



IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

PYRAMID ROOFING,)
)
 Plaintiff,)
)
 vs.)
)
 RYAN DeBOLT,)
)
 Defendant.)

CASE NO.: CI 14- 7112

COMPLAINT

#22 FILED
IN DISTRICT COURT
DOUGLAS COUNTY NEBRASKA
SEP 3 2014
JOHN M. FRIEND
CLERK DISTRICT COURT

ASSIGNED TO Schatz

COMES NOW the Plaintiff by and through its attorney, and hereby states its cause of action against the Defendant as follows:

FIRST CAUSE OF ACTION

ACTION FOR LIBEL OR SLANDER

Nebraska Revised Statutes 25-839 *et seq*

1. Plaintiff is a Nebraska corporation in good standing operating in the greater Omaha metropolitan area.
2. Defendant Ryan DeBolt resides in Omaha, Douglas County, Nebraska and was, at one point, affiliated with the Plaintiff as a sales representative.
3. That the relationship between the parties ended and thereafter Defendant began making libelous and slanderous statements regarding the Plaintiff, its employees, its work, its products, and generally insulted its reputation.
4. Specifically, after the business relationship with the Plaintiff ended, Defendant on several occasions contacted current, former and potential customers of the Plaintiff and claimed that that the Plaintiff had installed defective nails and used other defective materials on their jobs, that the customers were regularly overcharged for their services, that the warranty of the Plaintiff's work at the homes of those customers was void, that an investigation was being undertaken by a governmental agency or insurance company about the alleged activities of Pyramid, and made other general negative comments, while knowing that such was not the case.
5. Said statements are defamatory and libelous and caused damage to the reputation of the Plaintiff, as well as inconvenience to the customers and employees of the Plaintiff.
6. That on or about July 18, 2014, the Defendant was notified in writing of nine specific individuals with whom he had communications detailing the extent and content of said

communications. The letter was sent to the Defendant by First Class Mail, personal service was attempted at his place of employment, and the letter was sent Certified Mail, Return Receipt Requested as required by Nebraska statutes.

7. On or about July 19, 2014, the Defendant contacted the undersigned attorney by telephone to communicate that he had "received the letter" and that he had "no intention of taking any action to retract any statements he made." Defendant has never denied making any such statements..

8. The notice detailed that, pursuant to *Neb. Rev. Stat. § 25-840.01*, Ryan DeBolt was demanded that within three weeks after the receipt of the written request from Plaintiff, he was to contact each individual identified therein in the same manner in which he contacted them initially, whether or in person or by phone, and retract all statements made by him. Defendant was warned that if he did not retract the statements within the prescribed period of time, an action would be filed against him seeking damages for the libelous and defamatory statements.

9. A copy of the letter is attached hereto, marked Exhibit "A," and incorporated herein by reference.

10. The Plaintiff has waited the required three week period of time and has determined that the Defendant failed to retract statements to those individuals identified in the correspondence..

11. That Defendant's statements are harassing in nature, that they may be harassment *per se*, requiring the Plaintiff to respond to each individual complaint or inquiry made by anyone that the Defendant had contacted. It is impossible for the Plaintiff to know what other individuals the Defendant may have contacted or will contact or to whom he will make any such defamatory statements because the only way Plaintiff learns of the statements are through the contact of their customers with Plaintiff regarding Defendant's comments.

12. Plaintiff is requesting an Order of the Court directing the Defendant to cease communication with all customers of the Plaintiff, and to cease and desist from making libelous and defamatory statements that he knows are untrue.

13. Plaintiff is requesting that the Court enter a permanent Order/Injunction requiring the Defendant to cease and desist making any such statements to anyone in the public that he does not know to be true regarding the materials, the workmanship, or the business practices of the

Plaintiff, and/or that he refrain from making any such statements because his actions are with actual malice.

14. Plaintiff seeks damages for the diminution of their name in the general community based upon the untrue, and unsubstantiated statements of this Defendant.

15. This lawsuit would not be necessitated but for the actions of the Defendant and his failure to retract his libelous and defamatory statements. As such, Plaintiff has had to employ counsel for the purposes of seeking damages and orders for the Defendant to cease and desist his deplorable behavior. Plaintiff seeks attorney's fees in the prosecution of this action.

SECOND CAUSE OF ACTION

INJUNCTION

Nebraska Revised Statutes 25-1062 *et seq*

15. Plaintiff is a Nebraska corporation doing business in the greater Omaha metropolitan area.

16. Defendant is a resident of Omaha, Douglas County, Nebraska.

17. That Defendant was affiliated as a sales representative for the Plaintiff.

18. From and after the termination of the business relationship, the Defendant has sent harassing, negative and insulting text messages and emails, for no legitimate business purpose, to employees and representatives of the Plaintiff's business. Defendant has been requested to cease from sending such messages as they are harassing and troublesome in nature requiring Plaintiff and Plaintiff's employees and their representatives to deal with the underlying allegations and negative comments.

19. On or about July 18, 2014, Plaintiff, through its counsel, requested in writing that the Defendant cease and desist sending harassing and annoying texts and/or emails to Rachel Naikelis, an employee of the Plaintiff. Defendant was also asked to refrain from contacting anyone at Pyramid Roofing for any reason except a legitimate business purpose. Notwithstanding such requests, Defendant continued to contact the Plaintiff, its employees and representatives thereafter by text message and/or phone and, unless ordered to cease and desist from doing so, he will continue to do so.

20. This request for Injunction lies solely based upon the actions of this defendant who

has refused the reasonable request that he cease and desist his contact. Plaintiff has, therefore, engaged legal counsel and has incurred attorneys fees and costs in the prosecution of this action and hereby request that Defendant be ordered to pay said costs and expenses through a judgment entered by this Court.

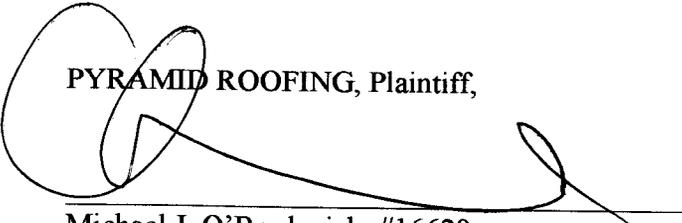
WHEREFORE, Plaintiff prays:

1. For an Injunction/Order directing Defendant Ryan DeBolt to cease and desist from making defamatory and libelous statements regarding the Plaintiff to any customers or former customers of the Plaintiff,
2. For an Injunction/Order directing Defendant Ryan DeBolt to cease and desist from contacting by phone, email, mail, or in any other manner the Plaintiff or any employee of the Plaintiff or any representative of the Plaintiff,
3. For a determination of the Court that the statements made by the Defendant to the individuals who will testify at trial are untrue, making a full determination that the allegations made by the Defendant are unfounded and unsubstantiated and, if necessary, with actual malice,
4. For an award of any amounts to which Plaintiff is entitled as a result of the behavior of the Defendant requiring the prosecution of this action including attorney fees and costs and other special and general damages to be determined,

and for such other and further relief as the Court may deem just and equitable in the premises.

PYRAMID ROOFING, Plaintiff,

By:



Michael J. O'Bradovich, #16628
7701 Pacific Street, Suite 205
Omaha, Nebraska 68114
(402) 551-8583
Attorney for Plaintiff

THE LAW OFFICE
OF

MICHAEL J. O'BRADOVICH, P.C.

402-551-8583

FAX 402-558-4624

7701 PACIFIC - SUITE 205 OMAHA, NE 68114

July 18, 2014

Ryan DeBolt
4655 Farnam Street
Omaha, Nebraska 68132

RE: Pyramid Roofing

Dear Mr. DeBolt:

This is to notify you that I represent Pyramid Roofing of Omaha, Nebraska.

The company has received notifications that you are contacting customers and making untrue and libelous statements regarding services provided by Pyramid.

Nebraska law specifically prohibits the publication of libelous statements. Pursuant to *Neb. Rev. Stat.* § 25-840.01, we hereby demand that within three weeks after the receipt of this request by you, that you shall contact each individual named herein in the same manner in which you contacted them initially whether in person or by phone and retract all statements made by you.

If you fail to retract the statements, we will file an action against you and seek damages for your libelous and defamatory statements.

A summary of the individuals you recently contacted are listed below. We will contact each of these individuals to see if you did in fact retract the statements. We further demand that you cease and desist from making any additional defamatory or libelous statements.

On or about July 11, 2014, you contacted the following individuals and told them the following information:

1. Julie McMillan - you informed Ms. McMillan that Pyramid installed defective nails and used other defective materials and that your warranty was not valid and that she was overcharged for her services.
2. Larry Guertin - you told Mr. Guertin to contact Pyramid immediately because Pyramid would not be in business much longer and that since Pyramid installed defective products and used defective nails, their warranty was not valid.
3. Virginia Magruder - you informed Ms. Magruder that she needed to call Pyramid to receive a written warranty to make sure that she was protected, suggesting that she was not protected under a warranty.

EXHIBIT "A"

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4. Lisa Struz - you informed Ms. Struz that Pyramid advised you to not install the appropriate nails and that her warranty was now voided by the manufacturer because of that fact. You also told her that since she did not get snow guards on her roof, ice would form on her gutters, fall off and kill someone, that she has the wrong gauge metal in her roof valley, and that Pyramid would not be in business much longer. You told her she needed to call immediately to have it resolved before Pyramid goes out of business. You also told her to watch for a "news story" about Pyramid to verify what you were saying.
5. Brian Kelley - you informed Mr. Kelley that you threatened to file a lien on his real estate because he had not paid for his services rendered.
6. Larry Kinnach - you warned Mr. Kinnach that Pyramid installed substandard materials that were defective and that his home was at risk. You told him that roof nails were defective, and that the company was going out of business and that he should call Rachel immediately to have something done before Pyramid's doors close.
7. Tim Lind - you warned Mr. Lind that he needed to contact Pyramid right away because the nails that were used on their work were defective and the warranty was not valid.
8. Doreen Porter - you told Ms. Porter that you were not sure what work was done on her home, whether it was siding or roof, but that the nails Pyramid used were defective and the materials were subpar and that Pyramid had scammed her and that she should be concerned about the integrity of the work performed.
9. Michael Rounds - we have also learned that contacted Mr. Rounds and told him that the owner of Pyramid was involved in international drug activity and illegal gambling. You also told him that Pyramid would be going out of business soon, that his siding was not installed correctly and, because of that fact, he could not rely upon the manufacturer's warranty.

You know that each and every one of these statements are false. We know that each and every one of these statements are false. You are therefore directed and demanded to call each of these individuals and retract each and every statement that you made to their satisfaction. You are not to harass these people or any other customers of Pyramid.

On at least one occasion, if not more, when speaking with the individuals listed herein, you identified yourself as an employee of Roofing Moose. I presume, therefore, that your communications with the individuals must have been on behalf of your employer, because I can think of no other reason why you would disclose your employment status. Please advise your employer of your actions.

I will personally call these individuals and will confirm with them that it is true that you in fact did make the call and that you fully retracted the information. If you do not do what we request, you can expect a lawsuit will be filed.

It also appears that you continue to send harassing and annoying texts and/or emails to Rachel Naikelis. You are hereby demanded to cease and desist such actions. You should refrain from contacting anyone at

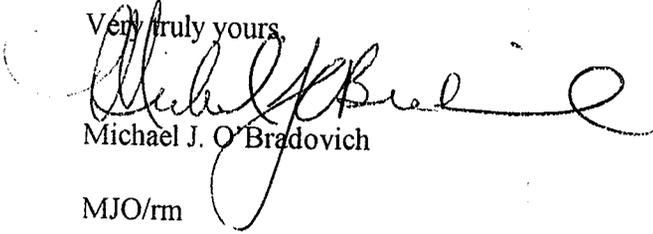
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Pyramid Roofing for any reason except a legitimate business purpose which, at this point, I can't imagine that you would have such a purpose.

It is my sincere hope that this matter may be resolved professionally. To that end, I will expect you to comply with our request forthwith.

Very truly yours,



Michael J. O'Bradovich

MJO/rm