2694184 (6th Cir. June 16, 2014).

While we are certainly pleased with the Sixth Circuit's wise decision, this really is not groundbreaking stuff. Rather, many other courts (including the same court in which you threatened to file suit—the Central District of California) have previously agreed that TheDirty.com is protected by the CDA. *See, e.g., S.C. v. Dirty World, LLC*, 2012 WL 3335284 (W.D.Mo. 2012); *Argyropoulos v. Dirty World, LLC*, Case No. 12-cv-8741-R (C.D.Cal. March 4, 2013).

So, let's apply the law to our facts, shall we?

Fact #1—Every “false” statement identified in your letter was submitted to TheDirty.com by a third party.

Fact #2—To the extent that Mr. Richie mentioned or discussed any of these statements on Twitter or elsewhere, he merely repeated facts submitted to TheDirty.com by a third party.

Based on these facts, your client is certainly free to pursue the author(s) who originally posted these accusations on TheDirty.com. I realize that in some cases, locating the original author can be hard, but not here – as you probably know, every allegedly “false” statement that is referenced in your letter has been attributed by mainstream media to the original sources: Ms. Kristina Marie and Ms. Sofie Vissa. In plain English—if they lied, go sue them.

Now, let's go back to first year of law school for a moment, shall we? And to make this *really* easy for you, let's assume that the CDA doesn't exist, OK? As any first year law student outside of Kentucky could tell you, defamation is never a strict liability tort. In other words, it is *never* enough for a defamation plaintiff to simply show that the defendant said (or repeated) something false. That's where the case begins, Cowgirl, not where it ends.

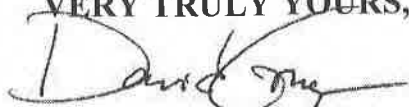
Here's why—in America, we have this annoying little thing called the “First Amendment”. For that reason, defamation plaintiffs cannot win simply because a defendant said something false about them. Specifically, the plaintiff must show that the defendant acted with an appropriate degree of “fault”. When the plaintiff is a public figure like Mr. Smart, the required level of fault is “actual malice”; i.e., that the defendant published the disputed statement “with knowledge that it was false or with reckless disregard of whether it was false or not.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 280, 84 S.Ct. 710 (1964).

Here, even assuming that your client is an innocent victim of Ms. Marie and Ms. Vissa, there was clearly no reason for Mr. Richie to believe that *both* of these individuals were lying. On the contrary, the stories about Mr. Smart were supported by substantial evidence such as screenshots of conversations between Mr. Smart and the “ladies”. Even if these screenshots were forgeries (which your letter does not allege or address), Mr. Richie cannot be faulted for believing the information presented to him.

Under these circumstances, your client is certainly welcome to file a lawsuit against Mr. Richie and Dirty World. I will gladly accept service of the Summons/Complaint via email. Of course, I will immediately move to strike your Complaint pursuant to Cal. Code. Civ. P. § 425.16 and I will seek a mandatory award of attorney's fees pursuant to § 425.16(c), among other things.

If you have any questions, please feel free to contact me or have your attorney do so. I can be reached at [REDACTED] or via email at [REDACTED]

Thanks and you have a real nice day, Cowgirl.

VERY TRULY YOURS,

David Gingras, Esq.

