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RE: Kristen Creighton

Monday, May 10, 2010 6:32 PM

From: "David S. Gingras" <david.gingras@webmail.azbar.org>

To: chris@chrisbelllaw.com
1 File (189KB)



Scanned.

Chris,

I continue to be baffled by your suggestion that you did not lie to me. I have reviewed your letter dated February 23, 2009 (copy attached) in which you explained that your client had been defamed by statements which accused her of, *inter alia*, having herpes. Knowing what I now know about the case, I can see that you tried to be very careful in your efforts to deliberately mislead me while not blatantly making false statements, but I am confident that the Texas State Bar will not parse your words so closely.

Specifically, your letter expressly states that your client was defamed by statements accusing her of having herpes; "By joining the third party and confirming and validating the above defamation stated regarding Herpes, a court is very likely to find that you have waived your Section 230 protection." This statement expressly represented to me that the statement about your client having herpes was factually false. If it was not false, it would not support a defamation claim as you expressly indicated that it did.

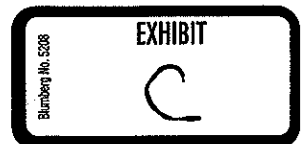
Anyway, I have taken your advice and done a little research and I see that like Arizona, Texas makes it unethical for any lawyer to knowing "(a) make a false statement of material fact or law to a third person" Rule 4.01, Texas Disciplinary Rules of Professional Conduct.

Barring some sort of explanation, it is apparent that you violated Rule 4.01 by falsely representing to me that your client had herpes. Of course, that statement was certainly material because it was relied upon by The Dirty when it agreed to immediately comply with your removal request.

Based on this, I would like you to explain to me why you feel you did not violate Rule 4.01(a) of your ethical rules. If I do not receive a full and complete explanation from you by tomorrow, Tuesday, May 11, 2010, I will bring this matter to the attention of the State Bar of Texas and you can explain the issue to them.

~David

From: chris@chrisbelllaw.com [mailto:chris@chrisbelllaw.com]
Sent: Monday, May 10, 2010 4:16 PM
To: David.Gingras@webmail.azbar.org
Subject: Re: Kristen Creighton



Calling me a liar is about as personal as it can get and I have told you there was no lying at any time. I have no need or desire to explain myself to you nor to continue this discussion. See you in court.

Sent via BlackBerry from T-Mobile

From: "David S. Gingras" <david.gingras@webmail.azbar.org>
Date: Mon, 10 May 2010 16:12:47 -0700
To: <chris@chrisbelllaw.com>
Subject: RE: Kristen Creighton

Thanks, Chris; engaging in a personal attack such as pointing out my DUI related suspension which has nothing to do with this case surely speaks volumes about your professionalism, but you didn't explain yourself – did you lie to me in your letter, or did you lie to the court in your action? Please answer that question.

One or the other must have occurred. At least in Arizona, either of these would be grounds for a disciplinary proceeding....on that point, I am 100% sure.

From: chris@chrisbelllaw.com [mailto:chris@chrisbelllaw.com]
Sent: Monday, May 10, 2010 4:04 PM
To: David.Gingras@webmail.azbar.org
Subject: Re: Kristen Creighton

That's perhaps the most ridiculous thing a fellow lawyer has ever written to me. And while I know you're intimately familiar with Arizona State Bar actions, you might want to do a little research about Texas law and procedure before making more empty threats.

Sent via BlackBerry from T-Mobile

From: "David S. Gingras" <david.gingras@webmail.azbar.org>
Date: Mon, 10 May 2010 15:51:11 -0700
To: <chris@chrisbelllaw.com>
Subject: RE: Kristen Creighton

Chris,

I don't know how you can seriously deny lying to me unless, of course, you actually told me the truth in your letter (i.e., that Ms. Creighton does NOT have herpes), but then you and your client would have made false statements to the court in the lawsuit she filed.

Perhaps I should just bring these events to the attention of the State Bar of Texas and they can decide whether your actions were appropriate.

In the event you want to bring a new lawsuit, I assure you the clients will answer and will bring counterclaims against you and your client for fraud.

From: chris@chrisbelllaw.com [mailto:chris@chrisbelllaw.com]
Sent: Monday, May 10, 2010 3:42 PM
To: David.Gingras@webmail.azbar.org
Subject: Re: Kristen Creighton

No one lied to you and Ms. Creighton was completely justified in receiving the judgment since, even months after the answer deadline had passed, an answer you were well aware was due (since you emailed me that you knew Hooman had been served), your clients had not bothered to file anything. And it's absurd for you to

suggest that just because your clients invaded my client's privacy once that they can continue to do so now in an extraordinarily malicious fashion. So a new lawsuit will be filed and we'll see what the Court has to say.

Sent via BlackBerry from T-Mobile

From: "David S. Gingras" <david.gingras@webmail.azbar.org>
Date: Mon, 10 May 2010 15:01:49 -0700
To: 'Chris Bell' <chris@chrisbelllaw.com>
Subject: RE: Kristen Creighton

Chris,

I have reviewed the post (which was made without my approval or authorization), and I have asked the clients to make a couple of technical changes to it.

However, your client has already sued The Dirty for exposing this information once. She cannot sue for the same act a second time. As such, The Dirty informs me that they intend to keep your client on Page 1 of the site permanently and to explain the true facts of this case to as many people as possible; i.e., that you contacted me and lied about the nature of the post – you informed me that your client did not have herpes when, in fact, she does.

Relying upon your false representations, The Dirty immediately removed the post about Ms. Creighton. Despite this, Ms. Creighton subsequently sued the site and obtained relief that she was not entitled to receive under any circumstances.

The Dirty has a right to publicize these facts about your client and to ensure that the world knows what kind of person your client is. For that reason, The Dirty has informed me that it intends to keep Ms. Creighton's image on Page 1 of the site indefinitely.

David S. Gingras, Esq.
Gingras Law Office, PLLC
Tel.: (480) 668-3623
Fax: (480) 248-3196
David.Gingras@webmail.azbar.org

From: Chris Bell [mailto:chris@chrisbelllaw.com]
Sent: Monday, May 10, 2010 12:59 PM
To: David Gingras
Cc: Sandy Germaine
Subject: Kristen Creighton

David,

Surely you didn't advise your client that this was an intelligent way to proceed. If it continues, we'll file another lawsuit and maybe your client will bother to file an answer this time.

<http://thedirty.com/2010/05/kristen-creighton-is-my-mona-lisa/>

CHRIS BELL
ATTORNEY AT LAW

The Kirby Mansion
2000 Smith Street
Houston, Texas 77002



CHRIS BELL
ATTORNEY AT LAW

February 23, 2009

Mr. Hooman Karamian
a/k/a Nik Richie
47 San Angelo
Rancho Santa Margarita, California 92688-2414

Re: Kristen Creighton

Dear Mr. Karamian:

I am writing on behalf of my client, Kristen Creighton, a LaPorte, Texas woman who was prominently featured in a defamatory post which appeared on your website, TheDirty.com, beginning on February 5, 2009 under the heading "Mad Cow Disease." I have attached a copy of the post to this letter as Exhibit A.

After being made aware of the post, Ms. Creighton sent an e-mail asking that it be removed. This is part of the exchange which took place:

Subject: RE: Posting in Houston
From: "Kristen Creighton" <kc@delarosalawfirm.com>
Date: Mon, February 09, 2009 9:31 am
To: <nik@nikrichie.com>

Please take it down. I don't think you would like it if people were saying untrue things about you.

From: nik@nikrichie.com [mailto:nik@nikrichie.com]
Sent: Monday, February 09, 2009 10:30 AM
To: Kristen Creighton
Subject: RE: Posting in Houston

the wasn't the right way to ask. sue me.

This letter is intended to put you on notice that Ms. Creighton has decided to take your advice and will be filing suit against you here in Texas unless a settlement can be reached within the next couple of weeks.

Since in the post, Ms. Creighton is said to carry a sexually transmitted disease and engages in illegal prostitution by performing oral sex in exchange for cocaine, we probably don't need to waste a great deal of time arguing about whether defamation has occurred. Quite clearly, a false statement of fact has been made about my client that would obviously blacken and harm her reputation.

So, instead of arguing whether it was defamatory, I trust you will either try to fight jurisdiction here in Texas or try to hide behind 47 USC Section 230. As far as jurisdiction goes, The Fifth Circuit Court of Appeals has adopted the "sliding scale" test. The sliding scale analysis categorizes Internet use into three levels of interactivity. At one end of the scale, the defendant merely establishes a passive website that does nothing more than advertise on the Internet. Exercising personal jurisdiction based on a passive website is inappropriate. At the opposite end of the spectrum is a defendant who clearly does business over the Internet by entering into contracts with residents of other states which involve the knowing and repeated transmission of computer files over the Internet. In cases of such "active" websites, personal jurisdiction over the nonresident defendant is proper. *Triple Diamond Energy Corp. v. Venture Research Inst., Inc.*, 2008 U.S. Dist. LEXIS 51587 (2008).

While I haven't had the opportunity to pour over your business records yet – that will come if we aren't able to reach a settlement – it seems rather obvious that TheDirty.com would find itself on the "active" end of the spectrum, especially here in Texas. The site sells a great deal of merchandise and since Houston and Dallas are two of the ten "top cities" listed on the site and San Antonio and Austin are listed as well, Texas certainly appears to be a major target market. TheDirty.com has quite clearly purposely availed itself of the privileges and benefits of conducting business in Texas and has sufficient contacts to confer personal jurisdiction. *Burger King v. Rudzewicz*, 471 U.S. 462, 105 S.Ct. 2174 (1985). As such, I'm confident you would have to answer for your actions here.

Therefore, I assume you will try to hide behind Section 230 and claim that you can't be held liable for information provided by another. In many instances, I might agree with you. However, in the present case, the defamatory statements were not just made by another information content provider; they were made by you and TheDirty.com as well. Below the information provided by a third party appears your own defamatory comment: **"Answer: No, I don't want to get infected."** By joining the third party and confirming and validating the defamation stated above regarding Herpes, a court is very likely to find that you have waived your Section 230 protection.

Ms. Creighton would like to put this most unfortunate matter behind her. It has caused immense embarrassment and mental anguish and while she knows she is well justified in seeking money damages, she also is well aware of the pain and inconvenience that could be caused by a lengthy trial process. Therefore, she believes it is in everyone's best interest to simply attempt to reach a

settlement at this juncture before filing suit. For the purpose of settlement and without waiving any right to file suit at a later date, Ms. Creighton offers to settle this matter for a total payment of \$110,500.00, a letter of apology from you and the permanent removal of the defamatory post from TheDirty.com website. In exchange, Ms. Creighton will fully and completely dismiss all claims she may have against you, TheDirty.com and all other associated individuals.

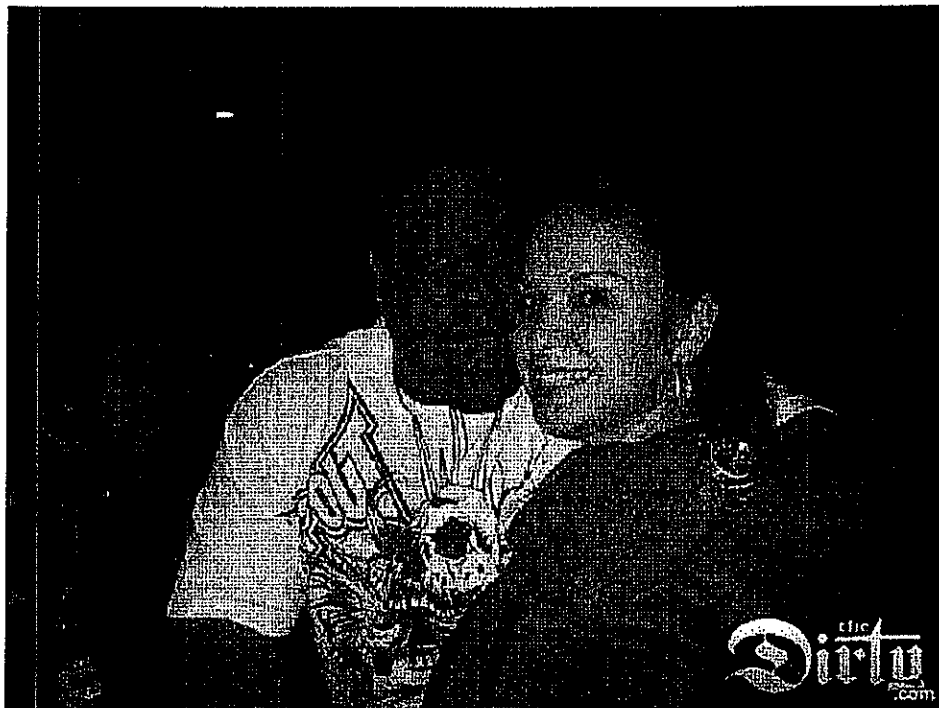
This offer of settlement shall remain open until 5:00 PM Central Time, March 11, 2009, at which time it shall be automatically rescinded. If you care to discuss this matter, either you or your attorney should call me at your earliest convenience at 713/752-2100. Thank you very much.

Sincerely,

A handwritten signature in cursive script that reads "Chris Bell". The signature is written in black ink and is positioned below the word "Sincerely,".

Chris Bell

02.05.09

I. Mad Cow DiseasePosted in Houston

THE DIRTY ARMY: THIS FAT HEIFER HAS HERPES, SUCKS D*CK IN THE BATHROOMS FOR C*KE, HAS A KID SHE DOESNT TAKE CARE OF. SLEEPS WITH ANY GUY WHO WILL F*CK HER. SO TELL ME NIC WOULD YOU???

Answer: No, I don't want to get infected.

Nick DiChie
THE WORLD'S FIRST EVER REALITY BLOGGER™

EXHIBIT A