

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

FEB 09 2004

**NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT**

JOSEPH LEE GIBSON
966 Towlston Road
McLean, Virginia 22102
703-759-0149,

Plaintiff,

versus

BOY SCOUTS OF AMERICA
1325 West Walnut Hill Lane
Irving, Texas 75015,

JOHN DOE, No. 1 - 7,

NATIONAL CAPITAL AREA COUNCIL, BOY
SCOUTS OF AMERICA
9190 Wisconsin Avenue
Bethesda, Maryland 20814,

and

RICHARD ROE, No. 1 - 7,

Defendants.

CASE NUMBER 1:04CV00190

JUDGE: Gladys Kessler

DECK TYPE: Personal Injury/Malpractice

DATE STAMP: 02/09/2004

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

COMES NOW the Plaintiff, Joseph Lee Gibson, and, as and for his Complaint against the
Defendants, avers as follows:

NATURE OF THE CASE

1. This is an action for injunctive relief, and compensatory and punitive damages, arising out of the Defendants' arbitrary and unjustifiable expulsion of the Plaintiff from membership in, and participation in the adult leadership of, the Boy Scouts of America ("BSA").
2. After years of dedicated service as Scoutmaster of BSA Troop 869 in McLean, Virginia, the Plaintiff's membership in the Scouting Movement was summarily revoked by Defendant National Capital Area Council, Boy Scouts of America ("NCAC"), without any notice to the Plaintiff of the reasons for the expulsion and without any opportunity to appear at a hearing or other proceeding. Further, upon appealing Defendant NCAC's action through the BSA hierarchy and ultimately to the Defendant BSA's National Office, the Plaintiff, through his representative, was advised by Defendant BSA's National Legal Counsel that the charges against him did not involve any form of youth abuse or other action that would ordinarily warrant expulsion, but merely involved unspecified "modal differences" in the day-to-day operation of Troop 869 – matters that would normally be left to the discretion of the Troop's sponsor or Chartered Organization. In this case, however, the Plaintiff has at all relevant times had, and continues to have, the full support of Trinity United Methodist Church, the sponsoring Chartered Organization of Troop 869. Nevertheless, Defendant BSA, without providing the Plaintiff any notice or opportunity to be heard, convened a secret meeting, attended by persons unknown either by identity or affiliation, on a date unspecified, pursuant to procedures that are either unpublished or nonexistent, and without further notice to the Plaintiff or his representative of the charges against him, ratified Defendant's NCAC's revocation of the Plaintiff's Scouting membership.

3. Defendants' actions in revoking the Plaintiff's membership in the Scouting Movement were arbitrary, substantively unreasonable, contrary to the BSA's procedures, and violated Plaintiff's common-law rights of association and fair procedure. Defendants' actions also have deprived the Plaintiff of his Right of Association with the Scouting Movement and with the youth and families of Troop 869, and have damaged, diminished, and defamed Plaintiff's reputation and standing in the community, Troop 869, Trinity United Methodist Church, and the Scouting Movement. Such actions have caused substantial damages to the Plaintiff, have wrongfully deprived him of the benefits of his labors, including many hours of hard work over a period of years rejuvenating Troop 869, and have caused him to lose any benefit from the substantial monetary contributions he has made to and on behalf of the Scouting Movement. The actions of Defendants and their officials, employees, and agents constitute an abuse of their positions of trust in the Scouting Movement, and were done with malice and in furtherance of some personal advantage for themselves or animosity toward the Plaintiff, rather than for any legitimate purpose. Plaintiff is, therefore, entitled to punitive damages.

THE PARTIES

4. Plaintiff is a citizen and resident of the Commonwealth of Virginia, residing at 966 Towlston Road, McLean, Virginia 22102.

5. Defendant Boy Scouts of America ("BSA") is a Federally chartered corporation, and pursuant to 36 U.S.C. § 3901, is a body corporate and politic of the District of Columbia and domiciled in the District of Columbia. Defendant BSA also is a not-for-profit corporation of the District of Columbia and maintains its principal place of business at 1325 West Walnut Hill

Lane, Irving, Texas 75015.

6. Defendants John Does numbered one through seven are officials, employees, or volunteer or paid agents of Defendant BSA who participated in the actions and matters alleged in this Complaint or acquiesced in such actions and matters. Defendant BSA, through its National Legal Counsel, has refused to identify the persons who ratified, or who participated in the ratification of, Plaintiff's expulsion from membership in the Scouting Movement, and Plaintiff therefore has named them in this Complaint as "John Does." After sufficient discovery has been conducted to establish the identity of such persons, Plaintiff will amend this Complaint to identify them by name herein. Plaintiff does not intend to join, and hereby declines to join as a defendant, any John Doe who is a citizen of the Commonwealth of Virginia.

7. Defendant National Capital Area Council, Boy Scouts of America ("NCAC") is chartered by Defendant BSA for the purpose of facilitating the Boy Scout program in the District of Columbia and adjacent areas of Maryland and Virginia. Defendant NCAC is a not-for-profit corporation of the District of Columbia and maintains its principal place of business at 9190 Wisconsin Avenue, Bethesda, Maryland 20814. At all times relevant hereto, NCAC acted as the agent and instrumentality of Defendant BSA.

8. Defendants Richard Roes numbered one through seven are officials, employees, or volunteer or paid agents of Defendant NCAC, who participated in the actions and matters pertinent to this Complaint. The identity of the person or persons affiliated with NCAC who revoked, or who participated in the revocation of, Plaintiff's membership in the Scouting Movement is unknown to Plaintiff, and Plaintiff has therefore named them in this Complaint as "Richard Roes." After sufficient discovery has been conducted to establish the identity of such

persons, Plaintiff will amend this Complaint to identify them by name herein. Plaintiff does not intend to join, and hereby declines to join as a defendant, any Richard Roe who is a citizen of the Commonwealth of Virginia.

JURISDICTION AND VENUE

9. This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1332, in that this is a civil action between citizens of different States, there is complete diversity of citizenship between Plaintiff and all Defendants herein, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391, in that Defendants BSA and NCAC are domiciled, and are otherwise subject to personal jurisdiction in, the District of Columbia.

FACTUAL ALLEGATIONS

11. From 1996 to February 7, 2003, Plaintiff was a registered adult-volunteer member of the Boy Scouts of America (hereinafter "the Scouting Movement"). Trinity United Methodist Church, 1205 Dolly Madison Boulevard, McLean, Virginia 22101, is the "sponsor" (or, as provided in the BSA regulations, the "Chartered Organization") of Boy Scout Troop 869. Under BSA regulations and guidelines, the Scoutmaster for each troop is appointed by, and serves at the pleasure of, the Chartered Organization. On or before October 1, 1998, Trinity United Methodist Church selected Plaintiff to serve in the position as the Scoutmaster of Troop 869. On February 7, 2003, Plaintiff was serving in said position of Scoutmaster of Troop 869.

12. On February 7, 2003, Plaintiff received notice by registered letter from Defendant NCAC, that Defendant NCAC had revoked his membership in the Scouting Movement.

13. Said registered letter to Plaintiff did not provide any reason for the revocation of Plaintiff's membership in the Scouting Movement. Defendant NCAC and unknown officials, employees, or volunteer or paid agents of Defendant NCAC named herein as Richard Roes one through seven revoked Plaintiff's membership without providing him notice of any allegation against him or providing him any opportunity to respond to any such allegation.

14. Before revoking Plaintiff's membership, Defendant NCAC and Richard Roes one through seven conducted some form of a secret meeting. Plaintiff, with no notice of such meeting, was not permitted to be present and was not permitted an opportunity to respond to the allegations against him, whatever they were.

15. Plaintiff, by letter of March 8, 2002, timely appealed the revocation of his membership in the Scouting Movement to the Northeast Region of the BSA and thence by subsequent letter dated May 6, 2002, to Defendant BSA, at its national headquarters in Irving, Texas.

16. By letter dated July 25, 2003, Plaintiff, through his representative, requested that Defendant BSA provide him with the following information relating to his appeal from Defendant NCAC's revocation of his membership:

- (a) An opportunity to review the file upon which the revocation of his membership was based;
- (b) A description of the substance of the improper or inappropriate actions upon which the revocation of his membership was allegedly based;

- (c) The standards for membership in BSA, and/or other applicable standards against which Plaintiff's conduct was or would be measured;
- (d) The BSA regulations or other authorities supporting NCAC's determination that Plaintiff could properly be expelled from BSA in a matter that does not involve allegations of youth abuse of any description, without providing any opportunity for a hearing in which to respond to the charges against him, whatever they were;
- (e) The identity of the persons, if any, who lodged complaints against Gibson or his performance as Scoutmaster of Troop 869; and
- (f) The identity of the persons who would be reviewing this matter on behalf of BSA National Headquarters.

17. Defendant BSA refused to provide any of the foregoing information to Plaintiff. Defendant BSA's National Legal Counsel, however, admitted that Plaintiff's expulsion from membership in BSA did not involve allegations of youth abuse of any description, but instead merely involved matters relating to governance of Troop 869 or a "modal difference" as to how Troop 869 should be organized and the Troop's program conducted. Moreover, Defendant BSA's National Legal Counsel admitted that such matters are solely within the authority and jurisdiction of the Troop's Chartered Organization, Trinity United Methodist Church, and that such "modal differences" should not warrant Plaintiff's expulsion from the Scouting Movement. At all times relevant hereto, Trinity United Methodist Church and its Pastor, the Reverend James C. Sprouse, have fully supported Plaintiff as Scoutmaster of Troop 869 and advocated his return to that position.

18. Accordingly, Defendant BSA's National Legal Counsel has revealed information that Defendant NCAC's motivation for revoking Plaintiff's Scouting membership was not the allegations that Defendant NCAC brought at its secret meeting and that Defendant BSA reviewed, but rather was based on other matters that have never been disclosed to Plaintiff, in whole or in part. Upon information and belief, Plaintiff concludes that such matters involved personal animosity toward Plaintiff, or an attempt by some or all of the Defendants to derive personal benefit, advantage or convenience from Plaintiff's expulsion from the Scouting Movement.

19. Nevertheless, Defendants BSA and John Does one through seven convened a secret meeting or review board at a location unknown to Plaintiff, that was attended by persons unknown to Plaintiff, without providing Plaintiff an opportunity to attend or be heard at such meeting or review board, and, based upon a file that Plaintiff has never seen containing allegations that have not been made known to him, ratified Defendant NCAC's revocation of Plaintiff's membership in the Scouting Movement. Plaintiff received notice of Defendant BSA's determination by letter dated December 23, 2003 – ten months after Plaintiff's membership was revoked by Defendant NCAC. Defendant BSA's letter did not provide any explanation for its action.

20. Defendants' actions have caused substantial harm to Plaintiff, have deprived him of the benefit of many hours of hard and dedicated labor he devoted to rejuvenating Troop 869 and to the Scouting Movement, have violated the understandings upon which he contributed or paid substantial sums of money to or on behalf of the BSA, have injured and defamed his reputation and standing in the community, and have deprived him of his right to associate with the youth

and parents of Troop 869 and the Scouting Movement in general.

COUNT I – VIOLATION OF RIGHT OF FAIR PROCEDURE

(Against all Defendants)

21. Plaintiff realleges, and incorporated herein by reference, Paragraphs 1 through 20 of this Complaint, as if fully alleged in this paragraph.

22. In revoking Plaintiff's membership in the Scouting Movement, Defendant NCAC violated or misapplied the BSA rules and policies regarding membership or revocation of membership. In reviewing and ratifying Defendant NCAC's revocation of Plaintiff's membership, Defendant BSA failed to respond to Plaintiff's request to provide the BSA's By-Laws, membership policy, regulations, or other authorities regarding standards of membership in the Scouting Movement that support revocation of Plaintiff's Scouting membership or to otherwise justify such revocation.

23. Defendant BSA has not specified or otherwise identified to Plaintiff the individual(s), group, or committee who made Defendant BSA's decision ratifying the revocation of Plaintiff's membership in the Scouting Movement. Further, Defendant BSA has not responded to Plaintiff's request to identify the members of the National Standards of Membership Committee, for the purpose, *inter alia*, of determining whether the persons making such decision for Defendant BSA held a bias or a conflict of interest in reviewing Plaintiff's case.

24. These actions by Defendants BSA and NCAC were arbitrary, substantively unreasonable, contrary to the regular procedures of the BSA and the NCAC, and violated

Plaintiff's common-law right of fair procedure.

25. Plaintiff has been substantially damaged and injured by Defendants' actions.

COUNT II – VIOLATION OF DUE PROCESS AND RIGHT OF ASSOCIATION

(Against All Defendants)

26. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 25 of this Complaint, as if fully alleged in this paragraph.

27. Defendants, jointly and severally, have violated Plaintiff's rights, guaranteed by United States Constitution, including the First and Fourteenth Amendments, or by the common law to associate with Troop 869 and/or the Scouting Movement and have failed to provide Plaintiff with the rudiments of due process of law, including as follows:

(a) Defendant NCAC and officials, employees, or agents named herein as Richard Roes revoked Plaintiff's membership in the Scouting Movement without notifying Plaintiff of any allegation against him, without conducting a proceeding with Plaintiff present, or without otherwise providing Plaintiff with any opportunity to respond to allegations against him. Defendant NCAC and officials, employees, or agents named herein as Richard Roes conducted some form of a meeting in secret, without providing Plaintiff with notice of such meeting; without having Plaintiff present at such meeting; without identifying to Plaintiff those who have brought allegations against Plaintiff; or without otherwise permitting Plaintiff to respond to any allegation against him. Further, Defendant NCAC acted as an agent and instrumentality of Defendant BSA; and/or Defendant BSA's officials, employees, or agents named herein as John Does and Defendant BSA knew of the foregoing failures of Defendant NCAC and Richard Roes

and failed to take corrective action and/or ratified such actions.

(b) Defendant NCAC and officials, employees, or agents named as Richard Roes kept secret and failed to disclose to Plaintiff that other matters motivated Defendant NCAC and/or Richard Roes to revoke Plaintiff's membership and, also, failed to disclose to Plaintiff any information regarding such other matters, in whole or in part. Further, Defendant NCAC acted as an agent and instrumentality of Defendant BSA; and/or Defendant BSA's officials, employees, or agents named herein as John Does and Defendant BSA knew of the foregoing failures of Defendant NCAC and Richard Roes and failed to take corrective action and/or ratified such actions.

(c) Defendants, jointly and severally, wrongfully discharged Plaintiff from his position as Scoutmaster of Troop 869 and interfered with his relationship with Troop 869 and its sponsoring Chartered Organization Trinity United Methodist Church, by and through Defendants' usurping the authority of the sponsoring Chartered Organization of Troop 869, Trinity United Methodist Church, to select the Scoutmaster of Troop 869.

(d) In revoking Plaintiff's membership in the Scouting Movement, Defendants, jointly and severally, acted arbitrarily and capriciously and/or without factual or legal basis sufficient to warrant such revocation.

28. Defendants' actions have deprived Plaintiff of his association with the youth and parents of Troop 869 and the Scouting Movement in general, have denied him an important liberty interest without any semblance of due process of law, and have otherwise caused him substantial damage and injury.

COUNT III – BREACH OF IMPLIED CONTRACT

(Against BSA and NCAC)

29. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 28 of this Complaint, as if fully alleged in this paragraph.

30. While serving as an adult leader and the Scoutmaster for Troop 869, Plaintiff devoted thousands of hours of time and labor for the benefit of the Troop, the NCAC, the BSA and other aspects of the Scouting Movement. In addition, Plaintiff paid dues and made substantial personal monetary contributions to the BSA and also expended considerable sums of his own money for activities and materiel that benefitted the Troop, the NCAC and the BSA.

31. In consideration of Plaintiff's substantial expenditures of his time and money, the NCAC and the BSA agreed that Plaintiff could associate with the youth and parents of Troop 869, could act a Scoutmaster if chosen to do so by the Chartered Organization, and could enjoy the privileges of membership in the Scouting Movement generally. These mutual promises, covenants and payment of consideration between and among Plaintiff and the BSA and the NCAC constituted an enforceable contract implied-in-fact.

32. Defendants BSA and NCAC breached their obligations under this implied contract by arbitrarily, and without even stating their reasons therefor, revoking Plaintiff's membership in the Scouting Movement, depriving him of the opportunity to associate with the youth and parents of Troop 869, preventing him from serving as Scoutmaster when chosen to do so and supported by the Chartered Organization, and by denying him the privileges of membership in the Scouting Movement generally.

33. Plaintiff has been damaged by Defendants BSA's and NCAC's breach in an amount

equal to the fair value of the labor he devoted to the benefit of the BSA and the NCAC, plus the total of the dues, contributions, and other amounts paid to or for the benefit of the BSA, and other damages.

COUNT IV – DEFAMATION

(Against All Defendants)

34. Plaintiff realleges and incorporates herein by reference the allegations set forth in paragraphs 1 through 33 of this Complaint, as if fully alleged in this paragraph.

35. Defendant NCAC, acting by and through one or more of the officials, employees, or agents named as Richard Roes, on or about January 27, 2003, stated as a fact to the Pastor and other members of Troop 869's Chartered Organization, that Plaintiff was unfit for Scouting membership and unfit to be Scoutmaster of Troop 869. Those statements were false and defamatory when made, and Defendant NCAC and Richard Roes, by publication of those statements to members of the Chartered Organization, intended that the false and defamatory statements be republished, and succeed in causing such statements to be republished, to other members of the Chartered Organization, to the youth and parents of Troop 869, and to other members of the community. Upon information and belief, similar false and defamatory statements were published by Defendant NCAC and/or Richard Roes to other parents of Troop 869 and members of the community, both before and after revocation of Plaintiff's Scouting membership. Further, by ratifying Defendant NCAC's revocation of Plaintiff's Scouting membership, Defendant BSA affirmed, endorsed, adopted, and republished the false and defamatory statements against Plaintiff.

36. By publishing, republishing, and affirming these false and defamatory statements, by wrongfully discharging Plaintiff from his position as Scoutmaster of Troop 869, and by revoking Plaintiff's Scouting membership, Defendants, jointly and severally, have caused humiliation and mental anguish to Plaintiff and the members of his family; have damaged, diminished, and defamed Plaintiff's reputation, his standing in the community, and his standing within the adult and youth membership of the Scouting Movement. Further, Defendants, jointly and severally, failed to set forth or explain the allegations against Plaintiff, leaving the affected communities to speculate and believe that the allegations against Plaintiff involve some darker secret, further damaging Plaintiff's reputation and standing. Defendants, jointly and severally, compounded their damage to Plaintiff by delaying consideration of Plaintiff's appeals. Defendants, jointly and severally, have caused Plaintiff to expend his time and funds in defense of his reputation and community standing.

37. In revoking Plaintiff's Scouting membership, Defendant NCAC and/or officials, employees, or agents named herein as Richard Roes acted intentionally, maliciously, with reckless disregard for the consequences, in misuse of their position, and/or for personal reasons and advantages beneficial to said officials, employees, or agents named herein as Richard Roes and/or Defendant NCAC. Further, Defendant BSA and/or officials, employees, or agents named herein as John Does knew of such undisclosed matters and motives of Defendant NCAC and Richard Roes regarding revocation of Plaintiff's membership and failed to take corrective action and/or ratified such action and motives.

38. Plaintiff has suffered direct and substantial injury and damages caused by Defendant's actions.

PRAYER FOR RELIEF

WHEREFOR, Plaintiff respectfully requests that this Court enter an Order providing Relief to Plaintiff as follows:

(1) On Counts I through IV, entering a permanent injunction prohibiting Defendants, jointly and severally, from denying to Plaintiff membership in the Scouting Movement, the position of Scoutmaster of Troop 869, or such other position with Troop 869 as selected by the Troop's Chartered Organization, Trinity United Methodist Church;

(2) On Counts I through III, awarding Plaintiff compensatory damages from Defendants, jointly and severally, in an amount to be proved at Trial but in excess of \$ 150,000 (one hundred fifty thousand dollars);

(3) On Count IV, awarding Plaintiff compensatory damages from Defendants, jointly and severally, of \$ 500,000 (five hundred thousand dollars);

(4) Awarding Plaintiff punitive damages from Defendants, jointly and severally, in the amount of \$1,500,000 (one million five hundred thousand dollars) or such other amount as this Court deems just and appropriate;

(5) Awarding Plaintiff from Defendants, jointly and severally, a sum for Court costs and the expenses of this litigation, including reasonable attorney's fees; and

(6) Granting Plaintiff such other and additional relief as the Court may deem just, equitable, and proper.

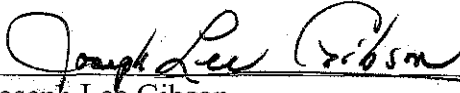
Respectfully submitted,



Joseph Lee Gibson *AGG- HERE*
D.C. Bar no. 4887
966 Towlston Road
McLean, Virginia 22102
703-759-0149
Plaintiff pro se

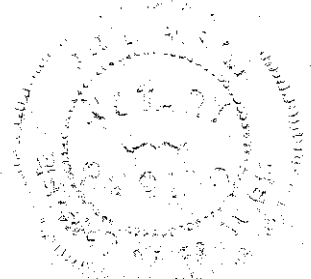
Verification of Complaint

On this 9th day of February, 2004, I, Joseph Lee Gibson, a member of the bar of the District of Columbia and Plaintiff in the foregoing Complaint, do hereby swear under penalty of perjury that the facts in said Complaint are true and correct to my personal knowledge and on information and belief.

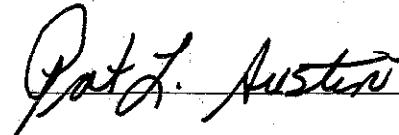


Joseph Lee Gibson

City of Washington)
)
District of Columbia) s.s.:



On this 9th day of February 2004, Joseph Lee Gibson, being personally known to me, did appear before me and in my presence and on oath duly administered and taken, did swear to the foregoing and personally affix his signature to the foregoing Verification of Complaint.



Notary Public, District of Columbia

Pat L. Austin
Notary Public, District of Columbia
My Commission Expires 05-14-2006