

STATE OF RHODE ISLAND

SUPERIOR COURT

WASHINGTON, Sc.

ANDREW R. BILODEAU :

Plaintiff :

:

Vs :

C.A. NO. WC06-0673

:

JONATHAN DALY-LABELLE, Alias :

Defendant :

ANSWER AND COUNTER-CLAIM

Defendant, Jonathan Daly-LaBelle (“Daly-LaBelle”) hereby responds as follows to the Complaint of Andrew R. Bilodeau (“Bilodeau”):

Count I

1. Daly-LaBelle lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1.
2. Admits.
3. Admits.

4. Admits.
5. Denies the allegations but admits that a petition/brochure is attached .
6. Admits that Daly-LaBelle privately prepared a petition which was distributed to or available for residents or voters in South Kingstown and otherwise denies the allegations.
7. Admits that RIGL Section 17-25-10(a) is correctly stated and otherwise denies.
8. Admits that Daly-LaBelle's expenses of publication and distribution regarding his petition were privately incurred by him alone and in his own name and otherwise denies the allegations.
9. Denies.
10. Denies.
11. Denies.
12. Denies.

WHEREFORE, Daly-LaBelle requests that the Complaint be dismissed against him and that judgment enter and punitive damages, attorney's fees, interest and costs and such other further relief as this Court deems just and proper be entered on his behalf.

Count II

13. No answer is necessary.
14. This issue is moot as Bilodeau's request for a temporary restraining order was denied by this Court.

WHEREFORE, this request for temporary restraining order is denied and this Count should be summarily dismissed.

First Defense

The Complaint fails to state a claim upon which relief can be granted.

Second Defense

The Complaint is barred by the provisions of Rhode Island General Laws 9-33-1, *et seq.*, and should be dismissed forthwith pursuant to the immunity that Daly-LaBelle enjoys under the terms of that statute.

Third Affirmative Defense

Any statements or petition of Daly-LaBelle concerning Bilodeau is protected by the First Amendment to the U.S. Constitution.

Fourth Affirmative Defense

Any statements or petitions made by Daly-LaBelle concerning Bilodeau are protected by Article I of the Rhode Island Constitution.

Fifth Affirmative Defense

Any statements or petitions of Daly-LaBelle concerning Bilodeau are protected by the common law doctrine of opinion.

Sixth Affirmative Defense

Any statement or petition of Daly-LaBelle concerning Bilodeau is protected as fair comment on a matter of public concern.

Seventh Affirmative Defense

Any statements or petitions made by Daly-LaBelle are protected by an absolute and/or qualified privilege.

Eighth Affirmative Defense

Any statements or petitions made by Daly-LaBelle concerning Bilodeau are protected by the Rhode Island Anti-SLAPP legislation, Rhode Island General Laws 9-33-1, et seq., and the Complaint should be dismissed forthwith pursuant to the provisions of that statute.

Ninth Affirmative Defense

Any statements or petitions by Daly-LaBelle concerning Bilodeau are protected by a common law immunity concerning his right to engage in free speech on a matter of public concern.

Tenth Affirmative Defense

Any and all claims made against Daly-LaBelle in the Complaint must fail and Daly-LaBelle did not act with malice.

Eleventh Affirmative Defense

Any claim for punitive damages in the Complaint must fail, as it is unsupported by the factual allegations, and is otherwise barred by the U.S. Constitution, the Rhode Island Constitution, Rhode Island General Laws 9-33-1, et seq., and by common law.

Twelfth Affirmative Defense

Daly-LaBelle is entitled to a stay of all discovery proceedings in this action pursuant to the provisions of Rhode Island General Laws, 9-33-2-(b) immediately upon the filing of a motion to dismiss this action pursuant to the terms of the Rhode Island Anti-SLAPP Legislation, Rhode Island General Laws 9-33-1, et seq.

Thirteenth Affirmative Defense

Daly-LaBelle is entitled to an award of compensation, attorney's fees, and punitive damages in the event that he prevails on a motion to dismiss this action pursuant to the terms of the Rhode Island Anti-SLAPP Legislation, Rhode Island General Laws 9-33-1, et seq.

WHEREFORE, Daly-LaBelle demands judgment against Bilodeau for compensatory damages, in an amount sufficient to confer jurisdiction upon this Court, punitive damages, costs, interest and reasonable attorney's fees, and any such further relief as this Court deems just and proper.

COUNTER-CLAIM

Parties

1. Plaintiff, Jonathan Daly LaBelle, (Daly LaBelle) is a resident of 27 Northup Street, South Kingstown, Rhode Island.

2. Defendant, Andrew R. Bilodeau (Bilodeau) upon information and belief is a resident of 500 Congdon Drive, South Kingstown, Rhode Island.

Jurisdiction

3. The amount at issue is sufficient for the jurisdiction of this Court and the legal action arises directly from this State.

Count I

SLAPP SUIT

4. Daly-LaBelle reaffirms and realleges the allegations contained above.
5. On or about November 6, 2006, Bilodeau filed a complaint in Washington County Superior Court against Daly-Labelle which alleged, *inter alia*, that Daly-LaBelle's communications and distribution of a political petition was defamatory, libelous, slanderous, slanderous per se, placed Bilodeau in a false light and caused

Bilodeau permanent damage to his reputation and good standing in the community.

6. The Bilodeau complaint requested a temporary restraining order which was denied by this Court.
7. At all times, Daly-LaBelle has vigorously denied Bilodeau's allegations.
8. At all times, Daly-LaBelle has acted in good faith.
9. Daly-LaBelle asserts that the statements he made and the petitions he created were true with respect to Bilodeau..
10. Daly-LaBelle alleges that the suit filed by Bilodeau constitutes a strategic litigation against public participation, otherwise known as a SLAPP suit, which is specifically defined in RIGL 9-33-1, et seq.
11. Daly-Labelle states that he was acting under RIGL 17-25-10(b) as an individual who was self financed. RIGL 17-25-10(b) provides:

It shall be lawful for any person, not otherwise prohibited by law and not acting in concert with any other person or group, to expend personally from that person's own funds a sum which is not to be repaid to him or her for any purpose not prohibited by law to support or defeat a candidate or to advocate the approval or rejection of any question; provided, that any person making the expenditure shall be required to report all of his or her expenditures and expenses, if the total of the money so expended exceeds one hundred dollars (\$100) within a calendar year, to the board of elections within seven (7) days of making the expenditure and to the campaign treasurer of the candidate or political party committee on whose behalf the expenditure or contribution was made, or to his or her deputy, within seven (7) days of making the expenditure, who shall cause the expenditures and expenses to be included in his or her reports to the board of elections. Whether a person is "acting in concert with any other person or group" for the purposes of this subsection shall be determined by application of the standards set forth in 17-25-23.

12. The complaint filed against Daly-Labelle was a clear attempt to abridge Daly-Labelle's First Amendment Rights, his right to Free Speech and his constitutionally protected right to petition the Government for the redress of grievances.
13. The suit filed against Daly-Labelle was frivolous and was brought with an intent to harass Daly-Labelle and otherwise inhibit his exercise of his right to petition the Government and his right to free speech in connection with a matter of public concern under both the United States and the Rhode Island Constitution.
14. As a result of the actions of Bilodeau, Daly-Labelle has been injured.

WHEREFORE, Daly-Labelle demands judgment against Bilodeau for compensatory damages, punitive damages, costs, interest and reasonable attorney's fees, and any such further relief as this Court deems just and proper.

Jonathan Daly-LaBelle

By his Attorney,

Karen Davidson #3182

RI Affiliate,

American Civil Liberties Union

One Ship Street

Providence, RI 02903

(401) 453-6200

(401) 331-6110 fax

Defendant demands trial by jury.

VERIFICATION

I, Jonathan Daly-LaBelle, have read the statements set forth above in the Answer and Counter-Claim and with respect to those statements concerning Andrew R. Bilodeau, to the best of my knowledge, the statements are true and correct.

By: _____

Jonathan Daly-LaBelle

Subscribed and sworn to before me in _____, Rhode Island, on this
_____ day of _____, 2006.

Notary Public

CERTIFICATION

I hereby certify that on the _____ day of _____, 2006, a true copy of the within was mailed to:

Andrew R. Bilodeau, Esq.

Bilodeau Law Associates, LLC

231 Old Tower Hill Road, Suite 202

Wakefield, RI 02879
