

IN THE
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

THE WASHINGTON TRAVEL CLINIC, PLLC)
1712 I St, NW, Suite 10007)
Washington, DC 20006)

and)

ZIAD AKL, MD)
6335 River Downs Rd)
Alexandria, VA 22312)

Plaintiffs,)

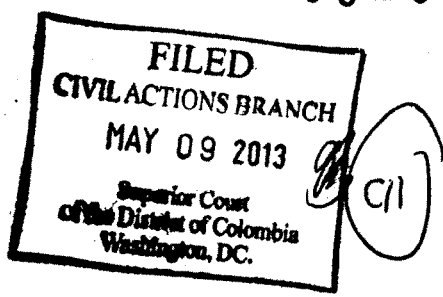
v.)

John Kandrac)
901 N Monroe St.)
Arlington, VA 22201)

Defendant.)



FILED UNDER SEAL
13 - 0 0 0 3 2 3 3



COMPLAINT

The Washington Travel Clinic, PLLC (“WTC”) and Ziad Akl, MD (“Akl”), collectively referred to as “Plaintiffs”, bring this Complaint against John Kandrac (“Kandrac” or “Defendant”), an individual, for defamation and tortious interference with prospective business advantage.

PARTIES AND JURISDICTION

1. Plaintiff Akl is a Board-certified infectious diseases specialist licensed to practice medicine in the District of Columbia and whose revenue is solely derived from conducting business in the District of Columbia.
2. Plaintiff WTC is a for-profit District of Columbia Professional Limited Liability Company whose offices are in the District of Columbia.

3. WTC is a medical practice wholly owned by Akl.
4. Defendant Kandrac is a resident of the Commonwealth of Virginia whose place of employment is in the District of Columbia.
5. This Court has jurisdiction pursuant to D.C. Code §§ 11-921 and 13-423(a)(4) because the Defendant caused the tortious injury in the District of Columbia by an act or omission outside the District of Columbia while regularly doing business in the District of Columbia.
6. This Court also has jurisdiction based on the "effects" of the Defendant's conduct in the District of Columbia under Calder v. Jones, 465 U.S. 783, 789 (1984).

BACKGROUND

7. On or about January 3, 2012, Defendant visited Akl at the locale of WTC soliciting medical advice and preventive care in preparation for an overseas trip.
8. On or about January 6, 2012, Defendant again visited Akl soliciting medical advice and preventive care in preparation for the same overseas trip.
9. On or about January 13, 2012, Defendant again visited Akl soliciting preventive care in preparation for the same overseas trip.
10. On or about January 30, 2012, Defendant again visited Akl soliciting preventive care in preparation for the same overseas trip.
11. On January 28, 2013, Defendant again visited Akl soliciting medical advice and preventive care in preparation for another overseas trip.
12. Defendant never demonstrated or expressed any displeasure with Akl's services during any of his visits to WTC.

13. On January 28, 2013, Defendant posted a review of WTC and Akl on Yelp.com (“Yelp”).
14. Yelp is a website involved in the business of helping consumers find businesses.
15. Yelp allows consumers to place online reviews of businesses.
16. In January 2013, Yelp had 100 million unique visitors for that month alone.
17. As of January 2013, Yelp had a cumulative 36 million reviews posted.
18. Defendant’s January 28, 2013 review (the “Original Review”) stated:

I am giving one star b/c I would recommend people go elsewhere. Like others, I have received other patients' receipts (more than one!), and more than once he has taken long cell phone calls while I was waiting. To make matters worse, I could hear everything the person on the phone was saying (enjoy that trip to Nigeria, Erica..).

Like the other commenter, I too had to wait outside of the office for him to arrive for about an hour after my scheduled appointment time. Other patients just left while we were waiting in the hallway, but my trip was so near I didn't feel comfortable getting the shot later than that day or I would have left.

In addition, he told me he would schedule an email to be sent 1 yr after my first visit, but it never came. The downside for me is that he got to charge me the annual visitation fee, which isn't cheap. I should have ignored his promise to send me emails in advance, but it was still annoying.

Other than that, he really pushes on that plunger when administering shots which yields an unpleasant sensation. Not such a big deal to me, but noticeably more uncomfortable than any other shots I've had which are no problem.

To list the positives rather than keep going with the things I didn't like: He is fairly responsive if you send him an email, and the location is very good. anyway...one star

19. On January 28, 2013, Akl e-mailed Defendant in response to his Yelp review and requested him, *inter alia*, to correct factual inaccuracies in his review.
20. On January 31, 2013, Defendant posted the Amended Review which stated:

I am giving one star b/c I would specifically recommend avoiding this clinic. Like others below, I have also received other patients' information from Dr. Akl via email. More than once once he has taken long cell phone calls while I was waiting. To make matters worse, I could hear everything the person on the phone was saying (enjoy that trip to Nigeria, Erica!).

Like the another commenter, I too had to wait outside of the office for him to arrive for about an hour after my scheduled appointment time. Another patient just left while we were waiting in the hallway, but my trip was so near I didn't feel comfortable getting the shot later than that day or I too would have left.

In addition, he told me he would schedule an email to be sent 1 yr after my first visit, but it never came. The downside for me is that he charged me the annual visitation fee, which isn't cheap. I should have ignored his promise to send me emails in advance, but it was still annoying.

Other than that, he really pushes on that plunger when administering shots which yields an unpleasant sensation. Not such a big deal to me, but feels noticeably more uncomfortable than any other shots I've had which are not noticeable. Maybe it's just me projecting the overall rushed feel of the place (e.g. he was on the phone while I'm on the chair seconds before he injects me), but I had this feeling before as well.

To list the positives rather than keep going with the things I didn't like: He is fairly responsive if you send him an email, and the location is very good. anyway...one star

21. On January 31, 2013, Defendant e-mailed Akl in response, informing him that he amended his review and requested that Akl not contact him further regarding this matter.
22. Defendant's Original Review contains numerous factual falsehoods.
23. Defendant never received any other patient's receipt from Akl.
24. Defendant could not hear "everything that the other person on the phone was saying."
25. Akl never stated "enjoy that trip to Nigeria, Erica!"

26. Defendant did not have to wait outside of the office for about an hour after his scheduled appointment time.
27. Since Defendant did not have to wait in the hallway, no patient left while Defendant was “waiting in the hallway.”
28. The statement that “really pushing on the plunger when administering shots yields an unpleasant sensation” is false and has no basis in fact.
29. Defendant’s Amended Review contains numerous factual falsehoods.
30. Defendant never received other patients’ information from Akl.
31. Defendant could not hear “everything that the other person on the phone was saying.”
32. Akl never stated “enjoy that trip to Nigeria, Erica!”
33. Defendant did not have to wait outside of the office for about an hour after his scheduled appointment time.
34. Since Defendant did not have to wait in the hallway, no patient left while Defendant was “waiting in the hallway.”
35. The statement that “really pushing on the plunger when administering shots yields an unpleasant sensation” is false and has no basis in fact.

COUNT I
(Defamation)

36. Akl re-alleges and incorporates by reference the allegations made in paragraphs 1 – 35 of the Complaint.
37. Defendant published his statements about WTC and Akl in a place accessible to the general public, which is particularly likely to come to the attention of persons who search for information about WTC and Akl.

38. The published statements are intended to be viewed and can be viewed by anyone who has internet access, virtually including any potential customer of WTC and Akl.
39. The published statements can be perpetuated indefinitely on Yelp and repeated online and offline by others.
40. The published statements were seen by someone other than WTC and Akl.
41. Defendant made the false statements intentionally and maliciously.
42. The danger of injury to WTC's and Akl's reputations is readily apparent from the false statements.
43. Defendant's false statements imply that Plaintiffs' business ethics and practices are inadequate, improper and untrustworthy.
44. Defendant's false statements tend to prejudice Plaintiffs in the conduct of their business and to deter others from dealing with them.
45. As a result of Defendant's false statements, Plaintiffs have been deprived of their good commercial reputation.
46. Defendant's statements did cause and will continue to cause financial harm to Plaintiffs.
47. Plaintiffs have also been harmed by being placed in fear and anxiety as to their reputation.
48. Defendant's statements are actionable as a matter of law irrespective of special harm as Plaintiffs are in the business of delivering medical services and the reputation of healthcare providers is their most valuable asset.

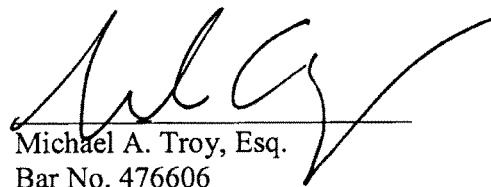
WHEREFORE, Plaintiffs respectfully request that the Court (1) enter judgment in favor of Plaintiffs and against the Defendant in the amount of one million dollars; (2) enter judgment in favor of Plaintiffs and against the Defendant in an amount to be determined at trial in punitive damages; (3) direct Defendant to correct the facts in his review to Plaintiffs' satisfaction; (4) direct Defendant not to publish or utter any further factually false statements about Plaintiffs; and (5) award Plaintiffs such other and further relief as this Court deems just and equitable.

COUNT II
(Tortious Interference With Prospective Business Advantage)

49. Akl re-alleges and incorporates by reference the allegations made in paragraphs 1 – 48 of the Complaint.
50. Plaintiffs have a reasonable expectation to enter into prospective relationships with existing and new patients.
51. Defendant made his false statements intentionally and maliciously.
52. Defendant's false statements imply that Plaintiffs' business ethics are inadequate, improper and untrustworthy.
53. Defendant's statements tend to prejudice Plaintiffs in the conduct of their business and to deter others from dealing with them.
54. As a result of Defendant's false statements, Plaintiffs have been deprived of their good commercial reputation.
55. Defendant's statements did cause and will continue to cause financial harm to Plaintiffs in the future.

WHEREFORE, Plaintiffs respectfully request that the Court (1) enter judgment in favor of Plaintiffs and against the Defendant in the amount of one million dollars; (2)

enter judgment in favor of Plaintiffs and against the Defendant in an amount to be determined at trial in punitive damages; (3) direct Defendant to correct the facts in his review to Plaintiffs' satisfaction; (4) direct Defendant not to publish or utter any further factually false statements about Plaintiffs; and (5) award Plaintiffs such other and further relief as this Court deems just and equitable.



Michael A. Troy, Esq.

Bar No. 476606

5185 MacArthur Blvd., Suite 702

Washington, D.C. 20016

Tel: (202) 306-2422

michael@troylegalonline.com