

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Ben F. Johnson

Case No.: FEC 19-105

TO: F.A. "Alex" Ford, Jr.
Landis Graham French P.A.
145 East Rich Avenue, Suite C
DeLand, FL 32724

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

NOTICE OF HEARING (REVIEW PETITION FOR ATTORNEY'S FEES AND COSTS)

A hearing will be held in this case before the Florida Elections Commission on, **August 13, 2019 at 8:30 am**, or as soon thereafter as the parties can be heard, at the following location: **Senate Office Building, 404 South Monroe Street, Room 110-S, Tallahassee, Florida 32399**. Due to heightened security access requirements, please bring only essential items into the building and plan to arrive early to allow for delays coming through security.

Failure to appear in accordance with this notice will constitute a waiver of your right to participate in the hearing. Continuances will be granted only upon a showing of good cause.

This hearing will be conducted pursuant to Section 106.25, Florida Statutes, which governs your participation as follows:

If you are the Respondent, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission. However, some cases (including those in which consent orders or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless you request to be heard or the Commission requests that your case be considered separately on the day of the hearing, your case will *not* be individually heard.

If you are the Complainant, you may attend the hearing, but you will *not* be permitted to address the Commission. In addition, some cases (including those in which consent orders or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless the Respondent requests to be heard or the Commission requests that the case be considered separately on the day of the hearing, the case will *not* be individually heard.

If you are an Appellant, and you have requested a hearing, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission.

Please be advised that both confidential and public cases are scheduled to be heard by the Florida Elections Commission on this date. As an Appellant, Respondent or Complainant in one case, you will *not* be permitted to attend the hearings on other confidential cases.

The Commission will electronically record the meeting. Although the Commission's recording is considered the official record of the hearing, the Respondent may provide, at his own expense, a certified court reporter to also record the hearing.

If you require an accommodation due to a disability, contact Donna Ann Malphurs at (850) 922-4539 or by mail at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399, at least 5 days before the hearing.

See further instructions on the reverse side.

Tim Vaccaro

Executive Director
Florida Elections Commission
July 29, 2019

This **Motion or Petition for Attorney's Fees** will be conducted pursuant to Section 106.265(6), Florida Statutes, and Chapter 28 and Commission Rule 2B-1.0045, Florida Administrative Code. The Commission will determine whether the petition contains sufficient facts to support a claim for costs and attorney's fees and, if so, the Commission will order a hearing involving disputed issues of material fact (formal hearing) before the Commission, a Commissioner or Commissioners designated by the Commission, or the Division of Administrative Hearings.

If the Commission determines that there are not sufficient facts to support a claim, the motion or petition will be denied or dismissed.



FEC CASE NO.: 19-119; Respondent: Ben F. Johnson - Reply to Complainant's Response to Petition for Attorney Fees and Costs and to Additional Complaint Information
to: Florida Elections Commission 07/26/2019 02:58 PM
Cc: "Alex Ford", "Diane Harney"
From: "Diane Harney" <dharney@landispa.com>
To: "Florida Elections Commission" <fec@myfloridalegal.com>
Cc: "Alex Ford" <aford@landispa.com>, "Diane Harney" <dharney@landispa.com>

1 Attachment



2019.07.26 Respondent Reply to Complainant Response to Petition for Attorney Fees.pdf

Good Afternoon:

Attached please find our Reply to Complainant's Response to Petition for Attorney Fees and Costs and to Additional Complaint Information regarding the above-referenced F,E,C, Case. Please advise if you need additional information. Please confirm receipt.

Thank you,

Diane Harney, Legal Secretary
to F.A. (Alex) Ford, Jr., Esquire
to Kathrine E. Conroy, Esquire
Landis Graham French, P.A.
145 E. Rich Avenue, Suite C
DeLand, Florida 32724
Phone: 386-734-3451
Fax: 386-736-1350
dharney@landispa.com



FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

Case No.: FEC 19-119
and Case No.: FEC 19-105

BEN F. JOHNSON,

Respondent.

RESPONDENT'S REPLY TO COMPLAINANT'S RESPONSE TO PETITION FOR ATTORNEYS FEES AND COSTS and to ADDITIONAL COMPLAINT INFORMATION

The Respondent, BEN F. JOHNSON, by and through his undersigned counsel, files this Reply to Complainant's Response to Petition for Attorney's Fees and Costs and to Complainant's Additional Complaint Information ("Reply"), as follows:

I. Background.

1. The Respondent, Mr. Johnson, is the former Sheriff of Volusia County and currently serves on the Volusia County Council as the "at large" representative. The Complainant was a write-in candidate for County Council and lost to Mr. Johnson.
2. Respondent brought this and a companion F.E.C. complaint against Respondent, both of which were dismissed by the F.E.C.
3. Respondent filed a petition for attorneys' fees and costs (the "Petition") against Complainant after this case and the companion F.E.C. case were dismissed.
4. The Complainant, Mr. Casaburro, replied to the Petition with a handwritten cover letter dated June 4, 2019 and typed response dated June 3, 2019, hereinafter collectively referred to as his "Response."
5. Mr. Casaburro also filed a document titled "Additional Complaint Information" which was dated June 17, 2019, and which is hereinafter referred to as his "Additional Information."
6. This Reply is directed to both of the above-referenced filings by Complainant. Respondent will address both filings in the order of the points presented in them.
7. For purposes of this Reply, Respondent incorporates his Petition as a part hereof.

II. Complainant's Response

a. **There was no agreement to forego pursuit of attorneys' fees and costs in this cause.**

8. As his first point, Complainant asserts there was an agreement between undersigned counsel and his attorney, basically asserting the agreement was that Respondent would not pursue fees against Complainant regarding the F.E.C. cases.
9. As further background, the Complainant had brought a Circuit Court action (Casaburro v. Frederick, etc., Case No.: 2019-10091-CIDL, in Circuit Court of the Seventh Judicial Circuit), in addition to the Florida Elections Commission complaints. The Complainant was not originally represented by counsel in any of these matters.
10. There was no agreement between undersigned counsel and Mr. Trovato regarding the F.E.C. cases, as was falsely stated by the Complainant. After Mr. Casaburro was served with a Section 57.105 motion, Mr. Trovato contacted undersigned counsel and inquired whether Mr. Johnson would pursue attorneys' fees if the Complainant voluntarily dismissed the Circuit Court case. Mr. Trovato was advised undersigned counsel would get back with him after discussing the matter with Mr. Johnson.
11. After discussing the matter with Mr. Johnson, undersigned counsel transmitted an email to Mr. Trovato on April 11, 2019, a copy of which is attached as Exhibit A. The email is very specific that Mr. Johnson would not pursue attorneys' fees against the Complainant in the Circuit Court action. Undersigned counsel did not give any sort of assurance to Mr. Trovato in regard to the F.E.C. No fees were pursued in the Circuit Court case, as was agreed.
12. At the time of the discussions between counsel, the F.E.C. cases were still in a confidential status and were not mentioned to Mr. Trovato. However, undersigned counsel did tell Mr. Trovato there were other pending matters and advised that he should discuss them with the Complainant if he wanted to resolve all outstanding matters.
13. To the best recollection of undersigned counsel, no other communications took place with Mr. Trovato regarding this issue before the Notice of Voluntary Dismissal was filed on behalf of the Complainant in the Circuit Court case. After the Notice of Voluntary Dismissal was filed in Circuit Court case and after the Petitions for attorneys' fees were filed in the F.E.C. cases, Mr. Trovato advised undersigned counsel that he and the Complainant had discussed the F.E.C. complaints and Complainant had (incorrectly) told him the F.E.C. cases were no

longer active. Unfortunately, Mr. Trovato apparently took the Complainant at his word and did not advise undersigned counsel of their discussion.

14. In fact, the F.E.C. cases were still pending.
15. Perhaps, if the Complainant had given his attorney accurate information, the attorney would have sought a global resolution including the F.E.C. cases. That would have been the likely outcome of such a call, in the opinion of undersigned counsel. But that conversation never took place.
16. The Complainant never offered to withdraw the F.E.C. cases, through Mr. Trovato or otherwise, and the cases continued to be pending until the F.E.C. took its final actions in the respective cases.
17. Final action in both cases occurred shortly after the Circuit Court case was voluntarily dismissed, and after the April 11, 2019, email from undersigned counsel. One of the cases was closed because the Complainant failed to submit additional information; a fact unknown to Respondent until the dismissal was received. (See F.E.C. letter dated April 30, 2019). The other case was closed after the Complainant had submitted additional information to amend his F.E.C. Complaint and his amended complaint was deemed insufficient. (See F.E.C. letter dated April 15, 2019). See F.E.C. initial letters of dismissal and final determinations, on Case nos. 19-105 and 19-119, which are all enclosed as Exhibit B.

b. Complainant's Response Contains Allegations Which Are False, Slanderous, Malicious and Irrelevant To The Issues At Hand, Which Further Demonstrates His Malicious Intent.

18. In the cover letter portion of his Response, Complainant stated he was "forced to defend [him]self and enter evidence about Johnson's sexual misconduct, homicide concerning race, F.B.I. and Justice Dept. findings & more."
19. None of the allegations Complainant makes against Respondent are true. While this is not the forum for adjudicating the falsity of these slanderous allegations, evidence of their falsity is material for adjudication of the issue of malice in determining an award of attorneys' fees. Should it be determined sufficient cause has been shown to conduct a hearing on the Respondent's request to be awarded fees and costs, Respondent should be given the opportunity to rebut these allegations.
20. Moreover, and also of great significance to the issue of Complainant's malice, none of these allegations are even slightly relevant to the question of attorneys' fees and costs, which is the remaining issue at hand.

21. Since Complainant's gratuitous statements impugning Respondent's character are false, besides having nothing to do with this matter, Respondent asserts they were published for no legitimate reason other than to further disparage Respondent, and serve as evidence of his continuing malicious intent with regard to this proceeding.

c. Mr. Casaburro's "Reply to 19-119"

22. Mr. Casaburro's disparaging remarks against Mr. Frederick, are false and not relevant to the issue of attorneys' fees and costs.

d. Johnson's Notice of Additional Facts

23. Complainant's assertion there was a "Lawyer to Lawyer gentleman's agreement" not to pursue fees and costs in this action is false. This point has been addressed above.
24. Complainant did file a Bar grievance against undersigned counsel, as suggested in his Response. The Bar complaint, undersigned counsel's response, and the Bar's disposition of the matter are attached as Exhibit C.
25. Undersigned counsel did not file the voluntary dismissal of the Circuit Court case, Mr. Trovato (Mr. Casaburro's attorney) did. See Exhibit D.

e. Mr. Casaburro's Reply to Johnson's Summary for Basis of Legal Fees

26. Again, Complainant continues to intentionally repeat falsehoods about Respondent which are irrelevant to the question of attorneys' fees and costs.
27. Further, he makes gratuitous attacks on Mr. Fredricks, who is not a party to this matter.
28. By continuing to repeat falsehoods about Mr. Johnson and make gratuitous attacks on Mr. Frederick, Complainant is simply continuing to show the malice which motivated his now-dismissed Complaint. See Section b., above.
29. Also, at the bottom of page 2 please note the Complainant's pretense of protecting an anonymous "busy single mom" who was purportedly "afraid of Johnson's retaliation methods" and the reference to her supposed "attached fax and preliminary signed statement #9 and #10."
30. The supposed fax and signed statement are in handwriting suspiciously similar to the written statement filed herein by Complainant, and the scratched-out address appears to be 111 Kendra Ave., DeLand, FL., which is Complainant's address.

31. Complainant asserts various personal reasons fees and costs should not be imposed against him. Having availed himself of a procedure which provides for an award of attorneys' fees against him, Complainant cannot now be heard to complain he is not able pay.

III. Complainant's Additional Information.

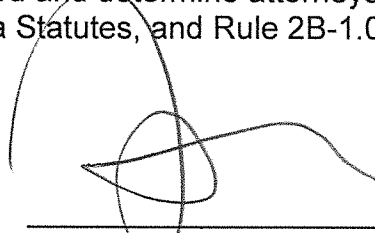
32. In his Additional Information, Mr. Casaburro purports to provide additional information to correct the grounds of legal insufficiency of both of his complaints.
33. However, both of the complaints have been dismissed without further leave to amend. Accordingly, there is no basis for him supplement them. Therefore, the Additional Information will be treated as a supplemental response to Respondent's Petition.
34. Respondent freely admits that certain documents and police records were provided to Mr. Frederick.
35. However, the question under the pertinent statute, F.S. Section 104.271(2), was not whether information was provided to Mr. Frederick. The question was whether the information provided was false and if it was provided or caused to be provided with actual malice.
36. Respondent's statement, an excerpt of which was attached to the Additional Information, clearly stated he knew of no false information provided to Frederick. It listed certain documentary items that were provided to Mr. Frederick including police reports, public records, published news stories (from the New York Times, Associated Press) and emails from other persons complaining to Respondent and his campaign about Mr. Casaburro's smear tactics.
37. None of the items provided to Mr. Frederick were, to Respondent's knowledge, false. In fact, given the sources of the items, it is believed they are all true and correct to the extent of what they actually say versus what Complainant has incorrectly represented them to say.
38. Complainant states Mr. Frederick never interviewed him for the article he wrote, that his reporting was flawed, and he was neglectful in doing his research by relying solely on information provided by Respondent. While Mr. Frederick's actions or inactions are not the issue, it should be noted he has stated he tried to interview Complainant and Complainant did not respond.
39. Complainant's charges against Mr. Frederick and undersigned counsel are not pertinent to the Petition and, moreover, are false.

IV. Conclusion

40. As previously noted in the Petition, Mr. Casaburro had malicious intent and knowledge of falsity or reckless disregard regarding the truthfulness of his Complaint.
41. His Response further demonstrates his malice by bringing infurther slanderous falsehoods, irrelevant to replying to the Petition, and not only against Respondent but also against third parties.
42. Where a party with malicious intent to injure another's reputation by filing a complaint with knowledge that it contains one or more false allegations, or with reckless disregard for the truth of the allegations contained in the complaint, and charges another with violations of the Florida Elections Code, then that person shall be liable to pay the reasonable attorney's fees and costs of the person who has been wrongfully or recklessly hailed before the Commission. See Florida Statutes §106.265(6).

NOW, THEREFORE, for the foregoing reasons outlined in Petition, it is respectfully requested that this Commission consolidate Case Nos. 19-005 and 19-119, determine the Petition contains sufficient facts and grounds to support the claim for attorneys' fees and costs, and order a hearing to award and determine attorneys' fees and costs pursuant to Section 106.265(6), Florida Statutes, and Rule 2B-1.0045.

Dated this 26th day of July 2019.



F. A. (Alex) Ford, Jr., Esquire
Florida Bar No. 0381845
Landis Graham French, P.A.
145 E. Rich Ave., Suite C
DeLand, FL 32724
Tel: (386) 734-3451
Fax: (386) 736-1350
primary email: aford@landispa.com
secondary email: dharney@landispa.com
Attorney for Respondent, BEN F. JOHNSON

Diane Harney

From: Alex Ford
Sent: Thursday, April 11, 2019 3:48 PM
To: Principle Legal Offices, P.A.
Cc: Diane Harney
Subject: Casaburro v. Johnson (circuit court case)

Follow Up Flag: Follow up
Flag Status: Completed

George,

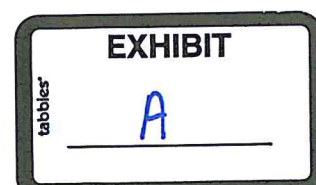
Good speaking with you.

After our call I spoke with Ben and explained this situation to him, i.e. - we have no taxable costs and our only basis for claiming fees is under 57.105. That statute clearly allows your client to dismiss the case and avoid imposition of fees. Long story short, he agrees you are entitled to dismiss this case within the 21 days and, if you do, we can't pursue fees/costs.

In light of our conversation I am ceasing all further efforts on this case for the present time. However, if it runs past the 21 days and the case is not dismissed, my instructions are to aggressively proceed to defend the case, including filing and pursuit of the sanctions motion.

Thanks,

F. A. (Alex) Ford, Jr.
Landis Graham French, P.A.
145 E. Rich Avenue, Suite C
DeLand, FL 32724
(386) 734 3451





FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street,
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
(850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com

April 30, 2019

F.A. "Alex" Ford, Jr.
Attorney for Ben F. Johnson
145 East Rich Avenue, Suite C
DeLand, FL 32724

RE: Case No.: FEC 19-119; Respondent: Ben F. Johnson

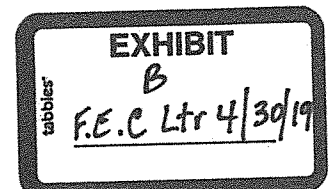
Dear Mr. Ford:

On April 3, 2019, the Florida Elections Commission notified John Casaburro that the complaint he filed on February 19, 2019 was legally insufficient. Since the Commission did not receive any additional information that corrected the stated grounds of insufficiency, this case is closed.

Please let me know if you have any questions.

Sincerely,
Tim Vaccaro
Executive Director
Florida Elections Commission

TV/med





FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com

April 15, 2019

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-105; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission has received your amended complaint, including any additional information you provided, alleging violations of Florida's election laws. I have reviewed your amended complaint and still find it to be legally insufficient.

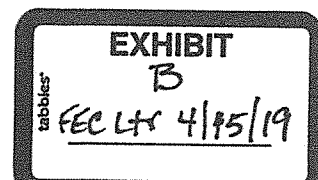
Complainant's initial complaint alleged that Respondent made false, malicious statements against Complainant. Section 104.271(2), F.S., prohibits a candidate from making or causing to be made any statement about an opposing candidate which is false. Such statements must be made with actual malice.

Complainant originally alleged that Respondent hired Henry Frederick, an internet reporter/publisher, to make false statements against Complainant during the campaign for the Volusia County Council At Large seat. Complainant pointed to an expenditure item on one of Respondent's campaign treasurer's reports disclosing a \$1,000 expenditure to "Headline Surfer" for "Advertising" on July 23, 2018. Complainant claimed no advertising was provided. Rather, Complainant alleged the article at issue was written by Mr. Frederick on a news website called *Headline Surfer* in which false statements were made against Complainant.

However, Complainant provided no evidence to support his allegation that Respondent paid Mr. Frederick to make the statements in his news article, and the Florida Elections Commission determined that the complaint was legally insufficient.

In his amended complaint, Complainant focused much of his narrative on describing his attempt to have Mr. Frederick's pleadings struck in the ongoing civil action for defamation and slander relative to the same article at issue in this complaint. The related documents provided by Complainant fail to include any evidence supporting Complainant's allegations regarding Respondent.

Complainant also referred to an ad showing no date, presumably referring to an attachment to his amended complaint showing an undated email titled "Ben Johnson Digital ads." It



John Casaburro
April 12, 2019
Page 2
FEC 19-105

appears Complainant provided the email in an attempt to show that no ads were printed in exchange for Respondent's reported payment of \$1,000 to *Headline Surfer* for advertising. However, as noted in the review of FEC 19-119, Respondent provided a weblink to the *Headline Surfer* website showing that a video advertisement in support of Respondent was inserted under the headline for an article posted on August 27, 2018. The video ends with a disclaimer noting it is a political advertisement paid for by Respondent. In his Motion to Dismiss Amended Complaint, Respondent provided the same link.

In his amended complaint narrative, Complainant asserted that Mr. Frederick has a reputation for slander and "trashing people" with malice for money and provided names of local candidates who were "witness to his offers." However, that allegation appears to be directed toward Mr. Frederick and is not based upon personal information or information other than hearsay.

Complainant also alleges that Respondent "co-authored" the article at issue. His basis for this allegation appears to be that in his answers to interrogatories in the civil action, Respondent acknowledged that he provided Mr. Frederick with certain records and documents pertaining to Complainant. However, providing records to a journalist is not the same as co-authoring an article written by that journalist, especially when Respondent was interviewed and quoted by Mr. Frederick for the article, which was about a campaign involving both Complainant and Respondent.

In his Motion to Dismiss, Respondent argued that Complainant failed to allege he had personal knowledge or information other than hearsay that Respondent hired *Headline Surfer* to make false statements against him.

Based upon the foregoing, Complainant has not provided evidence based on personal information or information other than hearsay that Respondent wrote the article or paid Mr. Frederick to write the article.

This case is now closed. If you have any questions, please contact us at fec@myfloridalegal.com.

Sincerely,



Tim Vaccaro
Executive Director

TV/dm
cc: F.A. "Alex" Ford, Jr., Attorney for Respondent



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
www.FLORIDABAR.org

June 11, 2019

Mr. Frank Alexander Ford Jr.
Landis Graham French, PA
PO Box 48
Deland, FL 32721-0048

Re: Complaint by John Casaburro against Frank Alexander Ford Jr.
The Florida Bar File No. 2019-30,882 (7A)

Dear Mr. Ford:

Enclosed is a copy of an inquiry/complaint and any supporting documents submitted by the above referenced complainant(s). Your response to this complaint is required under the provisions of Rule 4-8.4(g), Rules of Professional Conduct of the Rules Regulating The Florida Bar, and is due in our office by **June 26, 2019**. **Responses should not exceed 25 pages** and may refer to any additional documents or exhibits that are available on request. Failure to provide a written response to this complaint is in itself a violation of Rule 4-8.4(g). Please note that any correspondence must be sent through the U.S. mail; we cannot accept faxed material. **You are further required to furnish the complainant with a complete copy of your written response, including any documents submitted therewith.**

Pursuant to Rule 3-7.1(f), Rules of Discipline, you are further required to complete and return the enclosed Certificate of Disclosure form.

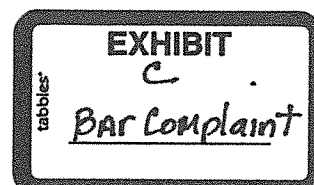
Finally, the filing of this complaint does not preclude communication between the attorney and the complainant(s). Please review the enclosed Notice for information on submitting your response.

Sincerely,

Jack Franklin Wise, III, Bar Counsel
Attorney Consumer Assistance Program
ACAP Hotline 866-352-0707

Enclosures

cc: Mr. John Casaburro



Pursuant to Rule 3-7.1(f), Rules of Discipline, you must execute the appropriate disclosure paragraph below and return the form to this office by **June 26, 2019**. The rule provides that the nature of the charges be stated in the notice to your firm; however, we suggest that you attach a copy of the complaint.

CERTIFICATE OF DISCLOSURE

I HEREBY CERTIFY that on this _____ day of _____, 201____, a true copy of the foregoing disclosure was furnished to _____, a member of my present law firm of _____, and, if different, to _____, a member of the law firm of _____, with which I was associated at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2019-30,882 (7A).

Frank Alexander Ford Jr.

CERTIFICATE OF DISCLOSURE (Corporate/Government Employment)

I HEREBY CERTIFY that on this _____ day of _____, 201____, a true copy of the foregoing disclosure was furnished to _____, my supervisor at _____ (name of agency), with which I was associated at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2019-30,882 (7A).

Frank Alexander Ford Jr.

CERTIFICATE OF NON-LAW FIRM AFFILIATION (Sole Practitioner)

I HEREBY CERTIFY to The Florida Bar on this _____ day of _____, 201____, that I am not presently affiliated with a law firm and was not affiliated with a law firm at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2019-30,882 (7A).

Frank Alexander Ford Jr.

NOTICE OF GRIEVANCE PROCEDURES

1. The enclosed letter is an official inquiry by bar counsel. Your response is required under Rule 4-8.4(g) of the Rules Regulating The Florida Bar. Rule 4-8.4(g)(1) and (2) require that a lawyer submit a written response within 15 days to an initial inquiry and within 10 days to any follow-up inquiry made by bar counsel, the grievance committee or the board of governors during the course of an investigation of the lawyer's conduct. If you do not respond, the matter will be forwarded to the grievance committee for disposition in accordance with Rule 3-7.3. Failure to respond may also be a matter of contempt and processed in accordance with Rule 3-7.11(f).
2. Many inquiries considered first by staff counsel are not forwarded to a grievance committee, as they do not involve violations of the Rules of Professional Conduct justifying disciplinary action.
3. Pursuant to Rule 3-7.1, any reports, correspondence, papers, recordings and/or transcripts of hearings submitted by you in this matter shall become accessible to the public upon dismissal or a decision by the grievance committee. Please advise Bar Counsel if you believe any material provided to The Florida Bar is confidential under applicable law and identify the basis of your claim that the material is confidential. Please note that The Florida Bar is required to acknowledge the status of proceedings during the pendency of an investigation, if a specific inquiry is made and the matter is deemed to be in the public domain.
4. The grievance committee is the Bar's "grand jury." Proceedings before the grievance committee are non-adversarial in nature. The grievance committee's function and procedures are set forth in Rule 3-7.4.
5. If the grievance committee finds probable cause, formal adversarial proceedings before the Supreme Court of Florida will be initiated pursuant to Rule 3-7.6. A referee will make a recommendation as to guilt and discipline to The Supreme Court of Florida, unless a plea is submitted pursuant to Rule 3-7.9.



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
www.FLORIDABAR.org

June 11, 2019

Mr. John Casaburro
111 Kendra Avenue
Deland, FL 32724

Re: Frank Alexander Ford Jr.; The Florida Bar File No. 2019-30,882 (7A)

Dear Mr. Casaburro:

Enclosed is a copy of our letter to Mr. Ford which requires a response to your complaint.

Once you receive Mr. Ford's response, you have 10 days to file a rebuttal if you so desire. **If you decide to file a rebuttal, you must send a copy to Mr. Ford.** Rebuttals should not exceed 25 pages and may refer to any additional documents or exhibits that are available on request. Please address any and all correspondence to me. Please note that any correspondence must be sent through the U.S. mail; we cannot accept faxed material.

Please be advised that as an arm of the Supreme Court of Florida, The Florida Bar can investigate allegations of misconduct against attorneys, and where appropriate, request that the attorney be disciplined. The Florida Bar cannot render legal advice nor can The Florida Bar represent individuals or intervene on their behalf in any civil or criminal matter.

Please review the enclosed Notice on mailing instructions for information on submitting your rebuttal.

Sincerely,

Jack Franklin Wise, III, Bar Counsel
Attorney Consumer Assistance Program
ACAP Hotline 866-352-0707

Enclosures

cc: Mr. Frank Alexander Ford Jr.

IMPORTANT NOTICE FOR COMPLAINANTS AND RESPONDENT-ATTORNEYS

MAILING INSTRUCTIONS

Materials Received That Do Not Comply With These Instructions May Be Returned Or Not Otherwise Incorporated Into The File

The Florida Bar converts its disciplinary files to electronic media. All submissions are scanned into an electronic record and hard copies are discarded. To help ensure the timely processing of inquiries/complaints, responses and rebuttals, please review the following instructions prior to providing your submission.

1. Please limit your submission to **no more than 25 pages including exhibits**. If you have additional documents or material available, please make reference to those documents and/or materials in your written submission as available upon request. Should The Florida Bar need to obtain copies of any such documents and/or materials, a subsequent request will be sent to you.
2. **Please do not bind, staple, tab or index your documents. You may underline but do not highlight documents under any circumstances. Please do not submit materials in color.** When documents are scanned in our disciplinary files, highlighting and color will obscure the underlying text.
3. **Please do not attach media such as audio tapes, thumb/flash drives, CDs, or photographs.** We cannot process any media which cannot be scanned into the electronic record.
4. **Please do not submit your original documents.** All documents will be discarded after scanning and we will not be able to return any originals submitted to our office. The only original documents that should be provided to our office are the inquiry/complaint form, response and certificate of disclosure.
5. **Whether you are a complainant or a respondent-attorney, please do not submit confidential or privileged information.** Documents submitted to our office become public record. (Respondent-attorneys may wish to consult Rule 4-1.6 (e) of the Rules Regulating The Florida Bar.) Confidential/privileged information should be redacted. Such information includes, but is not limited to, bank account numbers, social security numbers, credit card account numbers, medical records, dependency matters, termination of parental rights, guardian ad litem records, child abuse records, adoption records, documents containing names of minor children, original birth and death certificates, biometric data such as fingerprints, Baker Act records, grand jury records, and juvenile delinquency records. If information of this nature is important to your submission, please describe the nature of the information and indicate that it is available upon request. Bar counsel will contact you to make appropriate arrangements for the protection of any such information (to the extent permitted by law) as part of the investigation of the complaint.
6. **Please provide your submission only one time. Do not submit duplicates via email, facsimile transmission or by any other means. Do not include these instructions. Respondent-attorneys do not need to include a copy of the complaint.**

Please be aware that materials received that do not meet these instructions may be returned or not otherwise incorporated into the file. Thank you for your consideration in this respect.

The Florida Bar
Inquiry/Complaint Form

RECEIVED

JUN 06 2019

PART ONE (See Page 1, PART ONE – Complainant Information.): THE FLORIDA BAR - ACAP
TALLAHASSEE, FLORIDA

Your Name: John Casaburro

Organization: N/A

Address: 111 Kendra ave.

City, State, Zip Code: DeLand, FL. 32724

Phone: 386-215-7327

Email: N/A I am Disabled, cannot use a computer. usmail only

ACAP Reference No.: _____

Does this complaint pertain to a matter currently in litigation? Yes No IF F.E.C. COMPLAINT
For Fee's is considered that.

PART TWO (See Page 1, PART TWO – Attorney Information.):

Attorney's Name: F. A. (Alex) Ford, Jr. Florida Bar No. 0381845

Address: 145 E. Rich ave.

City, State, Zip Code: DeLand, FL. 32724

Telephone: 386-734-3451

PART THREE (See Page 1, PART THREE – Facts/Allegations.): The specific thing or things I am complaining about are: (attach additional sheet).

PART FOUR (See Page 1, PART FOUR – Witnesses.): The witnesses in support of my allegations are: (attach additional sheet).

PART FIVE (See Page 1, PART FIVE – Signature.): Under penalties of perjury, I declare that the foregoing facts are true, correct and complete.

John Casaburro
Print Name

John Casaburro
Signature

June 4, 2019
Date



Mr John E Casaburro
111 Kendra Ave
Deland, FL 32724



TO: A.C.A.P.

June 4, 2019

FL. Bar, 651 E. Jefferson St.

Tallahassee, FL. 32399

386-215-7327 Ph.

NARRATIVE

complainant had been in litigation with Attorney F.A. (Alex) Ford, Jr. with his client Ben F. Johnson case no. 2019-10091 CIDL CIR. CT. Volusia, I am Pro-se. On 4-3-2019 Ford sent complainant a letter informing me that \$7,105 Legal Fee request will follow with a motion to court (Attachment #1). I forwarded a copy of letter to my advising Attorney George Trovato for his advice. Given my circumstances of living on \$1,500 per month pension and with a disability and medical bills, I should dismiss his client Johnson and proceed against the other defendants in a very contentious case.

Mr. Ford made a Lawyer to Lawyer Gentleman's agreement that 1- As a matter of a ^{Law} voluntary dismissal by me would ensure no further actions by Ford. 2- Ford assured Mr. Trovato that no further claims would be made, including the F.E.C. (Judgements would be worthless given my circumstances).

Also- On 4-3-19 The F.E.C. noticed me that

my complaint against Ford's client Johnson was legally insufficient (Att. 2) and that the combined case # 19-119 + 1905 would automatically dismiss itself after 14 days since I did not ^{Re-}reply. Trova to assured Ford verbally that the F.E.C. complaint by me was done.

On 4-12-19 Mr. Ford's office E-mailed a voluntary dismissal (Att-3) to the court I do not send out E-mails & I rely on others for computer help and did not personally sign the dismissal. Most of my Pleadings are hand written, sent U.S. mail (check Docket).

On 5-23-2019 complainant received notice of Ford's Petition For F.E.C. Legal Fee's for combined cases 19-119 + 19-105. Mr. Ford Lied that Plaintiff dismissed his client voluntarily (as well as breaking his word with Trova) Att-4-a
Att 4-b number 4 of Notice of Additional Facts.

In addition, Mr. Ford added a complaint about my Campaign Flyer being False which now compells me to expose as a defense his client's to Document's of Race related Homicide, Sexual misconduct, F.B.I., Justice dept. Findings etc. Mr. Ford harmed his own client, since I did not bring these items Public
- Pg 2 - or in court action

Prior. I believe the Fore going is gross misconduct, unethical Practice and perhaps even a scheme to defraud the court by Mr. Ford. I think he should be fined and his Law license be revoked for at least 6 months and what ever the Bar deem appropriate.

Thank you in advance for your consideration in this matter.

yours truly, John Casaburro
John Casaburro

Witness - George Trovato, ESO.

386-626-9006 200 E. GRAVES Ave Orange
City FL.

LANDIS GRAHAM FRENCH

F.A. (ALEX) FORD, JR.
BRITTANY G. GLOERSEN
DAVID E. DISNEY
EDWIN CHANNING COOLIDGE, JR.
KATHRINE E. CONROY
BASYLE TCHIVIDJIAN (OF COUNSEL)

ATTORNEYS AT LAW
ESTABLISHED 1902
A PROFESSIONAL ASSOCIATION

145 E. RICH AVENUE, SUITE C
DELAND, FLORIDA 32724

TELEPHONE: (386) 734-3451
FACSIMILE: (386) 736-1359

April 3, 2019

VIA EMAIL AND US MAIL DELIVERY

John E. Casaburro
111 Kendra Ave.,
DeLand, Florida 32724

RE: John E. Casaburro v. Henry Frederick, AKA Headline Surfer (D.B.A.);
and Ben F. Johnson
Case No. 2019-10091-CIDL

Dear Mr. Casaburro:

This letter is written as notice pursuant to Section 57.105, *Florida Statutes*, to demand the Plaintiff withdraw or appropriately correct the *Complaint for Libel, Slander, Defamation and Breach of Contract*. Accordingly, please find enclosed a copy of *Defendant's Motion for Attorney's Fees and Costs Pursuant to Section 57.105, Florida Statutes* (the "Motion"), which may be filed after twenty-one days of this date, if the various issues specifically set forth below are not withdrawn or appropriately corrected.

As set forth in the attached Motion, Plaintiff knew or should have known that, at the time of filing the Complaint, it was not supported by the material facts necessary to establish Plaintiff's claims therein, or those claims would not be supported by the application existing law to the material facts. This is so for reasons including, without limitation: (1) Plaintiff's claims for defamation, slander, and libel are without legal or factual support for reasons including, without limitation, Johnson made none of the statements, Plaintiff has failed to allege the necessary allegations to state a cause of action thereunder, and all of the statements made by Frederick/Headline Surfer were true, protected speech, or both; (2) Plaintiff's claim for breach of contract is without legal and factual support for the same reasons, plus there is no enforceable contract to which Johnson was a party and the supposed contract did not prohibit the actions supposedly taken by any of the defendants; and (3) as otherwise set forth in the Motion.

Therefore, we demand that you withdraw or appropriately correct your Complaint within twenty-one days of this notice.

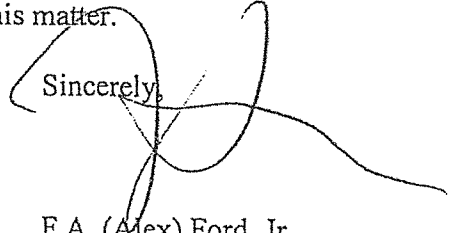
Att- #1

Over a Century of Service
- SINCE 1902 -

April 3, 2019
John E. Casaburro
Page 2

Thank you for your prompt attention to this matter.

Sincerely,



F.A. (Alex) Ford, Jr.

FJR/kec
Enclosure



Att #2
FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539 - EXT-105
www.fec.state.fl.us; fec@myfloridalegal.com

April 3, 2019

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-119; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission has received your complaint alleging violations of Florida's election laws.

Complainant alleged that Respondent filed a campaign treasurers report that was false, incorrect, and misleading.

Complainant's allegation relates to a single expenditure item listed as \$1,000 on July 23, 2018, to "Headline Surfer" for "advertising." Complainant claimed that no ads for Respondent were placed in the online periodical in return for the expenditure, and he alleged that the \$1,000 payment was for reporter/publisher Henry Frederick to write an article containing false statements against Complainant. See FEC 19-105. As such, Complainant argued that Respondent's report was inaccurate when it described the purpose of the expenditure as "advertising."

However, as noted in the Florida Elections Commission's review of case FEC 19-105, Complainant provided no evidence to support his allegation that Respondent paid Mr. Frederick to make the statements in his news article. Furthermore, in the current complaint, Complainant did not provide any personal information or information other than hearsay to support his assertion that Respondent did not pay for and receive advertising.

Respondent denied the allegations of the complaint and included a weblink to the *Headline Surfer* website showing that a video advertisement in support of Respondent was inserted under the headline for an article posted on August 27, 2018. The video ends with a disclaimer noting it is a political advertisement paid for by Respondent.

A review of the *Headline Surfer* website also indicated that the most recently posted rates for advertising on the website for county candidates was \$1,000. The website also has a politics section in which Mr. Frederick routinely makes his opinions on candidates known, including endorsements.

Filing # 87931945 E-Filed 04/12/2019 04:56:56 PM

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA

JOHN CASABURRO,
Plaintiff,

vs

HENRY FREDERICK,
ETC., ET AL,
Defendant(s).

Case No: 2019 11091 CIDL

Division: 01

Judge: Randell H. Rowe III

NOTICE OF VOLUNTARY DISMISSAL

COMES NOW Plaintiff, JOHN CASABURRO, hereby files this Notice of Voluntary Dismissal of his Complaint in the above-styled case as to Ben F. Johnson only.

Att#3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via E-Portal to Frank Alex Ford, Jr., Esquire at aford@landispa.com and US mailed to Henry Frederick at 500 W Airport Blvd Apt 1307 Sanford, FL 32773 on April 12, 2019.

/s/John Casaburro
JOHN CASABURRO
111 Kendra Avenue
Deland, FL 32724
386-215-7327

Based upon the foregoing, it appears that the complaint is not based upon personal information or information other than hearsay. However, Respondent has provided evidence supporting his position that the \$1,000 expenditure was for advertising, as reported by Respondent in his campaign treasurers report.

For these reasons, I find the complaint to be Legally Insufficient.

~~If you have additional information to correct the stated ground(s) of insufficiency, please submit it within 14 days of the date of this letter. If we do not receive additional information that corrects the stated grounds of insufficiency, this case will be closed. For your convenience, enclosed is a form for your use in submitting additional information. If you submit an additional statement containing facts, you must sign the statement and have your signature notarized. In addition, any additional facts you submit to the Commission must be based on either personal information or information other than hearsay.~~

Until this case is closed, section 106.25(7), Florida Statutes, provides that the Respondent may not disclose this letter, the complaint, or any document related to this case, unless he or she waives confidentiality in writing. To waive confidentiality, the Respondent must mail or fax a written waiver of confidentiality to Donna Ann Malphurs at the address or fax number listed above.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,



Tim Vaccaro
Executive Director

TV/med

Enclosure: Additional Information Form

cc: F. A. "Alex" Ford Jr., Attorney for Respondent w/out Enclosure

EXT:
105



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com

May 23, 2019

CERTIFIED MAIL # 92148969009997901628061920

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-119; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission received a "Petition for Attorney's Fees and Costs" in this case. Pursuant to Rule 2B-1.0045, Florida Administrative Code, a copy of the Petition is enclosed for your review.

At its next regularly scheduled meeting, **currently set for August 13-14, 2019, in Tallahassee, Florida**, the Commission will review the Petition and determine whether it states "a prima facie case for costs and attorney's fees." A notice of hearing will be provided at the appropriate time.

If you have any questions concerning the Petition, please contact the Florida Elections Commission at fec@myfloridalegal.com.

Sincerely,

Donna Ann Malphurs

Agency Clerk

/dam

Enclosure: Petition for Attorney's Fees and Costs
cc: F.A. "Alex" Ford, Jr., Attorney for Respondent

4. a

L to C w pct for fees

FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

Case No.: **FEC 19-105**

ATT No. 4-b

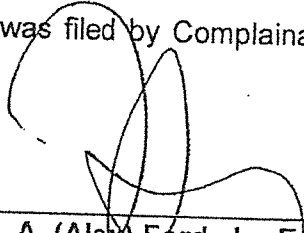
BEN F. JOHNSON,

Respondent.

NOTICE OF ADDITIONAL FACTS

1. In the complaint herein ("Complaint"), Complainant referred to the civil litigation matter he filed ("Circuit Court Case"). The Complaint was based on the Circuit Court Case and the complaint in that case was attached as an exhibit to the Complaint, herein.
2. The purpose of this filing is to put the Commission on notice that in the Circuit Court Case, Respondent, Johnson, served Complainant with a notice of intent to file a motion under Section 57.105, Fla. Stat. ("Statute") and, in response, Complainant voluntarily dismissed the Circuit Court Case within the twenty-one (21) day period as provided for under the Statute.
3. A copy of the Section 57.105 notice, as well as the accompanying motion which was served along with it, is attached hereto. As provided for in the statute, because the Circuit Court Case was voluntarily dismissed within the 21-day period, it was not filed in the Circuit Court Case.
- ✓ 4. The notice of voluntary dismissal was filed by Complainant in the Circuit Court Case, and a copy is attached.

Dated this 13th day of May, 2019.



F. A. (Alex) Ford, Jr., Esquire
Florida Bar No. 0381845
Landis Graham French, P.A.
Post Office Box 48
DeLand, FL 32721-0048
Tel: (386) 734-3451
Fax: (386) 736-1350
primary email: aford@landispa.com
secondary email: dharney@landispa.com
Attorney for Respondent, BEN F. JOHNSON

LANDIS GRAHAM FRENCH

F.A. (ALEX) FORD, JR.
BRITTANY G. GLOERSEN
DAVID E. DISNEY
EDWIN CHANNING COOLIDGE, JR.
KATHRINE E. CONROY
BASYLE TCHIVIDJIAN (OF COUNSEL)

ATTORNEYS AT LAW
ESTABLISHED 1902
A PROFESSIONAL ASSOCIATION

145 E. RICH AVENUE, SUITE C
DELAND, FLORIDA 32724
TELEPHONE: (386) 734-3451
FACSIMILE: (386) 736-1359

June 24, 2019

The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300

Re: Complaint by John Casaburro against Frank Alexander Ford Jr.
The Florida Bar File No. 2019-30,882 (7A)

As required by Rule 4-8.4(g), Rules of Professional Conduct of the Rules Regulating The Florida Bar, please accept this response to the above-referenced complaint. A complete copy of this response, including the documents submitted herewith, has been mailed to the Complainant. Also, enclosed is my completed Certificate of Disclosure form.

As background, the Complainant brought a Circuit Court action (*Casaburro v. Frederick, etc.*, Case No.: 2019-10091-CIDL, in Circuit Court of the Seventh Judicial Circuit) and a Florida Elections Commission complaint against my client, Ben F. Johnson. The Complainant was not originally represented by counsel in any of these matters. The F.E.C. case was bifurcated, and so will be referred to as the F.E.C. cases (plural). Mr. Johnson is the former Sheriff of Volusia County and currently serves on the Volusia County Council as the "at large" representative. The Complainant was a write-in candidate for County Council and lost to Mr. Johnson.

The Complainant's Bar Complaint is false in a number of respects including, but not limited to the following:

1. There was no "lawyer to lawyer gentlemen's agreement" with Mr. Trovato, as falsely stated by the Complainant. After I served his client with a Section 57.105 motion, the Complainant apparently consulted with Mr. Trovato. Mr. Trovato then reached out to me and inquired whether Mr. Johnson would pursue attorneys' fees if the Complainant voluntarily dismissed the Circuit Court case. I advised Mr. Trovato I would get back with him after discussing the matter with Mr. Johnson. After discussing the matter with Mr. Johnson, I transmitted an email to Mr. Trovato, a copy of which is enclosed. The email is very specific that Mr. Johnson would not pursue attorneys' fees against the Complainant in the Circuit Court action.

2. I did not give any sort of assurance to Mr. Trovato that "no further claims would be made, including [in regard to] the F.E.C." Nor did Mr. Trovato assure me the F.E.C. Complaint

Over a Century of Service
- SINCE 1902 -



“was done.” At the time of our discussion the F.E.C. cases were, to my knowledge, still in a confidential status. Therefore, I intentionally did not mention them by name to Mr. Trovato. However, I did tell Mr. Trovato there were other pending matters and advised that he should discuss them with the Complainant if he wanted to resolve all outstanding matters. To the best of my recollection no other communications took place between me and Mr. Trovato regarding this issue before the Notice of Voluntary Dismissal was filed on behalf of the Complainant. After the Notice of Voluntary Dismissal was filed and after I filed the motions for attorneys’ fees in the F.E.C. cases, Mr. Trovato told me he and the Complainant had discussed the F.E.C. complaints. The Complainant had (incorrectly) told him the F.E.C. cases were no longer active. Unfortunately, Mr. Trovato apparently took the Complainant at his word and did not advise me of their discussion about the F.E.C. cases until after I had filed the motions for attorneys’ fees in the F.E.C. cases.

3. The April 3, 2019, F.E.C. finding was issued in F.E.C. Case No.: 19-119. It was not on both Case Nos.: 19-105 and 19-119, as falsely stated by the Complainant. See initial letter of dismissal in F.E.C. Case No.: 19-119, provided in its entirety. (Complainant only provided a partial copy). As noted below, Case 19-119 was still in active status at all pertinent times.

4. Perhaps, if the Complainant had given his attorney accurate information, the attorney would have called me to seek a global resolution. In fact, that would have been the likely outcome of such a call, in my opinion. But, Mr. Trovato and I never had that conversation. The Complainant never offered to withdraw the F.E.C. cases, through Mr. Trovato or otherwise, and the cases continued to be pending until the F.E.C. took its final actions in the respective cases. Final action in both cases occurred shortly after the Circuit Court case was voluntarily dismissed. One of the cases was closed because the Complainant failed to submit additional information; a fact unknown to us until we received the dismissal. (See F.E.C. letter dated April 30, 2019). The other case was closed after the Complainant had submitted additional information to amend his F.E.C. Complaint and his complaint was still deemed insufficient. (See F.E.C. letter dated April 15, 2019). See F.E.C. initial letters of dismissal and final determinations, on Case nos. 19-105 and 19-119, which are all enclosed.

5. My office did not “email a voluntary dismissal to the court” as falsely stated by the Complainant. Nor did I lie when I represented to the F.E.C. that he voluntarily dismissed his case. As shown by the Notice of Service of Court Documents and Notice of Voluntary Dismissal, copies of which are enclosed, the Notice of Voluntary Dismissal was filed by Mr. Trovato on behalf of the Complainant, and not by my office. Further, please note the Complainant acknowledged Mr. Trovato is his “advising attorney.” Mr. Trovato has also now appeared on behalf of the Complainant in the Circuit Court action. See enclosed Notice of Appearance.

6. The Complainant’s gratuitous statements impugning my client’s character are also false, besides having nothing to do with this matter. Since they have nothing to do with this matter, they will not be addressed further in this letter.

The Florida Bar
June 24, 2019
Page 3

In summary, I acknowledged Mr. Johnson would not seek 57,105 fees in the Circuit Court action (if the case was voluntarily dismissed within the twenty-one (21) day period provided in that statute), I did not agree with Mr. Trovato to forego attorneys' fees in the F.E.C. cases, or to settle anything else with Mr. Trovato. Nor did I improperly file a notice of voluntary dismissal under the pretense of it being filed on behalf of the Complainant, or otherwise defraud the court.

If you need any further documentation, please let me know and I will be happy to provide copies in my possession upon your request.

Sincerely,

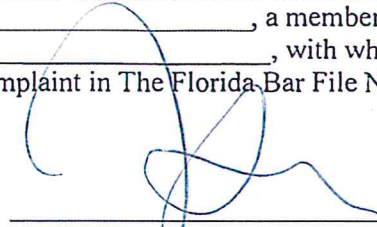
F.A. (Alex) Ford, Jr.

FJR/dh
enclosures
c: Complainant (with enclosures)

Pursuant to Rule 3-7.1(f), Rules of Discipline, you must execute the appropriate disclosure paragraph below and return the form to this office by **June 26, 2019**. The rule provides that the nature of the charges be stated in the notice to your firm; however, we suggest that you attach a copy of the complaint.

CERTIFICATE OF DISCLOSURE

I HEREBY CERTIFY that on this _____ day of _____, 201____, a true copy of the foregoing disclosure was furnished to Brittany Gloersen, a member of my present law firm of Landis Graham French, P.A., and, if different, to N/A, a member of the law firm of N/A, with which I was associated at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2019-30,882 (7A).



Frank Alexander Ford Jr.

CERTIFICATE OF DISCLOSURE
(Corporate/Government Employment)

I HEREBY CERTIFY that on this _____ day of _____, 201____, a true copy of the foregoing disclosure was furnished to _____, my supervisor at _____ (name of agency), with which I was associated at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2019-30,882 (7A).

Frank Alexander Ford Jr.

CERTIFICATE OF NON-LAW FIRM AFFILIATION
(Sole Practitioner)

I HEREBY CERTIFY to The Florida Bar on this _____ day of _____, 201____, that I am not presently affiliated with a law firm and was not affiliated with a law firm at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2019-30,882 (7A).

Frank Alexander Ford Jr.

Diane Harney

From: Alex Ford
Sent: Wednesday, June 19, 2019 1:57 PM
To: Diane Harney
Subject: FW: Casaburro v. Johnson (circuit court case)

Follow Up Flag: Follow up
Flag Status: Flagged

This is the email referred ton in paragraph 1 of the bar response.

From: Alex Ford
Sent: Thursday, April 11, 2019 3:48 PM
To: Principle Legal Offices, P.A. <principlelegal@yahoo.com>
Cc: Diane Harney <dharney@landispa.com>
Subject: Casaburro v. Johnson (circuit court case)

George,

Good speaking with you.

After our call I spoke with Ben and explained this situation to him, i.e. - we have no taxable costs and our only basis for claiming fees is under 57.105. That statute clearly allows your client to dismiss the case and avoid imposition of fees. Long story short, he agrees you are entitled to dismiss this case within the 21 days and, if you do, we can't pursue fees/costs.

In light of our conversation I am ceasing all further efforts on this case for the present time. However, if it runs past the 21 days and the case is not dismissed, my instructions are to aggressively proceed to defend the case, including filing and pursuit of the sanctions motion.

Thanks,

F. A. (Alex) Ford, Jr.
Landis Graham French, P.A.
145 E. Rich Avenue, Suite C
DeLand, FL 32724
(386) 734 3451



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com

April 3, 2019

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-119; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission has received your complaint alleging violations of Florida's election laws.

Complainant alleged that Respondent filed a campaign treasurers report that was false, incorrect, and misleading.

Complainant's allegation relates to a single expenditure item listed as \$1,000 on July 23, 2018, to "Headline Surfer" for "advertising." Complainant claimed that no ads for Respondent were placed in the online periodical in return for the expenditure, and he alleged that the \$1,000 payment was for reporter/publisher Henry Frederick to write an article containing false statements against Complainant. *See* FEC 19-105. As such, Complainant argued that Respondent's report was inaccurate when it described the purpose of the expenditure as "advertising."

However, as noted in the Florida Elections Commission's review of case FEC 19-105, Complainant provided no evidence to support his allegation that Respondent paid Mr. Frederick to make the statements in his news article. Furthermore, in the current complaint, Complainant did not provide any personal information or information other than hearsay to support his assertion that Respondent did not pay for and receive advertising.

Respondent denied the allegations of the complaint and included a weblink to the *Headline Surfer* website showing that a video advertisement in support of Respondent was inserted under the headline for an article posted on August 27, 2018. The video ends with a disclaimer noting it is a political advertisement paid for by Respondent.

A review of the *Headline Surfer* website also indicated that the most recently posted rates for advertising on the website for county candidates was \$1,000. The website also has a politics section in which Mr. Frederick routinely makes his opinions on candidates known, including endorsements.

Based upon the foregoing, it appears that the complaint is not based upon personal information or information other than hearsay. However, Respondent has provided evidence supporting his position that the \$1,000 expenditure was for advertising, as reported by Respondent in his campaign treasurers report.

For these reasons, I find the complaint to be Legally Insufficient.

If you have additional information to correct the stated ground(s) of insufficiency, please submit it within 14 days of the date of this letter. If we do not receive additional information that corrects the stated grounds of insufficiency, this case will be closed. For your convenience, enclosed is a form for your use in submitting additional information. If you submit an additional statement containing facts, you must sign the statement and have your signature notarized. In addition, any additional facts you submit to the Commission must be based on either personal information or information other than hearsay.

Until this case is closed, section 106.25(7), Florida Statutes, provides that the Respondent may not disclose this letter, the complaint, or any document related to this case, unless he or she waives confidentiality in writing. To waive confidentiality, the Respondent must mail or fax a written waiver of confidentiality to Donna Ann Malphurs at the address or fax number listed above.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,



Tim Vaccaro
Executive Director

TV/med

Enclosure: Additional Information Form

cc: F. A. "Alex" Ford Jr., Attorney for Respondent w/out Enclosure



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street,
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
(850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com

April 30, 2019

F.A. "Alex" Ford, Jr.
Attorney for Ben F. Johnson
145 East Rich Avenue, Suite C
DeLand, FL 32724

RE: Case No.: FEC 19-119; Respondent: Ben F. Johnson

Dear Mr. Ford:

On April 3, 2019, the Florida Elections Commission notified John Casaburro that the complaint he filed on February 19, 2019 was legally insufficient. Since the Commission did not receive any additional information that corrected the stated grounds of insufficiency, this case is closed.

Please let me know if you have any questions.

Sincerely,
Tim Vaccaro
Executive Director
Florida Elections Commission

TV/med



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com

April 15, 2019

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-105; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission has received your amended complaint, including any additional information you provided, alleging violations of Florida's election laws. I have reviewed your amended complaint and still find it to be legally insufficient.

Complainant's initial complaint alleged that Respondent made false, malicious statements against Complainant. Section 104.271(2), F.S., prohibits a candidate from making or causing to be made any statement about an opposing candidate which is false. Such statements must be made with actual malice.

Complainant originally alleged that Respondent hired Henry Frederick, an internet reporter/publisher, to make false statements against Complainant during the campaign for the Volusia County Council At Large seat. Complainant pointed to an expenditure item on one of Respondent's campaign treasurer's reports disclosing a \$1,000 expenditure to "Headline Surfer" for "Advertising" on July 23, 2018. Complainant claimed no advertising was provided. Rather, Complainant alleged the article at issue was written by Mr. Frederick on a news website called *Headline Surfer* in which false statements were made against Complainant.

However, Complainant provided no evidence to support his allegation that Respondent paid Mr. Frederick to make the statements in his news article, and the Florida Elections Commission determined that the complaint was legally insufficient.

In his amended complaint, Complainant focused much of his narrative on describing his attempt to have Mr. Frederick's pleadings struck in the ongoing civil action for defamation and slander relative to the same article at issue in this complaint. The related documents provided by Complainant fail to include any evidence supporting Complainant's allegations regarding Respondent.

Complainant also referred to an ad showing no date, presumably referring to an attachment to his amended complaint showing an undated email titled "Ben Johnson Digital ads." It

John Casaburro
April 12, 2019
Page 2
FEC 19-105

appears Complainant provided the email in an attempt to show that no ads were printed in exchange for Respondent's reported payment of \$1,000 to *Headline Surfer* for advertising. However, as noted in the review of FEC 19-119, Respondent provided a weblink to the *Headline Surfer* website showing that a video advertisement in support of Respondent was inserted under the headline for an article posted on August 27, 2018. The video ends with a disclaimer noting it is a political advertisement paid for by Respondent. In his Motion to Dismiss Amended Complaint, Respondent provided the same link.

In his amended complaint narrative, Complainant asserted that Mr. Frederick has a reputation for slander and "trashing people" with malice for money and provided names of local candidates who were "witness to his offers." However, that allegation appears to be directed toward Mr. Frederick and is not based upon personal information or information other than hearsay.

Complainant also alleges that Respondent "co-authored" the article at issue. His basis for this allegation appears to be that in his answers to interrogatories in the civil action, Respondent acknowledged that he provided Mr. Frederick with certain records and documents pertaining to Complainant. However, providing records to a journalist is not the same as co-authoring an article written by that journalist, especially when Respondent was interviewed and quoted by Mr. Frederick for the article, which was about a campaign involving both Complainant and Respondent.

In his Motion to Dismiss, Respondent argued that Complainant failed to allege he had personal knowledge or information other than hearsay that Respondent hired *Headline Surfer* to make false statements against him.

Based upon the foregoing, Complainant has not provided evidence based on personal information or information other than hearsay that Respondent wrote the article or paid Mr. Frederick to write the article.

This case is now closed. If you have any questions, please contact us at fec@myfloridalegal.com.

Sincerely,



Tim Vaccaro
Executive Director

TV/dm

cc: F.A. "Alex" Ford, Jr., Attorney for Respondent



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street

Collins Building, Suite 224

Tallahassee, Florida 32399-1050

Telephone: (850) 922-4539

www.fec.state.fl.us; fec@myfloridalegal.com

March 14, 2019

CERTIFIED MAIL 9214 8969 0099 9790 1626 6416 67

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-105; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission has received your complaint alleging violations of Florida's election laws.

Complainant essentially alleged that Respondent made false, malicious statements against Complainant. Section 104.271(2), F.S., prohibits a candidate from making or causing to be made any statement about an opposing candidate which is false. Such statements must be made with actual malice.

Complainant alleged that Respondent hired Henry Frederick, an internet reporter/publisher, to make false statements against Complainant during the campaign for the Volusia County Council At Large seat. Complainant pointed to an expenditure item on one of Respondent's campaign treasurer's report disclosing a \$1,000 expenditure to "Headline Surfer" for "Advertising" on July 23, 2018. Complainant claimed no advertising was provided. Rather, the article at issue was written by Mr. Frederick on a news website called *Headline Surfer* in which false statements were made against Complainant.

However, Complainant provided no evidence to support his allegation that Respondent paid Mr. Frederick to make the statements in his news article. Complainant claimed that someone telephoned Mr. Frederick, who allegedly admitted that no ads were posted for Respondent, and Complainant claimed that an individual named Robert Moni searched the internet and was not able to find such ads.

Complainant provided a copy of his civil complaint for slander and defamation filed against Henry Frederick and Respondent in the 7th Judicial Circuit Court in and for Volusia County. The complaint referenced the article at issue. In response to the complaint, Respondent's attorney provided copies of answers filed by Respondent and Mr. Frederick to Complainant's civil complaint. A review of the answers reveals that neither party admitted that Respondent paid Mr. Frederick to write the article at issue or was somehow responsible for authoring its

content. Respondent denied such allegations, and both Respondent and Mr. Frederick asserted that the \$1,000 paid to Mr. Frederick by Respondent was for advertising.

Section 106.25(2), Florida Statutes, provides that sworn complaints filed with the Florida Elections Commission must be based upon personal information or information other than hearsay. It appears the complaint is not based upon personal information or information other than hearsay.

Further, Section 104.271(2), Florida Statutes, prohibits a candidate from making or causing to be made with actual malice any statement about an opposing candidate which is false. Complainant has provided no information, other than speculation, to indicate that the Respondent was responsible for authoring the content of Mr. Frederick's article.

For these reasons, I find the complaint to be Legally Insufficient.

If you have additional information to correct the stated ground(s) of insufficiency, please submit it within 14 days of the date of this letter. If we do not receive additional information that corrects the stated grounds of insufficiency, this case will be closed. For your convenience, enclosed is a form for your use in submitting additional information. If you submit an additional statement containing facts, you must sign the statement and have your signature notarized. In addition, any additional facts you submit to the Commission must be based on either personal information or information other than hearsay.

Until this case is closed, section 106.25(7), Florida Statutes, provides that the Respondent may not disclose this letter, the complaint, or any document related to this case, unless he or she waives confidentiality in writing. To waive confidentiality, the Respondent must mail or fax a written waiver of confidentiality to Donna Ann Malphurs at the address or fax number listed above.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,

Tim Vaccaro
Executive Director

TV/enr

Enclosure: Additional Information Form

cc: F.A. "Alex" Ford, Jr., Attorney for Respondent w/out Enclosure

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA

Case No.: 2019-10091-Cld
Division: 01
Judge: Randell H. Rowe III

JOHN E. CASABURRO,
Plaintiff,

and

HENRY FREDERICK, A.K.A.,
Head Line Surfer, et,al
Defendant.

FILED
MAY -7 2019
CLERK OF THE CIRCUIT
& COUNTY OF VOLUSIA
FL

NOTICE OF APPEARANCE

Petitioner, JOHN E. CASABURRO, hereby gives notice of the appearance of George Trovato, of the law office of Principle Legal Offices, P.A. as its counsel herein, and all pleadings should be directed thereto.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing was sent by mail to Henry Frederick 500 Airport Blvd. West #1307, Sanford, FL 32773, on this 7th day of May, 2019.

GEORGE TROVATO, ESQ.
Principle Legal Offices, P.A.
Attorney for Defendant
Florida Bar No. 0786241
200 E. Graves Ave.
Orange City, FL 32763
(386) 626-9006
Fax: (866) 399-3281

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA

JOHN CASABURRO,
Plaintiff,

vs

HENRY FREDERICK,
ETC., ET AL,
Defendant(s).

Case No: 2019 11091 CIDL

Division: 01

Judge: Randell H. Rowe III

NOTICE OF VOLUNTARY DISMISSAL

COMES NOW Plaintiff, JOHN CASABURRO, hereby files this Notice of Voluntary Dismissal of his Complaint in the above-styled case as to Ben F. Johnson only.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via E-Portal to Frank Alex Ford, Jr., Esquire at aford@landispa.com and US mailed to Henry Frederick at 500 W Airport Blvd Apt 1307 Sanford, FL 32773 on April 12, 2019.

/s/John Casaburro
JOHN CASABURRO
111 Kendra Avenue
Deland, FL 32724
386-215-7327

Diane Harney

From: eservice@myflcourtaccess.com
Sent: Friday, April 12, 2019 4:57 PM
Subject: SERVICE OF COURT DOCUMENT CASE NUMBER 642019CA010091XXXXDL
CASABURRO, JOHN E VS FREDERICK, HENRY
Attachments: Voluntary Dismissal.pdf

Notice of Service of Court Documents

Filing Information

Filing #: 87931945
Filing Time: 04/12/2019 04:56:56 PM ET
Filer: George Trovato 386-626-9006
Court: Seventh Judicial Circuit in and for Volusia County, Florida
Case #: 642019CA010091XXXXDL
Court Case #: 2019 10091 CIDL
Case Style: CASABURRO, JOHN E VS FREDERICK, HENRY

Documents

Title	File
Voluntary Dismissal	Notice of Voluntary Dismissal.pdf

E-service recipients selected for service:

Name	Email Address
Frank A. Ford Jr.	aford@landispa.com
	dharney@landispa.com
George Trovato	principlelegal@yahoo.com

E-service recipients not selected for service:

Name	Email Address
Kathrine Conroy	kconroy@landispa.com
	dharney@landispa.com

This is an automatic email message generated by the Florida Courts E-Filing Portal. This email address does not receive email.

Thank you,
The Florida Courts E-Filing Portal

request_id#:87931945;Audit#:296446065;UCN#:642019CA010091XXXXDL;



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
www.FLORIDABAR.org

July 1, 2019

Mr. John Casaburro
111 Kendra Avenue
Deland, FL 32724

Re: Complaint by John Casaburro against Frank Alexander Ford Jr.
The Florida Bar File No. 2019-30,882 (7A)

Dear Mr. Casaburro:

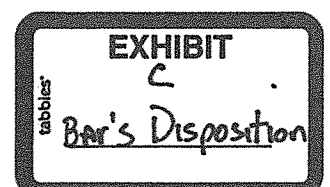
I have received and reviewed your letter withdrawing the complaint against the above-referenced attorney.

In light of the information contained in your letter, our file on this matter has been closed effective June 28, 2019. Pursuant to the Bar's records retention schedule, the computer record and file will be disposed of one year from the date of closing.

Sincerely,

Jack Franklin Wise, III, Bar Counsel
Attorney Consumer Assistance Program
ACAP Hotline 866-352-0707

cc: Mr. Frank Alexander Ford Jr. ✓



IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA

JOHN CASABURRO,
Plaintiff,

vs

HENRY FREDERICK,
ETC., ET AL,
Defendant(s).

Case No: 2019 11091 CIDL

Division: 01

Judge: Randell H. Rowe III

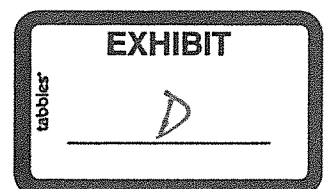
NOTICE OF VOLUNTARY DISMISSAL

COMES NOW Plaintiff, JOHN CASABURRO, hereby files this Notice of Voluntary Dismissal of his Complaint in the above-styled case as to Ben F. Johnson only.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via E-Portal to Frank Alex Ford, Jr., Esquire at aford@landispa.com and US mailed to Henry Frederick at 500 W Airport Blvd Apt 1307 Sanford, FL 32773 on April 12, 2019.

/s/John Casaburro
JOHN CASABURRO
111 Kendra Avenue
Deland, FL 32724
386-215-7327



Diane Harney

From: eservice@myflcourtaccess.com
Sent: Friday, April 12, 2019 4:57 PM
Subject: SERVICE OF COURT DOCUMENT CASE NUMBER 642019CA010091XXXXDL
CASABURRO, JOHN E VS FREDERICK, HENRY
Attachments: Voluntary Dismissal.pdf

Notice of Service of Court Documents

Filing Information

Filing #: 87931945
Filing Time: 04/12/2019 04:56:56 PM ET
Filer: George Trovato 386-626-9006
Court: Seventh Judicial Circuit in and for Volusia County, Florida
Case #: 642019CA010091XXXXDL
Court Case #: 2019 10091 CIDL
Case Style: CASABURRO, JOHN E VS FREDERICK, HENRY

Documents

Title	File
Voluntary Dismissal	Notice of Voluntary Dismissal.pdf

E-service recipients selected for service:

Name	Email Address
Frank A. Ford Jr.	aford@landispa.com
	dharney@landispa.com
George Trovato	principlelegal@yahoo.com

E-service recipients not selected for service:

Name	Email Address
Kathrine Conroy	kconroy@landispa.com
	dharney@landispa.com

This is an automatic email message generated by the Florida Courts E-Filing Portal. This email address does not receive email.

Thank you,
The Florida Courts E-Filing Portal

request_id#:87931945;Audit#:296446065;UCN#:642019CA010091XXXXDL;

FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224,
Tallahassee, FL 32399-1050

REC'D: ELECTIONS COM
20 JUN 19 10:40

ADDITIONAL COMPLAINT INFORMATION

Case Number: **FEC 19-119** and 119-105

Pursuant to Rule 2B-1.0025, Florida Administrative Code, if you have additional information to correct the ground(s) of legal insufficiency stated in the attached letter, please explain in a concise narrative statement. Attach the statement and any relevant documentation to this form:

STATE OF FLORIDA
COUNTY OF Volusia

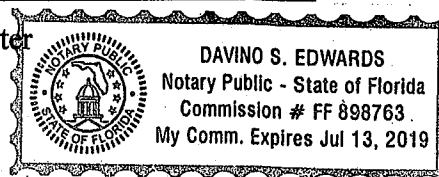
I swear or affirm that the information in the attached statement is true and correct to the best of my knowledge.

John Casaburo
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 17th day of June, 2019.

Signature of Officer Authorized to Administer
Oaths or Notary Public

DAVINO EDWARDS



(Print, Type, or Stamp Commissioned Name of
Notary Public)

Personally Known _____ Or Produced Identification X

Type of Identification Produced Florida Driver License

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.



to: F.F.C.

107 W. Gaines St.

Suite 224, Tallahassee, FL 32399

June 17, 2019

386-215-7327-ph.

Narrative: ADDITIONAL COMPLAINT INFORMATION
Case No. FEC-19-119, 119-105. Ben F. Johnson

Dear Mr. Vaccaro/ Ms. Mulphurs - Re: Respondent made
Petition for Fees/Costs; Claim's Complainant
made false and or malicious statements against
Johnson: Attached is Ben F. Johnson's sworn
statement that he was the third party in
providing documents to F.E.C. witness Henry
Frederick. The documents and Police
Record's provided are listed a-q. (shander ^{FOR}
Article in Question here and civil ct.)

a- Frederick never interviewed complainant
Casaburro for 6 page internet article.

b- ALL of Frederick's reporting was Flawed
(see amended civil complaint in complainant's
response to Petition for Fees)

c- Frederick was neglectful, in doing his proper
research and homework and solely relied on
Johnson's info provided only.

Johnson has violated 109.271 - making False
and malicious statements in claim's to
F.E.C. Henry Frederick and Attorney

Frank A. (Alex) Ford, Jr. Bar# 2019-30,882 (7A)
Violated 104.091 - together they knowingly
aided, abetted, advised, and conspired to charge
and make false statements and claims against
complainant Casaburro.

Johnson, Frederick and Ford also violated
104.091(3) by giving to each other (offenders)
who committed false acts, slander and
vengeance and are trying to escape detection
by fraud. Code calls for punishment
of all 3 offenders.

I hope the commission sees the fraud
and perpetration against complainant, Casaburro
and dismiss their Request for Fees and claim
that I was false and malicious while they
have been acting false & malicious themselves
all along. (in my complaints) & response to my
campaign flyer being false, backed by many documents
& witness to be true and not malicious at the time)
Complainant ^{only} believes Johnson acted in vengeance,
starting when I listed his failures as Sheriff.
Johnson got 66% of vote & had \$200,000 in funds and
still cries foul.

Yours Truly
John Casaburro

Casaburro had 619 votes, as a write-in

ANSWER SHEET

1. No.

2. Objection, overbroad. Plaintiff and Defendant were opposing candidates in a political campaign. Defendant, Frederick is a member of the press, and this article was about the campaign. Thus, the potential issues herein are very limited on a constitutional level. Further, by definition, even absent constitutional limitations, the scope of the request should be limited to false information. Further, the interrogatory requires Defendant to speculate on the intent of a third party in providing documents to Frederick. Notwithstanding these objections, Defendant knows of no false information provided to Frederick and, by information and belief, the following documents and police records were provided to Frederick:

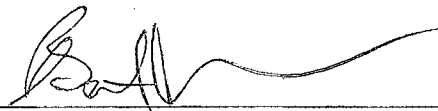
- a. 10-14-94 NY Times Article re Plaintiff's Prostitution Arrest
- b. 9-8-09 incident report - condom on doorstep
- c. 1-12-89 A.P. Story re Plaintiff's Racist Remarks
- d. 4-13-11 Court Filings referred Case No 2010-32956 (REC)
- e. 7-5-18 Emails Complaining about Casaburro Campaign
- f. 7-18-18 West Volusia Beacon re News Article on Candidates
- g. 9-29-97 Court Filings re Casaburro v. Giuliani, (Prostitution Arrest)
- h. 2019 Casaburro as Plaintiff in other Lawsuits
- i. 2000 thru Present - Clerk of Court re Casaburro Summary
- j. 7-10-07 Casaburro v. Volusia County Corporation
- k. 7-29-14 Charging Affidavit - Distributing False Info re Sex Offender
- l. 2000 thru Present - Summary of Volusia County Sheriff's Office Reports
- m. 08-06-09 Incident Report #09-24812
- n. 09-25-09 Incident Report #09-30503 Civil
- o. 4-13-11 Mediated Settlement with Republican Executive Committee
- p. 5-4-05 Incident Report No. 05-15026 Civil Complaint
- q. 7-27-18 Fine Letter from Department of Elections to Casaburro

3. Objection, not reasonably calculated to lead to evidence admissible in the Trial of this cause. In particular, Plaintiff has claimed Defendant breached a contract between Plaintiff and the Republican Executive Committee of Volusia County, and not

the DeLand Republican Club. Notwithstanding that objection; I have not ever been a member to my knowledge.

4. Objection not reasonably calculated to lead to evidence admissible in trial of this cause. Notwithstanding that objection, not to my present recollection.

VERIFICATION



Signature of Respondent

Printed Name: Ben F. Johnson

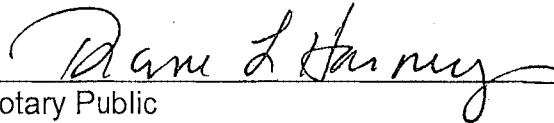
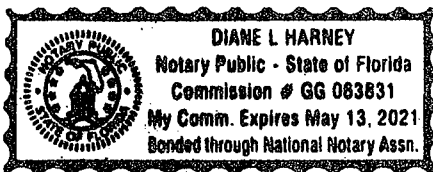
Address: P.O. Box 220169

City, State, Zip Glenwood, Fla. 32722

Telephone Number: 386-527-0901

STATE OF FLORIDA
COUNTY OF VOLUSIA

Sworn to or affirmed and signed before me on March 20, 2019 by BEN F. JOHNSON.



Notary Public

DIANE L. HARNEY

Print, type, or stamp commissioned name of notary or clerk

Personally Known

Produced identification _____ Type of identification produced

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR
VOLUSIA COUNTY, FLORIDA

JOHN E. CASABURRO

Plaintiff,

CASE NO: 2019-10091-CIDL

vs.

DIVISION: 01

HENRY FREDERICK
AKA HEADLINE SURFER (D.B.A),
AND BEN F. JOHNSON,

Defendants.

**NOTICE OF FILING DEFENDANT'S ANSWERS TO PLAINTIFF'S
INTERROGATORIES**

YOU ARE HEREBY NOTIFIED that the Defendant, BEN F. JOHNSON, by and through his undersigned attorney, has filed his answers to interrogatories.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to JOHN CASABURRO, Plaintiff, at 111 Kendra Ave., DeLand, FL 32724, this 20th day of March 2019.

F. A. (Alex) Ford, Jr., Esquire

Florida Bar No. 0381845

Landis Graham French, P.A.

Post Office Box 48

DeLand, FL 32721-0048

Tel: (386) 734-3451

Fax: (386) 736-1350

primary email: aford@landispa.com

secondary email: dharney@landispa.com

Attorney for Defendant, BEN F. JOHNSON

Ph. 386-215-7327



Mr John E Casaburro
111 Kendra Ave
Deland, FL 32724



June 4, 2019

TO:

TIM Vaccaro, Executive Director,

FL. Election Commission 107 W. Gaines St.
suite 224, Tallahassee, FL 32399-1050

Re: FEC 19-119, FEC 19-105 Legal Fee Petition

Respondent: Ben F. Johnson, Complaint Reply

Dear Mr. Vaccaro, Thank you for your voice-mail on May 31, 2019, concerning Question's I had with Petition for Fee's by Mr. Johnson. You and Molly answered my Question's.

Please enter my Reply and Please copy Johnson's Attorney Alex Ford ASAP. There are some misunderstandings with an agreement with Ford and my Attorney George Travato concerning Ford's Promise for no Fee attempts with CIVIL court and FEC.

Respondent Johnson also brings up my Campaign Flyer as a intention of Malice (False). I am forced to defend myself and enter evidence about Johnson's Sexual misconduct, Homicide concerning Race, F.B.I and Justice Dept. Findings & more (Document's enclosed in Reply).

I did not use these document's in Campaign nor did I mention them in court Pleadings. They are very damaging to

Mr. Ford's client. IF I had any evil or
Malice Intentions I would have released
these to the Public + G.O.P committee way
before Fee Petition. Mr. Ford can still
honor his commitment and DISMISS
F.E.C Request.

Thank you in advance for your consideration
in this matter.

John Casimiro

Mr John E Casaburro
111 Kendra Ave
DeLand, FL 32724
386-215-7327

June 3 2019

TO: FL Elections Commission
107 W. Gaines St
Tallahassee, FL 32399-1050
850-922-4539

RE: Casaburro vs Johnson Case No. 19-105 and 2nd follow up complaint #FEC 19-119

Response to: "Petition for Attorney's Fees and Costs" for Respondent Johnson

Complainant Casaburro's reply to 19-119

1. Henry Frederick affidavits is a pack of lies, cover-up, to serve his client Johnson. Written with fiction, conjecture, hearsay, malice intentions and very neglectful. Frederick failed to interview Casaburro before he published article like any good journalist school grad would. On May 29, 2019, Casaburro filed an Amended Complaint (Attachment #1)(Johnson is not mentioned). Amended complaint will show his will full malice, neglect and slander (Attachment 1 to new complaint evidence A-H provided here), with additional case law including abusing his right of privilege as journalist. Frederick is known as a professional slander expert against candidates who don't pay him a fee to hurt their rivals. A rejection causes Frederick to retaliate and print something nasty about them instead. Frederick ruined a good sitting judge's reputation online (Henderson) causing her to lose her re-election bid by a narrow margin. He is an expert in "wording" around the truth with long winded pleadings and responses. He will say that you are the liar and even works to set you up for that (sick). Frederick is considered a menace to Volusia County politics, harming good folks who run for office. I have six former candidates who will testify to this at trial. The above response applies to Fredericks same affidavit s attached in case no. 19-105 FEC Petition.

Respondent Johnson's Notice of Additional Facts:

One page provided in 19-105 bundle only - complainant being sued for fees is 68 years old with a disability living on \$1,500 per month on Social Security Pension (see Attachment 2 - medication and why I need them), reached a point where he could no longer compete with a professional attorney like Mr. Ford. My consulting Attorney George Trovanto made a Lawyer to Lawyer gentlemen's agreement to dismiss Johnson from civil action providing Ford gave his word to not come after Casaburro for any fees/costs, including FEC. His April 3, 2019 letter 57.0104, is a matter of law. I don't know if his motion for fees should be considered as evidence with FEC since

he never entered into the circuit court? Since Ford is not a man of his word, I am now forced to defend myself here and fully in other venues. Ford dismissed the case for his client Johnson by his email and lied in #4 of his notice of additional facts stating that complainant (Casaburro) voluntary dismissed Johnson. The FL Bar intake asked me to fill out a complaint form for unethical practice, misconduct, scheme to defraud Casaburro, Trovanto, the Court, and now the FEC. My disability prevents me from using a computer or email. I rely on other people for help. I did not sign the document (Attachment #3) and wonder what happens now? Ford should do everyone a favour and dismiss his scheme to get legal fees by FEC which I have no doubt will have inflated time amounts (since already showing he is an unethical attorney)


If I don't prevail in State Court, I've been advised to file Forma Pauperis (free filing due to income, medical bills, etc.) in Orlando US District Court with a Pro-bono Pool Attorney the court assigns under Federal Questions, ADA Act, and Privacy Act against both Defendants and possibly Alex Ford too? I hope Mr. Ford keeps his word and dismisses this FEC action.

Reply to Johnson's Summary for Basis of Legal Fees Included in 19-105 and 19-119

1. I had no malicious intent or made any false allegations with reckless disregard against Johnson or falsity. As an elected County Committee Member (VCREC) I listed Johnson's failures as Sheriff (fair game) since it is the responsibility of the GOP committee to vet its candidate. Johnson was never vetted and chairman of GOP pre endorsed him before a full committee vote. Campaign flyer, Attachment #4, in 1972, a Grand Jury probed to see if Johnson committed murder or negligent homicide when he shot a young, unarmed, handcuffed, black man dead (in the back). The PBS/Marshall Project hints and implies that an all white jury would not indict Johnson (see Attachment #5). Highway Patrol man Lt. Kevin Vaughn and Johnson were on Local Channel 6 during their campaign when Johnson admitted to have a drinking problem. I also viewed this report at the time. Currently leaders of the GOP have spotted Johnson drunk at parties and wish he does AA 12 Steps. The Federal Law suits against Johnson and County as listed on campaign flyer are public record and one was advised by Washington DC Assistant Attorney General to sue for lack of Law Enforcement (Attachment #6), since Johnson did little for 8 years as sheriff and often ignored drug dealer complaints, see Article #7 and Rico Case Statement (Attachment #7) that acted as an order of protection against Johnson and his men since victims, witnesses, and myself were often intimidated by Deputies and by 3rd parties including dealers and buyers on Kendra Ave. My street is half a block from DeLand High School and drug dealers would often prey on children. The FBI and Justice Department has investigated Johnson twice, the first in 2010 produced the Justice Department letter by AAG and the second in 2015 (Attachment #8) is still open. Last I heard from the investigator, he told me he knew all about the sexual misconduct of young ladies by Johnson and I didn't want to know the rest (two months prior to voting). The Law Office of Gloria Allred (me too movement activist) has advised one victim of Johnsons misconduct to report crime and civil rights violations to the ACLU Lawyers (see attached fax and her preliminary signed statement #9 and #10) She is a busy single mom and afraid of Johnsons retaliation methods. Please keep her name private since the claim/report is still under consideration. If I had any intent towards malice, falsity, or disregard, then

I would have disclosed the foregoing documentation during the campaign and did not disclose same in Civil Lawsuit. I did not address list of failures campaign flyer in pleadings and said they were not relevant to claim at that time. Johnson, Frederick, and Ford have gone to great lengths to paint me as the perpetrator and themselves the victims. FEC legal fees request is more cover up of facts and the truth, mincing words, playing gotcha on any misquotes or errors. This matter should be dismissed as a bogus counter claim and Johnson should not be awarded any fees or costs. They know I have limited income and disability, why else are they persisting, unless they want to smear me to cover up their crimes, sins, and wrong doings. They need Clergy help, not Lawyers. There is no prima facie case for Johnson. This case must be dismissed! I have no attachable assets, car is 15 years old, house is homesteaded, have medical bills, no jewellery, and furniture worth about \$200.00 in a yard sale. I have been only seeking my damages of costs, computer clean up, and legal fees (\$12,000.00 to date). I also find it very hard to believe that Johnson is in politics since the year 2000, and did not know Fredericks sleazy reputation and the alleged ad for \$1000.00. First it was not there (Frederick), now in this complaint it was late (another cover up). Both these men and their Lawyer are frauds. Please do not consider fees and costs for a hearing.

I affirm the foregoing is true and correct.


John Casaburro

Att #7

John E. Casaburro	X	Case No: <u>2019-10091</u>
Plaintif	X	Div No: <u>CIDL</u>
-vs-	X	COMPLAINT: <u>AMENDED</u> For Libel, Slander, Defamation, with Malice and Neglect
Henry Frederick, AKA Headline Surfer (D.B.A)	X	
<u>Defendant's</u>	X	

Comes now Plaintiff, John Casaburro , and here by sues Defendants Henry Frederick, who owns, writes and is publisher of Headline Surfer, an internet news outlet as a D.B.A (according to State records his prior corporation is unpaid).

1. This is an action that exceeds (fifteen thousand dollars) \$15,000.00 exclusive of attorneys fees, costs and interest.

The Parties

2. Plaintiff John Casaburro, resides at 111 Kendra Ave, DeLand, FL 32724. Cell phone 386-215-7327.
3. Defendant Henry Frederick resides at 500 Airport Blvd. West, Unit 1307, Sanford FL 32773. Phone number 386-689-2830.
4. Venue is in Volusia County where Plaintiff lives.

Background (Exhibit -A-)

5. On or about July 31, 2018, Defendant Frederick wrote a false and trash article on his newsletter site about Plaintiff, -A- such as, I am a monster (ogre) in my neighborhood. Truth is I have been President of area HOA (unincorporated) since 2002. The only neighbors that hated me are the drug dealers and their friends that got evicted. See Exhibit B, Letter from good neighbour Mike Densmore and Exhibit C, most recent HOA/neighborhood petition with 39 good neighbors signing. -B- Frederick claims that plaintiff is in some sort of conspiracy with Mike Chitwood, Sheriff and Councilwoman Heather Post. Truth is, I met Post briefly at a GOP event and represented Mike Chitwood as a good cop, not a politician. -C- Frederick portrays with malice Plaintiff of a gross and perverted act of leaving a bloody condom on someone's doorstep. Truth is, picture is bogus. Houses in background do not match the modest homes on my street and the Police car is a City PD. My area is County DeLand, where only Sheriff Deputies cars respond to calls. Picture is clearly a fake, as Frederick admits.
6. Frederick with malice goes on in his article and portrays me as a "psycho", dishonest and an unethical person because I was a write in candidature for Council at Large. All based on here-say and conjecture.
7. Frederick claims that I had no good standing with the Republican Party. Truth is I have won four good service awards, one that is attached as exhibit D. (willfull neglectful research)
8. Fredericks takes out of context remarks from a biased reporter (without the full recording) (willfull neglectful research) from 1989 NY, claiming that Plaintiff is a racist. Jews were enslaved as workhorses

for 400 years; my people from Naples Italy were fed to lions, hung on a cross and forced to fight in public venues. This was compared to black take care of your work horse mindset of the 1800's USA at a meeting with black civic leaders. Also, as one of the Founders of Fathers Rights in 1980's and as a nationwide leader, I was talking about low employment, family splits, and crime as a leading reason young black men avoided fatherhood and do not marry.

9. In addition (and there are many other false statements by Frederick outlined below) in 1994 Plaintiff was falsely arrested, held overnight at a police station. Charge amounted to a \$45.00 desk appearance fine for disorderly conduct that was paid in court the next morning. I sent Frederick ticket receipt/appeal win that cleared my name of a made up charge with no backing. (See exhibits E & F) Frederick omits facts and findings by Federal Judges to harm Plaintiff with malice. A trial took place!
10. Plaintiff has been a political activist since 1978 and a businessman with many achievements. Frederick misquotes me to harm and injure like Plaintiff is some kind of mental case with malice.

Statues and Jurisdiction in Circuit Court

11. a. "Defamation by Implication"; omitting facts are considered to be falsity and defamation by implication and liable, while recklessly disregarding their falsity.
b. FL ST 770.01 and 770.02 have been violated by Frederick. Notice was sent by regular US Mail on January 7, 2019 and by email to correct liability and slander.
c. 770.2 (2)(a) Frederick had 10 days to correct, provide apology and retract his statements of slander and Defendant failed to do so. (See Exhibit G)
d. Frederick has injured Plaintiff in his reputation, office, business, any future employment (see Cooper v. Miami Herald 31 so 2nd 382, 384 (FL.1947) with false and defamatory (Article § 558 (1977 Tort's) Plaintiff is entitled to relief, damages, and costs.
e. Section 550 of Libel/Defamation has Frederick libel for gross negligence due to faulty and biased research.
f. Frederick exposed plaintiff with false reports, fake headlines, and incomplete police reports that caused distrust, hatred, ridicule to the public and Plaintiffs daughter is very upset about my grandchildren being exposed to such lewd and awful falsehoods. (See Thomas v. Jacksonville Television, Inc., 699 so 2nd 800, 803 (FL 1st DCA 1997) .
g. Defendants Slander with Malice hurt my vendibility with the public and GOP (see Old Plantation Corp v. Maule Industries, Inc., 68 so 2nd 180, 181 (FLA 1953) Special damages apply here by slander, false and malicious statements.
h. Defendants slander was motivated by ill will and the desire to do harm (malice) (Schreidell v. Shoter) Jury trial is demanded for punitive damages.
i. Attorney fees are due under 285 so 2nd 29, 31 (Clusman v. Lieberman, FLA 4th DCA 1973 (sec 633).
12. Page 1 of Article, Fredericks asks his 30,000 fans to send and share trash article to Facebook, Twitter, Google to further harm plaintiff - this was malice (see cost to correct). Ex-H
13. Page 2 of Article, Frederick claims Plaintiff is a liar, dishonest and unethical - this is here-say and Frederick "neglected" to interview Plaintiff like a journalist should.
14. Frederick claims that Plaintiff is dishonest is repeated through out his article (with no proof).
15. Frederick claims countless lies by Plaintiff page 7. Fredericks neglected to do his job and caused harm to Plaintiff with malice.

16. Defendant abused his right of Qualified Privilege, had improper motives (favoured his client), improper research, and lack of any interview of Plaintiff.
17. Frederick has used freedom of speech to shield his wrong doing and has harmed Plaintiff with neglect and malice.
18. Through out the article, Frederick demonstrated reckless disregard as to the truth or falsity of the statements, and his false opinions.
19. Frederick has failed to retract article and inform his readers that info was flawed, fiction, here-say, and conjecture (more neglect and malice).

Other Relevant Case Law as a Matter of Law

20. As to amend complaint. A claim should not be dismissed with prejudice "without giving the Plaintiff an opportunity to amend the defective pleading, unless it is apparent that the pleading cannot be amended to state a cause of action." Kairalla v. John D. and Catherine T. McArthur Found., 534 So.2d 774, 775 (Fla. 4th DCA 1988). The opportunity to amend a complaint should be liberally given. See Gamma Dev. Corp v. Steinberg, 621 So.2d 718 (Fla 4th DCA 1993); Dryden Waterproofing.

Public Figure Claimant

21. In some instances a statement of opinion may be interpretable as a false statement of fact expressly stated or implied from expression of opinion. Milkovich v. Lorain Journal Co., 497 U.S. 1, 110 S.Ct 2695, 111 L.Ed2d 1 (1990); Florida Medical Center, Inc v. New York Post Co., Inc., 568 So.2d 454 (Fla. 4th DCA 1990).
22. Where as in conclusion, Plaintiff asks court for a jury trial for all of the foregoing wrongs and damages in excess of \$500,000 (one half million), plus attorneys fees and costs.

ADA Accommodation

23. Plaintiff suffers from chronic neck and back pain, numb fingers, degenerative eye, light sensitive that causes headaches and lost focus (can not use a computer). Plaintiff requests that court allow/order all pleadings and notice be sent US mail.

Jan 10, 2019 | UPDATED 5:54 pm

f (https://www.facebook.com/HeadlineSurfer/) t (https://twitter.com/headlinesurfer) g+ ()

YouTube (https://www.youtube.com/channel/UCp4QatBYAKdgQYUOnuGAE2g) p () in () m () s ()

t () v () i () r ()

(https://headlinesurfer.com)



HEADLINE SURFER



(http://www.flydaytonafirst.com/)

Award-winning 24/7 Internet news from Daytona Beach, Florida, home of the World's Most Famous Beach & the Daytona 500



HOME (/) > COUNTY COUNCIL WRITE-IN CANDIDATE EPITOME OF MIKE CHITWOOD VITRIOLIC CRUD ENGAGED IN GUTTER CAMPAIGN AGAINST FRONTRUNNER BEN JOHNSON

County Council write-in candidate epitome of Mike Chitwood vitriolic crud engaged in gutter campaign against frontrunner Ben Johnson

SHARE ON:

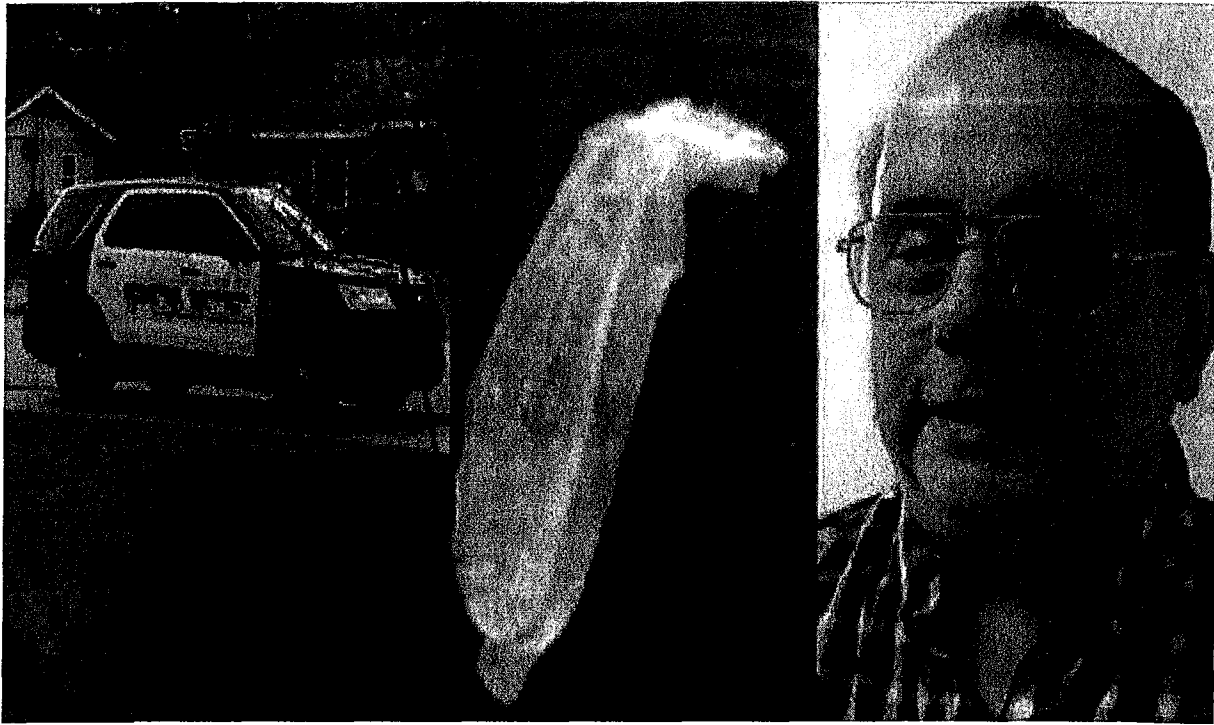
f Facebook (http://www.facebook.com/sharer.php?u=https://headlinesurfer.com/content/county-council-write-candidate-epitome-mike-chitwood-vitriolic-crud-engaged-gutter-campaign)

t Twitter (https://twitter.com/intent/tweet?text=County Council write-in candidate epitome of Mike Chitwood vitriolic crud engaged in gutter campaign against frontrunner Ben Johnson&url=https://headlinesurfer.com/content/county-council-write-candidate-epitome-mike-chitwood-vitriolic-crud-engaged-gutter-campaign&via=%23)

g+ Google + (http://plus.google.com/share?url=https://headlinesurfer.com/content/county-council-write-candidate-epitome-mike-chitwood-vitriolic-crud-engaged-gutter-campaign)

Post Date: July 31, 2018

EX-A-



HEADLINE SURFER



Investigative Reports
THE SLEAZE FACTOR!

Headline Surfer multimedia presentation / Shown above is John Casaburro, an ogre to his DeLand-area neighbors for years and an enigma over the years in insider politics is now a write-in candidate for countywide elected

office taking his cues from vitriolic Volusia Sheriff Mike Chitwood in trying to derail the former sheriff, Ben Johnson, considered an overwhelming favorite to outright win the Aug. 28 primary and succeed retiring At-Large County Councilwoman Joyce Cusack on the dais in DeLand. Not only is Chitwood threatened by the prospect of Johnson's return to elected office, but so too is first-term Councilwoman Heather Post, a former deputy, whose veracity is easily called into question as to the prior illicit use of cocaine as indicated in her personnel file.

By HENRY FREDERICK

Headline Surfer

DAYTONA BEACH, Fla. -- He was once suspected by a neighboring DeLand family of four of leaving a dripping used condom with blood on it on the welcoming mat of their front porch door as a perverse act of intimidation.

The wife and mom of two little kids discovered it upon returning from an errand -- snagging a pair of sterile gloves to pick it up before it could lead to disaster.

Several Volusia County Sheriff's deputies responded and one of them in turn put on a pair of sterile gloves to pick up the nasty find crumpled within the moms discarded and bunched-up gloves subsequently scooped into an evidence bag to be brought back to headquarters for storage.

And though the husband and others in the quiet neighborhood suspected this was the handiwork of one John Casaburro, for years seen as an agitator, deputies closed the case because there was nothing linking the used bloodied condom to any known crime. A VCISO incident report (<https://headlinesurfer.com/content/2009-vcso-bloody-condom-incident-report>) was taken with a statement provided by the wife who saw the used-bloody condom.

Perhaps this Aug. 25, 2009 incident was just a twisted prank like something Norman Bates might have conjured up to please his dead mother early on in the movie "Psycho." This was the most egregious of a series of harassment-like incidents requiring law enforcement to intervene.



That same year, the same neighbors who dealt with the used bloody condom were upset that Casaburro was overt in taking photographs of their vehicles and other outdoor items, as described in another VCISO incident report (<https://headlinesurfer.com/content/vcso-incident-report-photographing-neighbors-cars>), but because he remained on his own property, no criminal charges could be filed against him, responding deputies told the husband and wife who were seeking an arrest.

the ultimate political dilemma -- a loner with minimal name recognition, no money to finance a legitimate campaign and no chance of winning. So what's the lowest common denominator move of 66-year-old John Casaburro?

The answer is as obvious as it is dishonest and unethical: Slime the front-runner with phony rumors and fake allegations.

In other words, manufacture lies about the opponent.

But in his oh so pathetic and disgraceful scheme to shake up the At-Large Volusia County Council race, Casaburro could not escape his past, which besides leaving the bloody used condom on the neighbors' porch, includes patently disturbing racial remarks and an arrest for soliciting a prostitute.

For more than two months, the contest to fill a soon-to-be-vacant seat on the County Council appeared to be a two-candidate race headed for a Nov. 6 showdown. Conventional wisdom had Ben Johnson, the popular, former four-term sheriff cruising to victory in the countywide race against Deltona resident Ronald Durham.

But then, two days before the ballot was set, Casaburro lobbed a curveball by jumping into the race as a write-in candidate.

And just like that, the contest to replace term-limited Council Member Joyce Cusack became a three-way sprint that in all likelihood will be settled during the Aug. 28 primary anyway. So who really is backing this backdoor sleazy move? Political insiders point to Chitwood himself and one of his newfound allies, a political consultant and previously-failed candidate for public office in David Lee Davis, one of the louder anti-Volusia County status quo antagonists.

As a write-in candidate, Casaburro's name won't even appear on the ballot. The electorate will have to write it in if they want to cast a vote for Casaburro -- assuming they even know he's running and can spell his name correctly. It's an all but impossibility for Casaburro. What was he thinking? Well, it didn't take long to find out. His apparent motivation for getting into the race was to try to play spoiler by spreading false accusations about Johnson.

After all, Durham is an ordained minister who is highly respected in the black community and not known for popping off. And in Casaburro's case, it's not just about spreading the poison but making up the stuff, to begin with.



Johnson was emphatic in telling Headline Surfer he had no intention no intention of dignifying the allegations and assisting Casaburro with his gutter politics by repeating the accusations here for this story, but the former lawman did not mince words in stating what comes out of Casaburro's mouth is "disgusting and despicable and completely lacking in any factual basis."

Casaburro first tried to spread his verbal poison throughout the ranks of the Volusia County Republican Party, with which he has had a long and contentious history. At one time, Casaburro held a leadership position on the GOP executive committee, but the relationship soured and ended in a lawsuit.

While County Council elections are non-partisan, the local political parties nonetheless have long gotten involved in the races by throwing their weight behind their preferred candidates. Casaburro's sleazy gambit, however, did not pay off.

"I campaigned for the endorsement, but I didn't get it," an obviously bitter Casaburro lamented during a radio interview on July 12 with WNDB 1150 AM talk show host Marc Bernier, a key Chitwood supporter. And in case there was any doubt where the Volusia County Republican Party stands with respect to Casaburro, it was made crystal clear when the GOP executive committee chaired by Tony Ledbetter recently shared a post on its Facebook page with the following message: "Vote for Ben Johnson – Republican Executive Committee Endorsed Candidate for County Council At-Large."

But even as the Republicans have long since slammed the door shut on Casaburro -- clearly on the outside and with absolutely no shot at ever being allowed to re-enter -- he continues to distribute fliers, repeat his phony allegations at campaign appearances and push them out to e-mail recipients.

"I am attaching two very important communications for your consideration," Casaburro wrote in one of his email smears. "Please consider them both with great urgency."

In yet another poison email, Casaburro, in all his arrogant regalness, boldly predicted that as a result of his allegations, "Johnson will have to quit the race."

In yet another poison email, John Casaburro, the 66-year-old write-in candidate in all his arrogant regalness in taking on one of the most popular elected leaders in Volusia County's history, boldly predicted that as a result of his allegations, "Johnson will have to quit the race."

One voter who attended a recent political event where Casaburro was distributing his phony sleaze piece reported that the candidate got downright ugly and intimidating when he was challenged to provide proof of the allegations. Naturally, Casaburro was unable to back up his allegations – for the very reason that they have no basis in fact. They aren't true, period.

Instead, Casaburro tried to bully the person demanding to see proof.



"He got so angry at me that he hovered over me in a very threatening manner," said the vote of his encounter with Cassaburro. His name is being withheld by Headline Surfer to spare him further harassment from Casaburro and others like him that are stirring the pot behind the scenes.

For his part, Ben Johnson reports being flooded with phone calls and social media messages from outraged voters. So far, Johnson has taken the high road and purposely keeping his public comments to a minimum.

Certainly, plenty of people are hopping mad about Casaburro's gutter tactics.

"I hate trashy campaigns!" one Johnson supporter wrote in an e-mail to him. "But it really makes me angry when they trash honorable people!"

Another said of the slime piece: "I think it is slander and libel against you." Yet another was even more blunt in a post on Johnson's Facebook campaign page: "Time to crucify this clown."

In a recent story published in the West Volusia Beacon profiling the at-large council race, Casaburro evidently told the bylined writer that this was his first time running for political office. That, as it turns out, also isn't true. But it's certainly understandable why Casaburro would want to run away from his past.

In 1989, while living in New York and running for Mayor of Yonkers, Casaburro made headlines in the New York city newspapers for highly inflammatory and degrading comments suggesting that most African-Americans had it good during this country's slavery era. "Ninety percent of all Blacks lived well and had it good" under slavery, Casaburro was quoted as saying.

The article went on to report that Casaburro degraded the African-American culture by saying: "Most Blacks are encouraged not to marry a woman. They're encouraged to impregnate, not marry her because it's almost an irresponsibility to get married since welfare will take care of her."

Casaburro's racist remarks, outed by Johnson in an NAACP candidate forum ??????????????????????

In 1994, the New York Times reported that following a failed Congressional bid in New York, Casaburro was arrested during a prostitution sweep in Manhattan after he struck up a conversation about oral sex and money with a woman who turned out to be an undercover officer.

When he was arrested, Casaburro was reported to be carrying a flier identifying himself as a candidate in the 18th Congressional District race. He was charged with patronizing a prostitute. Casaburro sued then-New York Mayor Rudy Giuliani and the City of New York over the arrest, seeking \$10 million in damages. It didn't take long for the suit to be thrown out.

Giuliani, the City of New York and The Volusia County Republican Executive Committee aren't the only ones to be on the receiving end of Casaburro's frivolous lawsuits. In the past, he also has sued, among others, a New York grocery chain, a roofer, the County of Volusia, the Volusia County Council and the Volusia County Sheriff's Office.

In his 2007 suit against the County of Volusia, Casaburro challenged the constitutionality of the county's local non-partisan elections. He claimed that non-partisan races violated his First Amendment right to know the party affiliation of candidates running for local office. Oddly, in light of his blatantly racist remarks in New York, Casaburro and a co-plaintiff argued in their suit that non-partisan elections are also "perpetrated on black voters," in violation of the 15th Amendment and of the Voting Rights Act. The case was dismissed.

Casaburro's troubles didn't end there.

In 2014, the Orange City Police Department charged Casaburro with distributing false information about a sex offender. And his frequent squabbles with neighbors have resulted in law enforcement being called on numerous occasions. During interviews with responding officers, Casaburro claimed to be the head of a homeowners association. But even that claim seemed questionable to deputies.

A responding deputy wrote in an August 2009 incident report: "Casaburro also told Deputy King he is the president of the homeowner's association which to Deputy King's knowledge does not exist."

A month later, another deputy responding to an incident involving Casaburro documented the following in his report: "Casaburro claimed to be the president of a Homeowners Association, but then admitted that he merely initiates action to remove undesirable residents from the neighborhood."

Then, after about a decade of perceived slights and wrongs, Casaburro decided to jump into politics once again.

During his recent radio interview with Bernier, Casaburro was asked a series of question about his County Council candidacy:

- Had he looked at the County budget? "No, not directly," Casaburro responded. "If elected, I promise to do that."
- Had Casaburro appeared before the County Council on any issue? No, he responded, and then added the following explainer: "I'm not the type of guy that goes to meetings."
- Had Casaburo been on the County Council at the time, would he have opposed some of the economic stimulus incentives that the county gave to several businesses? "I don't know that issue for sure and I rely on other people to inform me. So I can't speak to that right now."

Other sample quotes by Casaburro from that disastrous radio interview include, but are not limited to the following:

- "I'm not totally familiar with that issue."
- "I really have to look more into the details of that before I say yes or no."

When asked about his qualifications for office, Casaburro insisted: "I have the credibility and the background."

And that, by any objective measure, would seem to be just another one of Casaburro's countless lies, say those who have dealt with him and his kind. END

Part 2: Heather Post, Druggie on the Dais?

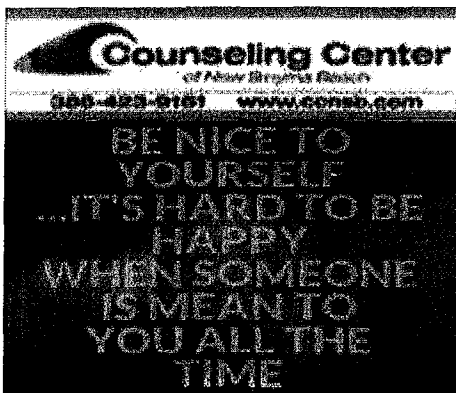


(/user/3) Short Bio

Henry Frederick is publisher of Headline Surfer®, the award-winning 24/7 internet news outlet covering the Daytona Beach-Sanford-Orlando metro area via HeadlineSurfer.com for a decade now. A longtime cops & courts reporter focused on breaking news & investigative reporting, Frederick is among the Sunshine State's most prolific daily news reporters, having amassed dozens of journalism-industry awards in print and digital platforms. Frederick is enrolled at Full Sail University in Winter Garden, FL, where he's three-fourths through the online Master of Arts program in New Media Journalism. His graduation is in August.

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Mike Densmore
1075 E. Plymouth Ave
DeLand, FL 32724
386-216-1313

Judge *GREEN*
Case No. *2013-23504*

Dear Sir:

I have been a personal friend and neighbor to John Casaburro for the past 10 years. While living across the street from Mr. Casaburro I found him to be a good neighbor and know that he was instrumental in weeding out many of the unfavorable people from the area. With his help we were able to clean up our street and reduce crime in our area. I have since moved from this neighborhood but still keep in touch with John and see him on his morning walks as he walks down the street. He has on many occasions stopped to pet my dogs and has given them his left over steak bones as a treat to them. It is my opinion that John would never harm anybody's animals and experienced him to be quite the opposite in that respect. Thank you for your time and I wish the best for everyone regarding this matter.

Sincerely,


Michael Densmore

1-14-14

EX-B-



Mr. John E. Casaburro
111 Kendra Avenue
Deland, FL 32724

Kendra Ave. and surrounding streets unincorporated Homeowners Association C/O Mr. John E. Casaburro, 111 Kendra Ave, Deland FL, 32724. Phone Number: 386-215-7327

To: Volusia County Sheriff Michael J. Chitwood; District #1

Councilman Pat Patterson

County Manager James T. Dinneen Offices at 123 West Indiana Ave. Deland FL, 32720

RE: Children's Safety Issues: Speeding in our area near Deland High School

Gentleman, please be advised: we hereby petition county officials of ongoing speed problems on Kendra Ave, Lindly Blvd., N. Hill Ave (Turn) that endanger our young children, school children, joggers, etc. We suggest the following remedy by the county:

1. Increase Police presence/speed traps (especially right before and after school hours)
2. Install 4 speed mats ^(* 2) (not bumps) along Kendra Ave.
3. Caution/Small Children at Play signs attached to 25 mph speed limit signs, (2) on Kendra Ave.

We thank you for your consideration with this matter.

4-14-17

John E. Casaburro

EX-C - Pg. 1 of 3

Kendra ave. Short cut to DeLand High School (2 blocks)

	Print Name:	Sign Name:	Address: / Phone #
	vacant houses-	108, 103 - Kendra	
1.	John Casaborro	John Casaborro	386-215-7327 111 Kendra
2.	Michele Sidman	Michele Sidman	843-742-8873 109 Kendra Ave.
3.	Carol Izquierdo	Carol Izquierdo	407-754-8568 113 Kendra Ave
4.	Blanche Cook	386-627-5071	123 Kendra Ave DeLand, FL 32724
5.	Blanche Cook		
6.	Chris Baker	386-717-8439	116 Kendra Ave DeLand FL
7.	Chris Baker		
8.	Lindsay Buzenas	386-748-8116	114 Kendra Ave. DeLand FL
9.	Jay B		
10.	Kim Killa	386-624-3972	112 Kendra
11.	Amin Killa		
12.	Ryan Dalka	704-426-2495	104 kendra
13.	Rosa Torres	(386) 279-9200	106 Kendra Ave
14.	Siantawia Mars	386-473-3122	107 Kendra Ave
15.	Shirley		
16.	Edward L. Wellman	386-848-7713	100 Kendra Ave
17.	Edward L. Wellman		
18.	Alisha Strickland	386 588 0185	105. Kendra Ave
19.	Alisha Strickland		
20.	CANDACE PETT	386 736 0969	101 Kendra Ave
21.	Candace Pett		
22.	Cheryl Joyner	(386) 748-2059 Cheryl Joyner	831 Lindley Blvd. ↑ (Faces Kendra)

23.	Sherry [unclear]	102 Kendra Ave	386-947-0511
24.	Jana [unclear]	119 Kendra Ave	386-740-9885
25.	Paul J. Belg	121 Kendra Ave	386-986-9222
26.	PATTIE Helzer Pat Helzer	816 MONTREVILLE	386-748-3597
27.	Lauri Bartley	1140 Montreville	Face Kendra
28.	Cliff Brown	1050 LINDLEY Blvd	386-738-2129. Large prop; owner
29.	Jerry ROBERTSON	1048 LINDLEY BLVD	386 776-2369
30.	Randy	1101 N.H. Hill Ave	386-748-5009
31.	VANDERLIP	28,29,30 at Dangerous TURN,	2 speed. Need Mats
32.	Melquiades	113 Kendra Ave	
33.	Miriam S. Miriam W.	118 Kendra Ave	407 430 3511
34.	Roberto	120 Kendra	386-8016004
35.	Thomson Scott	109 Kendra Ave	843 742 8874
36.	Steve Scherer	1045 Valley Blvd	386-747-2107
37.	[unclear]		
38.	Mellen [unclear]	1045 Lindley Blvd	
39.	Pam Palmer	110 Kendra Ave	386 2129847
40.			
41.			
42.			
43.			
44.			

45. NOTES

46.1- ALL Lindley Blvd & N. Hill ave TURN owners signed

47.2- Majority of Household's on Kendra signed - 20 out of 22

3-2 weeks ago a school kid was struck by a car on N. Hill Ave.

PG. 2

EX-C-pg-3-



RECVC

Certificate of Service

This Certificate of Service

is given to

John Casaburro

for his service as the

Vice Chairman of the RECVC

and for his efforts as

A fundraising Chairman

During his term of office

During the years

2009-2010

Given this day April 2, 2011

RECVC
Board of Directors

Joe Stich
Chairman

Tony Ledbetter
Vice Chairman

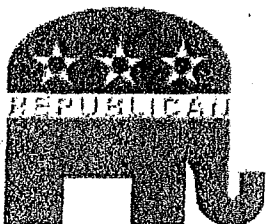
Judi Buckley
Treasurer

Virginia Hewett
Secretary

Headquarters
747 S. Ridgewood Ave
Suite 104 Box 3a
Daytona Beach, FL
32114

Phone:
1-386-795-1704
Fax:
1-386-426-5744
Email:
jstich@cfl.rr.com
Web
www.recvc.org

Joe Stich
Chairman
RECVC



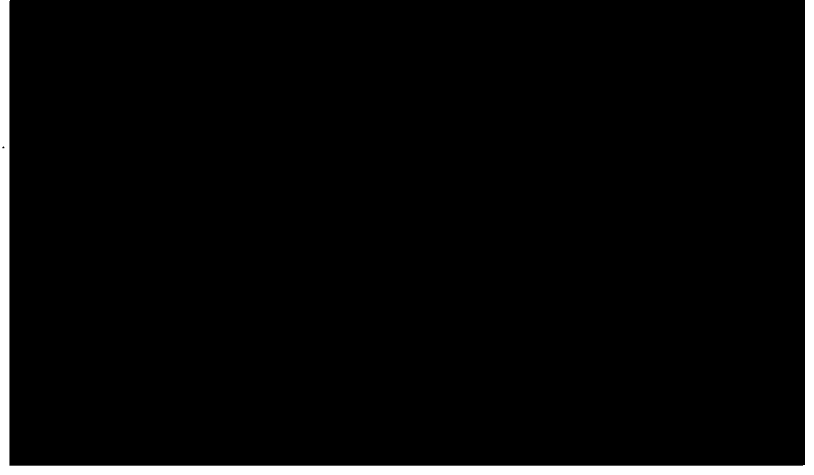
EX-D

I paid a \$45 Fine for Disorderly Conduct
There was no prostitution even City could not
Produce tape in court. This was nothing more
than a desk appearance. See Embossed
appeal I want to clear my Name. Judge
Said city wronged me a dozen times - False
arrest, conviction no Due process, legal search etc.

**NO 362685 RECEIPT FOR FINE
CRIMINAL COURT**

Defendant John Casaburno County OF Ny Part AR. 6
Date 10/28/94
Cal. No. - Docket No. 94C013407
Fine Imposed \$ -
MS > 45 D 137 SEE
CVAF

an call



EX-E-



Mr. John E. Casaburro
111 Kendra Avenue
Deland, FL 32724

to: Henry Fredrick
headlineSurfer

Jan. 7, 2019

-NOTICE-

Required Request to Remove SLANDER and
DemFamation from your Web Site, Google,
Face book, Twitter, etc. And Replace with
a Letter of Apology. And Retraction

Dear Mr. Fredricks, I have recently viewed
your opinion's of me on the Web. You
should advise your client that your statements
are FULL of Falsehood's, Fake News, Items
taken out of context, conjecture & heresay.
You and your client are liable for this gross
Perperation. I have a "no slander" Contract
with the Republican Party. Mr. Johnson
has legally been a member of the County
Executive Committee as a elected official.
Also as a Private Citizen & member of the
Republican Club of De Land chartered by
County. You & he must clean-up- remove
this slander ASAP or a Lawyer will enforce
a breech of the Contract / mediation agreement
& Liable Laws. You will be responsible for
Damages, Legal Fee's & cost's well over
what Johnson paid you.

see Attached proof to some of Falsehood's) your's truly,
Via-U.S. Mail various addresses. John Casaburro
EX-G.

Account Name John Casaburro
Bill To 111 Kendra Avenue
Delane, Florida 32724
USA

Agreement Date 3/1/2019

Contact Name John Casaburro
Phone (386) 215-7327
Email [REDACTED]

Prepared By Zach Posey
Phone (650) 381-2985
Email zposey@reputationdefender.com

Product	Sales Price	Quantity	Total Price
Defender® 10K	USD 10,000.00	1.00	USD 10,000.00

Due Today USD 10,000.00

Terms of Service

This Service Agreement is entered into between ReputationDefender LLC and CLIENT ("you") in connection with your purchase of the ReputationDefender® and/or Privacy services. Your purchase of any ReputationDefender® services is governed by the Standard Terms of Service (found at <https://www.reputationdefender.com/legal>) as may be amended from time to time. Please click these links and carefully review these terms of service as they are part of your legally binding contract.

Fees:

The service fee in full is due upon acceptance of this agreement and will be collected in advance of providing services set forth above. If you are paying by credit card or bank card, then by signing below, you authorize these charges to be charged on your credit card or bank card.

Term:

This Agreement is a commitment for twelve (12) months of service. Notwithstanding anything to the contrary in the online terms of service referenced above relating to auto renewals, this Agreement will end after twelve (12) months and will not automatically renew. ?

I acknowledge that I have read and agree to the foregoing.

Signature:

Email: [REDACTED] and estimate: Keith Wilson, owner
A A C Computers, 2607 S. Woodland Blvd, Deland
FL 32724-386-490-5717-Verbal \$50 to \$100 per hr.
(depends on worker) \$1,500 For counter web site, up
to 200 hours on \$20,000. to clean site's.
\$22,500

EX-H-

Medications & Supplements

You reported the following medications and/or over-the-counter (OTC) supplements during your visit. This list should be shared with all of your health care partners. You should also keep a copy of this list posted in your home if there was ever an emergency.



My Medication List

MEDICATION(S)	HOW I USE THIS	WHY I USE THIS
Amiodarone HCl Tab 200 MG	1 Tablet(s) Once daily	High Blood Pressure
Furosemide Tab 40 MG (LASIX)	1 Tablet(s) Once daily	Swelling, Heart Failure
Fenofibrate 145 g	1 Tablet(s) Once daily	High Cholesterol
Simvastatin Tab 40 MG	1 Tablet(s) Once daily	High Cholesterol
Potassium Chloride 20 meq	1 Tablet(s) Once daily	Low Potassium Prevention
Carvedilol Tab 6.25 MG	1 Tablet(s) 2 times daily	High Blood Pressure
Acetaminophen Tab 500 MG (TYLENOL EXTRA STRENGTH)	1 Tablet(s) Use as directed	BACK PAIN, JOINT PAIN, OSTEOARTHRITIS
Aspirin Tab 325 MG	2 Tablet(s) Once daily	BACK PAIN, JOINT PAIN

Please use the extra space provided to add your own notes.

Allergies, Adverse Reactions or Alerts

You reported the following allergies or adverse reactions during your visit. It is recommended to keep this list with your medication list and post them in a convenient place.



Att #2

SUBSTANCE / MEDICATION & REACTION

No known drug allergies

234020 0807 0 0059980 046767 6/8



Att #3

Filing # 87931945 E-Filed 04/12/2019 04:56:56 PM

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA

JOHN CASABURRO,
Plaintiff,

vs

HENRY FREDERICK,
ETC., ET AL,
Defendant(s).

Case No: 2019 11091 CIDL
Division: 01
Judge: Randell H. Rowe III

NOTICE OF VOLUNTARY DISMISSAL

COMES NOW Plaintiff, JOHN CASABURRO, hereby files this Notice of Voluntary Dismissal of his Complaint in the above-styled case as to Ben F. Johnson only.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via E-Portal to Frank Alex Ford, Jr., Esquire at aford@landispa.com and US mailed to Henry Frederick at 500 W Airport Blvd Apt 1307 Sanford, FL 32773 on April 12, 2019.

/s/John Casaburro
JOHN CASABURRO
111 Kendra Avenue
Deland, FL 32724
386-215-7327

John Casaburro

Candidate for Volusia County Council, at Large

111 Kendra Avenue

DeLand, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July, 2018

The following are very important reasons why you should not vote for Ben Johnson.

1. According to Sheriff Mike Chitwood and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
2. Florida Highway Patrol Lt. Kevin Vaughn (R) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a television broadcast that he has a drinking problem, and while serving in the capacity of Sheriff, he drove under the influence.
3. Ben Johnson caused several federal law suits to be filed against himself, and the county, due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas. Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017, that Ben Johnson, as Sheriff, refused to investigate and clean up. Why?
4. Ben Johnson will vote like an aristocrat on the county council, and appears to be ready, willing, and able to serve special interests.
5. Ben Johnson is under investigation for corruption and sexual misconduct. He will eventually have to quit the race or leave office.

Att #4

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)

Att #5

Reporting by The Marshall Project

FEATURE | FILED 6:00 A.M. 01.24.2018

This story was produced in collaboration with PBS NEWSHOUR.

Correspondent: JOHN CARLOS FREY | Producer: Mike Fritz

Additional Reporting By MANUEL VILLA

Volusia County, Florida — This was one of the last places in the South to end segregation, a land today of gun enthusiasts and NASCAR, where Jews are still cautioned not to draw attention by hanging mezuzahs on their doors, and local history books say little, or nothing, about African-American life here. The most notable change in the county's demographics in the generations since Jim Crow is that black sharecroppers who used to tend white-owned farms have been replaced by thousands of undocumented Mexican farmhands.

A New Sheriff in Town

Chitwood, 54, is the son of a police chief in a Philadelphia suburb, and rose to lieutenant in the Philadelphia Police Department. He moved south eleven years-ago to accept an appointment as chief of police in this county's urban core, Daytona Beach. He says he ran for the sheriff's job because an elected post would be less beholden to civilian bureaucrats. There has been speculation that this is a debut for higher office.

Part of Chitwood's appeal, like Trump's, is a brash, uncensored, critics-be-damned style that makes him a forceful and familiar presence on local TV. He is famous for calling crime suspects "scumbags," and insulting — in his Rocky Balboa accent — politicians, lawyers and anyone else who disagrees with his unfiltered opinions. In May, embroiled in a budget dispute, he called the county's highest-ranking executive "a lying sack of shit."

A brash sheriff from Philly tries to bring police reform to Trump country. VIDEO FROM PBS NEWSHOUR AND THE MARSHALL PROJECT

Around here, that is regarded as "telling it like it is," especially since he is an egalitarian insulter. "He calls anybody a scumbag," said Clarence "Bo" Davenport, the former longtime director of public works in the county seat. "I said, 'Man, you can't come down to the South with that junk. Them good ol' boys take care of you.' I told him that. Well, he looked at me, and said, 'I can handle myself.'"

Chitwood is a registered independent, and while his demeanor is Trumpian, his views on criminal justice are anything but. Over beers, Chitwood tends to go off on social justice soliloquies that emphasize the woeful legacy of segregation or the dire need for federal immigration reform.

Since January 2017 he has worked from the reformist playbook, adopting measures he had practiced in Daytona Beach — deploying the data-driven policing strategy known as Compstat, instructing officers to never turn off their body cameras when responding to a call, mandating classes on de-escalating conflict and police bias, and deemphasizing the weapons proficiency of new recruits: "Why is it so important that the first thing we do is assess your shooting skills?" he asks.

Noting that since 2012 sheriff's deputies have fatally shot 13 civilians, Chitwood spent \$92,000 in drug forfeiture money to hire a Washington D.C. policing think tank to review the agency's use of force. He removed the training academy's welcome sign, which celebrated, "Confidence In the Line

of Fire," explaining, "what that preaches is that we are military. And that's the problem with my training division. I have so many ex-military guys in there."

To the department's old guard, this is seen as an attempt to transplant Eastern elite notions in alien soil.

"If you can't shoot a gun, and you don't have the ability to learn how to shoot a gun, you aren't going to be any good to us," retorted Evan Ort, a former army marksman who was the department's gun instructor until June when he quit in protest. Ort was infuriated when Chitwood brought in the consultants from the Police Executive Research Forum to critique the department's culture. He warned that the new emphasis on de-escalation was likely to get a deputy killed, and he mocked the sheriff's New Agey talk of "wellness" and "mindfulness" as irrelevant to a department that he said is understaffed and overworked.

"Those cats are fucking tired, plain and simple," Ort said. "When you are that tired, you aren't going to eat healthy. You are not going to have any mindfulness because you are fucking tired all the time."

Chitwood's most formidable obstacle is resistance within his cadre of 415 officers. He scored a few points with his troops after being part of a successful months-long contract negotiation with the union, formalized on December 21, which bumps deputies' starting salary to about \$19 per hour. The pay increases don't lessen the rank-and-file disdain for their new boss. Overtime shifts are mandatory, deputies complain of more aggressive discipline (though that is not reflected in department records) and deputies are quitting or retiring at a pace that accelerated when Chitwood took over.

One deputy was fired in September because he insulted Chitwood's leadership style in a Facebook post. (Law enforcement officers, Chitwood noted, don't have the same First Amendment rights as civilians.) Deputies have passed around a clip from a German movie of Hitler berating his generals, with subtitles taken from Chitwood's rants. "It's been a rough first year for the deputies," says Sgt. Brodie Hughes, president of the Volusia County Deputies Association.

Detractors see Chitwood as calculating, noting that he told the NRA in a pre-endorsement questionnaire that he would consider supporting a law to let Floridians carry weapons openly, a position the Florida Sheriffs Association and most progressives oppose. The gun lobby awarded him an "A" grade. Chitwood said he just registered a willingness to discuss the issue.

Presented with all this criticism, Chitwood responded, "All I am gonna say is this: fuck 'em. I got a job for four years, if they don't like it, get out."

Pressed about how he expects to create lasting reforms in such a toxic environment, Chitwood cast his critics as the vestiges of a time that is past, or soon will be.

"The easy part for me is convincing the residents. The residents have seen me at work for ten years" in Daytona Beach, Chitwood said in one of several interviews. "The cops, they are the skeptical ones. They are the harder group to get to follow you. Because no one likes to be second guessed. No one wants to change. The community embraces change. They want an accountable, well-trained police force that is in tune in their community."

"They've grown up in a cocoon here," he said of his deputies. "They train together. They don't look to train outside. They don't read articles from outside. They don't get educated from outside. Everything is Volusia County."

Chitwood intends to expose his officers to reform scholars and the more liberal policing cultures of Los Angeles and New York, "where they can see 'oh shit, there's another way of doing things'."

"Good Ol' Boys"

The old way of doing things was embodied by Chitwood's predecessor, Ben Johnson, who retired in December 2016 after 16 years as sheriff.

* In 1972, as a young deputy, Johnson fatally shot an unarmed black man as he fled from police custody. A grand jury cleared Johnson, but the episode contributed to a mistrust among African-Americans that lingered throughout his tenure as sheriff.

On his watch, the county spent at least \$671,500 settling deputies' use-of-force and false arrest cases, according to legal records.

From 2011 to 2013, Johnson's agency was investigated by the U.S Justice Department after a Latino resident complained that deputies responding to a domestic violence call detained the wrong person because they couldn't understand Spanish. Volusia County is 12% Latino, not including the estimated 10,000 to 20,000 undocumented residents who've migrated mainly from Mexico. Federal officials faulted the sheriff's office for having no in-house translators and for offering English-only forms and pamphlets to the public.

The way Chitwood sees it, Johnson alienated black and Latino neighborhoods, and the new sheriff now has to repair the damage. Chitwood attends Sunday service at Mexican churches, visits taco stands to eat alongside undocumented farm workers and frequently accuses his predecessor of being indifferent to their concerns.

Johnson fiercely disputes the suggestion of racism or apathy, saying that he was "the sheriff for everybody."

Sitting next to his wife one afternoon at a restaurant, Johnson parried a barrage of personal attacks from his successor, and finally broke down in tears. "All I want to see is success for him, but don't hurt people to get it," he said, wiping his eyes. "He doesn't have to come in there and destroy what's been done." Johnson has returned to politics, and plans to run for a county council seat in 2018.

Grand Jury To Probe Prisoner Shooting

By HILL FINNEY
From Our West Volusia Bureau
DELAND — Volusia's Fall Term Grand Jury will inquire March 22 into the fatal shooting of escaped prisoner Troy Davis, 37, DeLand, by a Sheriff's Deputy here Feb. 8.

State Atty. Stephen Boyles made the announcement Thursday after the Grand Jury returned an interim report in which it commented on a continuing probe into affairs of the City of Port Orange.

Boyles informed Circuit Judge James T. Nelson the jury would begin taking testimony in the Davis case at 9 a.m. next Wednesday.

Hookie Deputy Ben Johnson shot Davis in the downtown DeLand area after he had escaped from another officer while being returned to County Jail from court.

Johnson testified at a Feb. 11 Coroner's Inquest that he fired in what he considered self defense. The jury returned a finding of justifiable homicide.

Since that time, the NAACP and

other mostly black groups have met several times to discuss the incident. They have demanded Johnson's dismissal as an officer.

Boyles wouldn't say Thursday whether he had suggested the shooting investigation. But he was quoted earlier as saying he believed the Grand Jury should look into it, not because of evidence not submitted to the Coroner's Jury, but because of objections voiced since the inquest.

On the Port Orange probe started last month, the jury's presentment confirmed that possible Sunshine Law violations were involved, as well as nonadherence to business procedures. The report said:

"We have heard additional testimony surrounding the conduct of public business in the City of Port Orange. We have considered this testimony and have crystallized the citizen complaints.

"The complaints are complaints of possible violation of the Sunshine Law

and possible nonadherence to Charter prescribed business procedures.

"We conclude that further field investigation of the complaint is necessary and have requested and been advised that further investigation will be made by ... the State Attorney."

Three Indicted

From Our West Volusia Bureau
DELAND — The Grand Jury Thursday returned indictments charging three Volusians with first and second degree murder and rape. They are:

— Jean Ann Reed, 18, 647 School St., Daytona Beach, first degree murder in the killing of Jerome Fountain, 32, on Feb. 10.

— Billy H. Moore, 22, Ormond Beach, second degree homicide in the fatal shooting of Clifford Hugh Mackney, 35, on Feb. 8.

— Robert James Paulds, 20, Holly Hill, rape of a female over 10 on Feb. 23.



AT TROTTING RACES— Stu Clark winner of a trot and pace competition near DeLand. The trotting race the West Volusia YMCA. More races Mr. and Mrs. Winfield Bennett and many fans watching the trotters. A racing program is being conducted.



In Downtown DeLand

#5-B-



U.S. Department of Justice

Civil Rights Division

Att # 6

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 10 2012

The Honorable Bill Nelson
United States Senate
Washington, D.C. 20510

Dear Senator Nelson:

This responds to your letter to the Assistant Attorney General for the Office of Legislative Affairs dated October 31, 2011, regarding your constituent, John Casaburro. Mr. Casaburro and four other individuals describe their concerns with the ~~U.S.~~ Attorney's Office (State) for the Middle District of Florida and the Volusia County Sheriff's Office. The letters include allegations of a pattern of corruption and nepotism, a failure to fully investigate the deaths of two individuals, a failure to respond to local landowners' complaints about harassment by an out-of-town developer, and the filing of false charges against those local landowners.

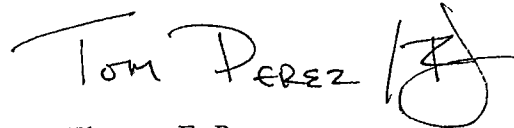
One of the core missions of the Special Litigation Section is ensuring that law enforcement agencies comply with federal civil rights laws. For example, the Special Litigation Section enforces the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d. Section 14141 permits the Attorney General, acting on behalf of the United States, to file lawsuits against state and local governments to remedy a pattern or practice of conduct that deprives persons of rights, privileges, or immunities secured or protected by the Constitution and federal law. The Safe Streets Act, together with Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, prohibit discrimination on the basis of race, color, sex, or national origin by state or local criminal justice agencies receiving federal funding.

We will consider your letter and the individual complaints that you have forwarded in determining whether the Volusia County Sheriff's Office is engaged in a pattern or practice of conduct warranting investigation by our office. However, the Special Litigation Section does not have the authority to investigate individuals' complaints. Therefore, we cannot directly respond to the concerns raised by Mr. Casaburro or the other four individuals referenced in his correspondence. In addition, we do not have jurisdiction to address allegations that the U.S. Attorney's Office for the Middle District of Florida has engaged in misconduct. We have referred those allegations to the DOJ Office of the Inspector General for review.

The Honorable Bill Nelson
Page Two

We hope this information is helpful. Please do not hesitate to contact the Department if we may be of assistance with this or any other matter.

Sincerely,

A handwritten signature in black ink that reads "Tom PEREZ" followed by a stylized flourish or initial.

Thomas E. Perez
Assistant Attorney General

281
252-1511

VOLUSIA COUNTY SHERIFF'S OFFICE

Suit: Failure to stop drug dealers ruined business

By Frank Fernandez
frank.fernandez@news-jrn.com

#7

A Port Orange man is claiming in a federal lawsuit that the Volusia County Sheriff's Office failed to stop drug dealing near his trucking business causing him to lose more than \$500,000.

Robert Momi filed the lawsuit Tuesday in federal court in Orlando against Volusia County and "defendants unknown." Momi's lawsuit asks the court to order the U.S. Attorney's Office to investigate Sheriff Ben Johnson for fraud.

Momi, who is representing himself, is stating that since 2008 he filed numerous complaints

about drug dealing near his commercial trucking business in Deland. But Momi said he got no action from the Sheriff's Office, according to the lawsuit.

The drug dealing and junked cars constantly blocking the driveway caused Momi to lose more than \$500,000 in business, \$25,000 in property damage and 300,000 "in other work related loss," the lawsuit states. Momi states in the

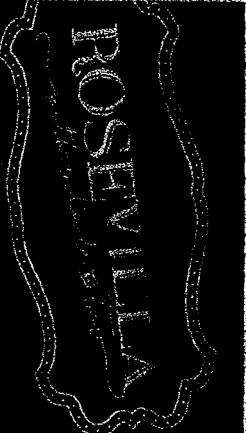
lawsuit that he is suffering from anxiety and depression and is taking prescription medication to relieve the stress brought on by his financial loss.

The Sheriff's Office did not comment on the lawsuit, but it provided documents about a complaint filed by Momi in August 2014 in which he raised some of the same issues. The Sheriff's Office investigated and found Momi's complaints

unfounded. The Sheriff's Office said that a narcotics task force had 30 contacts with Momi or took actions such as surveillance and traffic stops between May 5, 2014 and August 26, 2014.

The Sheriff's Office also stated that some of the complaints reported were resolved in the drug trade with 38 arrests of all types throughout Florida and that the case remained open.

-EX-18-



THE DAYTONA BEACH NEWS-JOURNAL
6-3-16



#7

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JOHN E. CASABURRO,

Plaintiff,

-vs-

Case No. 6:09-cv-1899-Orl-22DAB

VOLUSIA COUNTY CORP; VOLUSIA
COUNTY SHERIFF;S DEPT.; ANTHONY
MANDESE, JR.; and UNKNOWN
DEFENDANTS,

Defendants.

ORDER REQUIRING RICO CASE STATEMENT

This matter comes before the Court on its motion. In the Complaint, Plaintiff asserts claims pursuant to the Racketeer Influenced and Corrupt Organization Act ("RICO"), 18 U.S.C. § 1961. Under the current practice of this Judge, all parties filing RICO claims must file a RICO Case Statement.

In view of the foregoing, it is hereby ORDERED and ADJUDGED that the Plaintiff shall file, within twenty (20) days of the date of this Order, a RICO Case Statement. This Statement shall include the facts upon which the Plaintiff is relying to initiate this RICO complaint as a result of the "reasonable inquiry" required by Rule 11 of the Federal Rules of Civil Procedure. In particular, this statement shall be in a form which uses the numbers and letters as set forth below, and shall state in *detail* and with *specificity* the following information.

I have never filed a Unjust Action, I either won on merit, settled on something charged outside of court. Above Action served as an order of protection against Benji's Men who made threats against me & scared neighbors

2110 First Street, Suite 3-137
Fort Myers, Florida 33901
239/461-2200
239/461-2219 (Fax)



300 N. Hogan Street, Suite 700
Jacksonville, Florida 32202
904/301-6300
904/301-6310 (Fax)

35 SE 1st Avenue, Suite 300
Ocala, Florida 34471
352/547-3600
352/547-3623 (Fax)

U.S. Department of Justice
United States Attorney
Middle District of Florida

400 West Washington Street, Suite 3100
Orlando, Florida 32801
407/648-7500
407/648-7643 (Fax)

Main Office
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
813/274-6000
813/274-6358 (Fax)

#8

Reply to: Orlando, FL

em

May 28, 2015

John E. Casaburro
111 Kendra Ave.
Deland, FL 32724

Re: Citizen Complaint


Dear Mr. Casaburro:

We acknowledge receipt of your complaint and apologize for the delay in responding. This office does not investigate complaints, we refer them to agencies that conduct investigative functions for investigation. Based on your complaint, I am referring the matter to the Federal Bureau of Investigation (FBI). Referring your complaint to FBI does not mean that they have or will open an investigation concerning your Complaint. This referral simply brings your concerns to their attention. Should the FBI require additional information, I am confident that they will contact you directly.

Thank you for submitting your citizen complaint.

Sincerely,

A. LEE BENTLEY, III
United States Attorney


By: Elizabeth Medina
Victim-Witness Specialist

cc: FBI

The UPS Store #6027
1702 N. Woodland Blvd., #116
DeLand, FL 32720

Phone: (386) 734-4086
Fax: (386) 734-4088



Lawfirm of Gloria
Allred, CA. 323-302-
4773, Fax 323-653-1660

FAX

To: Kirby Cannon, Esq From: Kala
Fax: 323-653-1660 Pages: cover + 3 pages
Phone: 323-653-6530 Date: EXT. 314 AUG. , 2018
Re: Legal Representation cc: [REDACTED] / Family friend

Urgent For Review Please Comment Please Reply Please Recycle

"Former Sheriff's DRUG + Sexual misconduct"

If any further questions please contact: Kala (Jane Doe # 1) or
[REDACTED] @ 386-[REDACTED]. Dear Mr.
Cannon, I wish to hire your firm in the
matter of (Jane Doe's) v. Former Sheriff
Ben F. Johnson / Volusia county corp. in Fed
eral Dist. Orlando, FL.* For sexual abuse,
misconduct committed by Johnson while still
Sheriff of Volusia ct. FL. He now seeks a
higher office. As a young woman suffering
from addiction, Johnson would exchange Petty drug
crimes (for arrest) for sex. other Girls will
come forward after I retain you. He needs
to be stopped! your's truly,
(will confirm by phone.)

*CIVIL RIGHTS/personal Injury

*Karla
[REDACTED] ave.
DeLand, FL.
32724

TRANSMISSION VERIFICATION REPORT

TIME : 08/22/2018 14:55
NAME :
FAX :
TEL :
SER.# : U63274A8J540087

ATTN 9

DATE, TIME	08/22 14:54
FAX NO./NAME	3236531660
DURATION	00:00:46
PAGE(S)	04
RESULT	OK
MODE	STANDARD ECM

The UPS Store #6027
1702 N. Woodland Blvd., #116
DeLand, FL 32720

Phone: (386) 734-4086
Fax: (386) 734-4086



Lawfirm of Gloria
Allred, CA. 323-302-
4773, Fax 323-653-1660

FAX

To: Kirby Cannon, Esq. From: Kala

Fax: 323-653-1660 Pages: cover + 3 pages

Phone: 323-653-6530 Date: EXT. 314 AUG. 2018

Re: Legal Representation cc: [redacted] / Family friend

- Urgent For Review Please Comment Please Reply Please Recycle

"Former Sheriff's DRUG + Sexual Misconduct"

If any further questions please contact: Kala (Jane Doe #1) or
[redacted] @ 386-215-7327. Dear Mr.
Cannon, I wish to hire your firm in the
matter of [redacted], (Jane Doe's) v. Former Sheriff
Ben E. Johnson / Volusia county corp. in Fed.

Charges dropped

Try to pick me up

Promised to give me a
get out of jail car
if I had sex with him

2014-2015

Would get me any drug
I wanted to party

In a car
In Sheriff car

In uniform @ twice

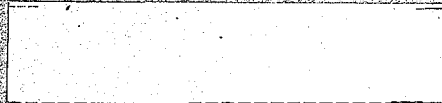
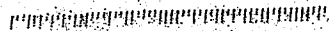
Kenya

AH #10

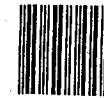
8-22-18



Mr John E Casaburro
111 Kendra Ave
Deland, FL 32724



7018 1130 0000 6267 4534



1025

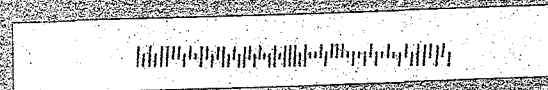
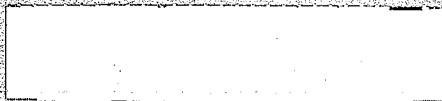
92399

U.S. POSTAGE PAID
FCM LG ENV
DELAND, FL
32724
JUN 04 '19
AMOUNT
\$8.20
R2303S100030-07

TIM VALCCARO, EX-DIR

RECEIVED
2019 JUN 11 A 11:00
STATE OF FLORIDA
ELECTIONS COMMISSION

Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399 - 1050





FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539**
www.fec.state.fl.us; fec@myfloridalegal.com

May 23, 2019

CERTIFIED MAIL # 92148969009997901628061920

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-105; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission received a "Petition for Attorney's Fees and Costs" in this case. Pursuant to Rule 2B-1.0045, Florida Administrative Code, a copy of the Petition is enclosed for your review.

At its next regularly scheduled meeting, **currently set for August 13-14, 2019, in Tallahassee, Florida**, the Commission will review the Petition and determine whether it states "a prima facie case for costs and attorney's fees." A notice of hearing will be provided at the appropriate time.

If you have any questions concerning the Petition, please contact the Florida Elections Commission at fec@myfloridalegal.com.

Sincerely,

Donna Ann Malphurs

Agency Clerk

/dam

Enclosure: Petition for Attorney's Fees and Costs
cc: F.A. "Alex" Ford, Jr., Attorney for Respondent

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee 9214 8969 0099 9790 1628 0619 20

Certified Mail Fee	\$	\$0.500
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	\$3.50
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	\$1.60
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
Postage	\$	\$0.00
Total Postage and Fees	\$	\$5.600

Electronic Return Receipt Requested

Postmark
Here

Sent To John Casaburro
 111 Kendra Avenue
Street, Apt. No., or PO Box No. DeLand, FL 32724
City, State, Zip+4

5/23/2019 12:44:43PM

Code: 19-119 and 19-105 - Pet for Fees



FEC CASE NO.: 19-105; Respondence: Ben F. Johnson - Additional Filings Diane Harney
 to: fec@myfloridalegal.com 05/13/2019 05:02 PM
 Cc: "Alex Ford", "Diane Harney"
 From: "Diane Harney" <dharney@landispa.com>
 To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>
 Cc: "Alex Ford" <aford@landispa.com>, "Diane Harney" <dharney@landispa.com>
 History:

This message has been forwarded.

3 Attachments



2019.05.13 Notice of Filing Electronic Copy of the Affidavit of Henry Frederick.pdf



2019.05.13 Notice of Additional Facts.pdf 2019.05.13 Petition for Attorney Fees and Costs.pdf

Good afternoon:

Attached please find the following documents regarding the above-referenced FEC Case:

1. Notice of Filing Electronic Copy of the Affidavit of Henry Frederick;
2. Notice of Additional Faces; and
3. Petition For Attorney Fees and Costs.

Please advise if you need additional information. Please confirm receipt.

Diane Harney, Legal Secretary
 to F.A. (Alex) Ford, Jr., Esquire
 to Kathrine E. Conroy, Esquire
 Landis Graham French, P.A.
 145 E. Rich Avenue, Suite C
 DeLand, Florida 32724
 Phone: 386-734-3451
 Fax: 386-736-1350
dharney@landispa.com



FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

Case No.: FEC 19-105

BEN F. JOHNSON,

Respondent.

**NOTICE OF FILING ELECTRONIC COPY OF THE
AFFIDAVIT OF HENRY FREDERICK**

Notice is hereby given of the electronic filing of the Affidavit of Henry Frederick,
dated April 11, 2019 (attached);

The original affidavit is held by undersigned counsel.

Dated this 13th day of May, 2019.



F. A. (Alex) Ford, Jr., Esquire
Florida Bar No. 0381845
Landis Graham French, P.A.
Post Office Box 48
DeLand, FL 32721-0048
Tel: (386) 734-3451
Fax: (386) 736-1350
primary email: aford@landispa.com
secondary email: dharney@landispa.com
Attorney for Respondent, BEN F. JOHNSON

AFFIDAVIT OF HENRY FREDERICK

STATE OF FLORIDA
COUNTY OF VOLUSIA

Before this day personally appeared HENRY FREDERICK, Defendant in the above-styled case, who duly sworn, deposes and says:

1. I, HENRY FREDERICK, am over the age of 18.
2. I write and publish news and opinion articles on my website and do business as HEADLINE SURFER ("Surfer").
3. Surfer is an online news website.
4. Each and every statement in the HEADLINE SURFER article that was attached as Exhibit A to the Circuit Court complaint filed by John Casaburro ("Article") was thoroughly researched and carefully considered.
5. Prior to publishing the Article, I left Mr. Casaburro a voicemail seeking comment from Plaintiff, John Casaburro ("Plaintiff" or "Casaburro"), but he never responded.
6. Prior to filing suit in this cause, Plaintiff emailed me seeking corrections to the Article, to which I responded with an email asking for him to cite to me any specific errors in the Article.
7. As to the points of fact complained of by Plaintiff, the sources for the facts reported in Surfer were interviews, and public records and outside news stories which are attached to this affidavit and demonstrate the reports in Surfer were an accurate reporting of what was stated in the original source documents.

NEIGHBORHOOD ISSUES

8. JOHN E. CASABURRO ("Casaburro") states in his Complaint that I "accuse[d] Plaintiff of a gross and perverted act of leaving a bloody condom on someone's doorstep." What was actually stated in the Article is that the Plaintiff "was once suspected by a neighboring DeLand family of four of leaving a dripping used condom with blood on it on the welcome mat of their front porch."

9. I did not include the entire police report in the article; however, the article accurately summarized the incident report.

10. The source for my report of that incident was a Volusia County Sheriff's Office Incident Report, a true and correct copy of which is attached hereto as **Exhibit 1**, and which indicates the victimized family told the police they suspected Casaburro was the culprit.

11. Casaburro also complains that I called him a monster in his neighborhood, but what the Article actually says is that he is an ogre to his neighbors, which is my opinion of him.

12. In addition to the neighbor's suspicions as set forth in **Exhibit 1**, see attached **Exhibit 2**. **Exhibit 2** is a Volusia County Sheriff's Office Incident Report indicating a neighbor's complaints about Plaintiff trespassing on his property and taking photographs of his cars and his house, as well as constantly making complaints against him to the Volusia County Sheriff's Office.

13. **Exhibit 2** also indicates Casaburro admitted to initiating "action to remove undesirable residents" from his neighborhood.

14. During the course of my investigation into Casaburro's issues with neighbors, I became aware of complaints against another neighbor, Anthony Mandese.

15. **Exhibit 3** indicates that Mr. Casaburro and Mr. Mandese got into an argument, during which there was apparently name-calling and the police were called.

POLITICAL ISSUES

16. Casaburro stated in his Complaint that I reported he was in "some sort of conspiracy with Mike Chitwood, Sheriff (sic) and Councilwoman Heather Post."

17. The Article makes no such statement.

18. It does report my opinion that Mr. Casaburro takes his cues from Sheriff Mike Chitwood which is based, in part, on the fact Casaburro repeatedly published disparaging remarks about Defendant, Johnson, which he attributed to Sheriff Chitwood.

REPUBLICAN PARTY ISSUES

19. Casaburro also complains in his Complaint that I reported he "had no good standing with the Republican Party."

20. The Article makes no such statement.

21. However, even if the Article did make that statement, I would consider it to be fair opinion based on the fact Casaburro has been at odds with the Republican party, including having been in litigation against it. A copy of a settlement agreement from litigation between Casaburro and the Republican Party is attached to the Complaint herein.

ETHICS AND MENTAL HEALTH ISSUES

22. Casaburro stated in his Complaint the Article calls him a psycho, dishonest and unethical.

23. While the Article does not say he is a psycho, it does report he distributed "phony sleaze."

24. The "phony sleaze" referred to in the Article consisted of false allegations Casaburro made against Johnson and distributed as part of his campaign including, without limitation, the disparaging remarks Plaintiff attributed to Sheriff Chitwood, as mentioned above.

25. The article also gives an account of Casaburro's efforts to bully a member of the public who demanded proof of his false allegations about Defendant, Johnson, as reported to me by the victim of Casaburro's intimidation.

26. Further, as noted in Exhibit 2, Casaburro made false claims of being the president of a homeowner's association. As it turns out, the supposed association did not even have a legal existence.

27. Thus, while the Article did not specifically call Plaintiff dishonest or unethical, in my opinion there is sufficient grounds to have this opinion of him.

RACIST REMARKS, SOLICITATION OF PROSTITUTION

AND PRIOR POLITICAL RACES

28. Casaburro claims in his Complaint that the article "takes out of context remarks from a biased reporter from 1989 NY, claiming that Plaintiff is a racist" and that I "misquote[d] [Plaintiff] to harm and injure like Plaintiff is some sort of mental case."

29. What was actually reported in the Article was commentary on headlines about Plaintiff from New York city newspapers for his racist remarks. The source for the statements made by Casaburro was a 1989 AP News article, which is attached hereto

as Exhibit 4, which purports to directly quote statements made by the him during the course of his campaign for Mayor of Yonkers.

30. Casaburro complains in his Complaint that statements regarding his 1994 arrest for solicitation of prostitution in New York were mischaracterized, apparently because the charges were reduced to disorderly conduct.

31. My source was the New York Times article attached hereto as Exhibit 5, which specifically states that Casaburro "was arrested in Manhattan on Wednesday and charged with patronizing a prostitute" while "carrying a flier that identified him as a candidate in the 18th Congressional District race when he was arrested."

32. These articles describing Casaburro's candidacies for Mayor of Yonkers and Congress in the 18th Congressional District in New York also served as the bases for my reporting that the race against Defendant, Johnson, was not Casaburro's first time running for political office, as was reported by the West Volusia Beacon in that publication's account of an interview with Casaburro.

PAYMENT FOR ADVERTISING

33. Casaburro states in his Complaint that Co-Defendant, BEN JOHNSON, ("Johnson"), paid me to "to trash/slander Plaintiff."

34. I was not paid to trash/slander Plaintiff or to make any comment whatsoever about Plaintiff, nor was I paid to write the Article or publish it on Surfer.

35. Casaburro and Johnson were competing candidates for Volusia County Council At-Large at all times pertinent to the Plaintiff's claims.

36. Johnson's campaign paid me \$1,000.00 for advertising on the Surfer website.

37. The ads for Johnson did not run immediately, as was intended, because I was suffering from recurring health problems at the time they were received from the Johnson campaign.

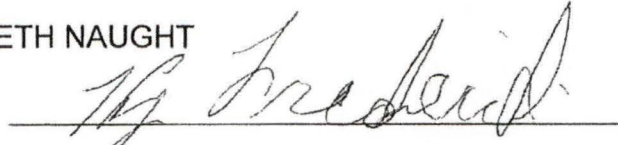
38. However, the ad did run before the conclusion of the campaign and a copy of the ad that was posted on the Surfer website are attached as Exhibit 6,

39. In addition to the ad, a campaign video ran on the Headline Surfer website.

40. Other political candidates also advertised on my website during the 2018 elections.

41. I know of no reason why the information sources for the Article should not be considered reliable.


FURTHER AFFIANT SAYETH NAUGHT

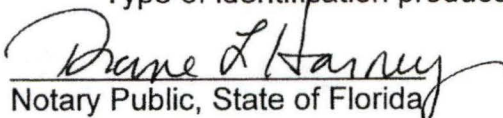

HENRY FREDERICK

Sworn to or affirmed and signed before me on the April 11, 2019 by HENRY FREDERICK.

Personally known

Produced identification

Type of identification produced: Florida Driver's License 


Notary Public, State of Florida



EXHIBIT

1

VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

Page 1 of 4 Pages

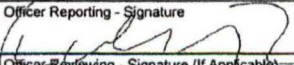
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Agency ORI Number FL0640000		Zone # 25		Telephone Handled Call? (T.H.C.) 1. Yes 2. No 2	
Reported: Day Date Time (mil.) Tuesday 09-08-2009 0257		Time Dispatched (mil.) 0302		Time Arrived (mil.) 0308	
Time Completed (mil.) 0331		Nature of Call (Report Type) 13A Suspicious Incident			
Incident Type: 1. Felony 3. Misdemeanor 5. Ordinance 2. Traffic Felony 4. Traffic Misdemeanor 9. Other		Incident: Day From Monday		Date Time (mil.) 09-07-2009 2100	
TO Day Date Time (mil.) Tuesday 09-08-2009 0220		Occurred During: D - Day U - Unknown N - Night			
Offense #1 Type 9 Statute Violation Number 7777777		Description Suspicious Incident		A - Attempted C - Committed	
Offense #2 Type Statute Violation Number		Description		A - Attempted C - Committed	
Incident Location (Street, Apt. Number) City Zip 113 Kendra Av DELAND 32725					
Business Name / Area Identifier # Prem. Entered Drug Related Alcohol Related Forced Entry Arson-Inhabited Arson-Attempted 0. N/A 1. Yes 2. No 2. No 2. No 2. No 3. Attempted 1. Occupied 2. Unoccupied 3. Abandoned 1. Yes 2. No					
Location Type Location Type Codes 01. Residence-Single 05. Convenience Store 09. Supermarket 13. Bank/Financial Inst. 17. Gov't/Public Bldg. 21. Airport 25. Parking Lot/Garage 29. Motor Vehicle 02. Apartment/Condo 06. Gas Station 10. Dept/Discount Store 14. Commercial/Office Bldg. 18. School/University 22. Bus/Rail Terminal 26. Highway/Roadway 30. Other Mobile 03. Residence/Other 07. Liquor Sales 11. Specialty Store 15. Industrial/Mfg. 19. Jail/Prison 23. Construction Site 27. Park/Woodlands/Field 88. Unknown 04. Hotel/Motel 08. Bar/Nightclub 12. Drug Store/Hospital 16. Storage 20. Religious Bldg. 24. Other Structure 28. Lake/Waterway 99. Other					
V/W Code Victim/Subject Type Address/Phone Type Race Sex Residence Type Residence Status V-Victim N-Next of Kin 0. N/A 4. Business B. Business/Work M. Message P. Pager W-White O-Oriental/Asian M-Male 0. NA 3. Florida 0. N/A W-Witness O-Other 1. Juvenile 5. Government C. Cell N. Next of Kin S. School B-Black U-Unknown F-Female 1. City 4. Out-of-State 1. Full Year R-Reporting Person 2. L.E. Officer 6. Church H. Home O. Other V. Vacation I-American Indian U-Unknown 2. County 2. Par. Year 3. Adult 9. Other					
Means of Attack Extent of Injury Domestic Violence Victim Relationship to Offender F-Firearm O-Other Dangerous 00. N/A 03. Laceration 06. Poss. Internal Injury 09. Abrasions/Bruises 1. Yes 2. No S-Spouse B-Sibling Z-Other K-Knife/Cutting Inst. H-Hands, Fists, Feet, Etc. 01. Gunshot 04. Unconscious 07. Loss of Teeth 10. No Visible Injury P-Parent O-Other Family 02. Stabbed 05. Poss. Broken Bones 08. Burns 99. Other Serious Injury C-Child H-Co-Habitant					
Offense Indicator V/W Code # V. Type Nature of Call (for Victim, if different from Incident) Name (Last/Business) (First) (Middle) 1. #1 3. Both 1 R 1 3 2. #2 Address (Street, Apt. Number) City State Zip Residence Phone 113 Kendra Av DELAND FL 32725 (386) 566-5161 Business/School/Other Address (Street, Apt. Number) City State Zip Address Type Business/School/Other Phone Phone Type					
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement Discovered the condom on her doorstep					
If Victim Type Race Sex Date of Birth Age Ethnicity Res. Type Res. Status Means of Attack Extent of Injury Domestic Violence Relationship 1, 2, or 3 W F 7 22 N 2 1					
Offense Indicator V/W Code # V. Type Nature of Call (for Victim, if different from Incident) Name (Last/Business) (First) (Middle) 1. #1 3. Both 1 O 1 3 20 Mentally Ill Person Casaborro John E 2. #2 Address (Street, Apt. Number) City State Zip Residence Phone 11 Kendra Av DELAND FL 32725 (386) 943-8922 Business/School/Other Address (Street, Apt. Number) City State Zip Address Type Business/School/Other Phone Phone Type					
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement					
If Victim Type Race Sex Date of Birth Age Ethnicity Res. Type Res. Status Means of Attack Extent of Injury Domestic Violence Relationship 1, 2, or 3 W M 57 N 2 1					
Offense Indicator V/W Code # V. Type Nature of Call (for Victim, if different from Incident) Name (Last/Business) (First) (Middle) 1. #1 3. Both 2. #2 Address (Street, Apt. Number) City State Zip Residence Phone Business/School/Other Address (Street, Apt. Number) City State Zip Address Type Business/School/Other Phone Phone Type					
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If Victim Type Race Sex Date of Birth Age Ethnicity Res. Type Res. Status Means of Attack Extent of Injury Domestic Violence Relationship 1, 2, or 3					
Offense Indicator V/W Code # V. Type Nature of Call (for Victim, if different from Incident) Name (Last/Business) (First) (Middle) 1. #1 3. Both 2. #2 Address (Street, Apt. Number) City State Zip Residence Phone Business/School/Other Address (Street, Apt. Number) City State Zip Address Type Business/School/Other Phone Phone Type					
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement					

VOLUSIA COUNTY SHERIFF'S OFFICE

NARRATIVE / SUPPLEMENT

Report Date	Report Time	Orig. Reported Date	Nature of Call (for Incident)	Agency Report Number	1.Original
09-08-2009	0257	09-08-2009	13A	090028523	2.Supplement 1

11
 12 As of this writing, there is no information linking the condom to a crime. This report is for documentation purposes in the event new information
 13 regarding this incident is developed in the future. A copy of this report was faxed VCSO Sex Crimes for their review.
 14
 15 The case status is: Closed.

ADMINISTRATIVE	Final Case Status: 5	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded	<input type="checkbox"/> Victim Advocate	<input type="checkbox"/> Triad	<input type="checkbox"/> SA Referral	
	<input type="checkbox"/> DCF Hotline <input type="checkbox"/> CAC	Spoke With:	Date:	Time:	<input type="checkbox"/> FCIC / NCIC Entry <input type="checkbox"/> FCIC / NCIC Cancel	
	Connecting Report Number: 090024812	Agency: VCSO	Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____			
	Officer Reporting - Printed: King, Caleb	Officer Reporting - Signature: 	ID. Number: 6919	Unit: 1B25	Date: 09-08-2009	
Officer Reviewing - Printed (If Applicable):	Officer Reviewing - Signature (If Applicable):	ID. Number:	Unit:	Date:		

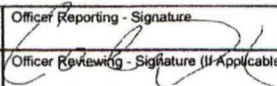
NARRATIVE / CONTINUATION

EVENT

VOLUSIA COUNTY SHERIFF'S OFFICE

PROPERTY REPORT

Page 4 of 4 Pages

THEFT EVENT	Report Date	Report Time	Original Incident Date	Nature of Call (for Incident)	Agency Report Number	1. Original	2. Supplement									
	09-08-2009	0257	09-08-2009	13A	090028523		1									
THEFT EVENT	Type Theft	Type Theft Codes														
		00. N/A	01. Burglary	02. Robbery	03. Shoplifting	04. Pocket Picking	05. Purse Snatching	06. Embezzlement	07. From Coin Oper. Machine	08. From Public Access Bldg.	09. From Vehicle	10. Extortion	11. By Computer	12. Fraud	13. Bicycle	14. Motor Vehicle Parts
CODES	Person Code	Person Involvement Code		Status Code:												
	V-Victim S-Suspect D-Defendant W-Witness	N-Next of Kin O-Other R-Reporting Party	1. Finder 2. Owner 3. Suspect 4. Other	1. Evidence 2. Damaged Prop. 3. Arson/Burned 4. Photo & Release	5. Lost 6. Recovered 7. Recovered (Outside Agency Recovered)	8. Found 9. Found/Contraband 10. Prisoner's Pers. Prop. 11. Stolen	12. Stolen And Recovered 13. Disposal 14. Prop. Of Deceased 15. Return to Owner	16. Vehicle Inventory Prop. 17. Baker Act 18. Seized/Confiscated 19. Abandoned								
CODES	Category Code	E-Equipment/Measuring Devices/Tools		I-Items of Identification		V-Viewing Equip (Binoculars)										
	B. Bicycle C. Camera/Photo Equipment D. Data Processing Equipment	F-Furniture and Furnishings G-Games and Gambling Apparatus H-Household Appliance/Housewares	J-Special Docs/Food Stamps/Tickets K-Keepsakes and Collectibles L. Livestock	M. Musical Instrument O. Office Equipment P. Personal Accessories	R-Radio/TV/Sound Devices S-Sports/Camping/Rec. Equip. T-Toxic Chemicals	W-Well-drilling Equipment Y-All Other Items and Equipment (GUNS,DRUGS,JWLRY, Etc.)										
DRUG CODES	Activity	D. Deliver		Z. Other		Type										
	P. Possess S. Sell B. Buy T. Traffic R. Smuggle	E. Use K. Dispense/Distribute M. Manufacture/Produce/Cultivate			A. Amphetamine B. Barbiturates C. Cocaine E. Heroin H. Hallucinogen	M. Marijuana O. Opium/Derivative P. Paraphernalia/Equipment S. Synthetic	U. Unknown Z. Other									
PROPERTY	Leave Blank:	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description							
	Serial Number	Owner Applied Number		Value Recovered:		Date Recovered:		Forfeiture Y / N:		F.W.T.C. (Y/N)		Value \$				
	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value \$					
	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type							
PROPERTY	Leave Blank:	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description							
	Serial Number	Owner Applied Number		Value Recovered:		Date Recovered:		Forfeiture Y / N:		F.W.T.C. (Y/N)		Value \$				
	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value \$					
	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type							
PROPERTY	Leave Blank:	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description							
	Serial Number	Owner Applied Number		Value Recovered:		Date Recovered:		Forfeiture Y / N:		F.W.T.C. (Y/N)		Value \$				
	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value \$					
	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type							
PROPERTY	Leave Blank:	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description							
	Serial Number	Owner Applied Number		Value Recovered:		Date Recovered:		Forfeiture Y / N:		F.W.T.C. (Y/N)		Value \$				
	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value \$					
	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type							
CHAIN OF CUSTODY	Item #	Date:	Time:	Released by (Printed):		Released by (Signature):		Received by (Printed):		Received by (Signature):						
	1	09-08-2009	0400	C.D. King				D2 Evidence Locker								
	Leave Blank:			Reason for Change:												
	Evidence															
	Item #	Date:	Time:	Released by (Printed):		Released by (Signature):		Received by (Printed):		Received by (Signature):						
	Leave Blank:			Reason for Change:												
	Item #	Date:	Time:	Released by (Printed):		Released by (Signature):		Received by (Printed):		Received by (Signature):						
	Leave Blank:			Reason for Change:												
	Item #	Date:	Time:	Released by (Printed):		Released by (Signature):		Received by (Printed):		Received by (Signature):						
	Leave Blank:			Reason for Change:												
Item #	Date:	Time:	Released by (Printed):		Released by (Signature):		Received by (Printed):		Received by (Signature):							
Leave Blank:			Reason for Change:													
MIN.	Officer Reporting - Printed			Officer Reporting - Signature				ID. Number	Unit	Date						
	King, Caleb							6919	1B25	09-08-2009						
Officer Reviewing - Printed (If Applicable)			Officer Reviewing - Signature (If Applicable)				ID. Number	Unit	Date							



VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

<input type="checkbox"/> Juvenile <input type="checkbox"/> Gang <input type="checkbox"/> Domestic Violence <input type="checkbox"/> Endangered / Other		<input type="checkbox"/> Elderly Abuse / Exploitation VOR _____		Agency Report Number 090030503	
Agency ORI Number FL0640000		Zone # 25		Telephone Handled Call? (T.H.C.) 1. Yes 2. No 2	
Reported: Day Friday	Date 09-25-2009	Time (mil.) 1132	Time Dispatched (mil.) 1148	Time Arrived (mil.) 1342	Time Completed (mil.) 1412
Nature of Call (Report Type) 42 Civil Complaint					Occurred During: D - Day U - Unknown N - Night D
Incident Type: 1. Felony 2. Traffic Felony	3. Misdemeanor 4. Traffic Misdemeanor	5. Ordinance 9. Other	Incident: Day From Friday	Date 09-25-2009	Time (mil.) 0930
Offense #1 Type 9 Statute Violation Number 7777777777		Description INFORMATION ONLY		A - Attempted C - Committed	
Offense #2 Type Statute Violation Number		Description		A - Attempted C - Committed	
Incident Location (Street, Apt. Number) 113 KENDRA AV			City DELAND		Zip 32724
Business Name / Area Identifier		# Prem. Entered	Drug Related 0. N/A 1. Yes 2. No 2	Alcohol Related 0. N/A 1. Yes 2. No 2	Forced Entry 1. Yes 3. Attempted 2. No
Arson-Inhabited 1. Occupied 2. Unoccupied		Arson-Attempted 1. Yes 2. No		Arson-Abandoned 3. Abandoned	
Location Type 01	Location Type Codes 01. Residence-Single 02. Apartment/Condo 03. Residence/Other 04. Hotel/Motel	05. Convenience Store 06. Gas Station 07. Liquor Sales 08. Bar/Nightclub	09. Supermarket 10. Dept/Discount Store 11. Specialty Store 12. Drug Store/Hospital	13. Bank/Financial Inst. 14. Commercial/Office Bldg. 15. Industrial/Mfg. 16. Storage	17. Gov/V Public Bldg. 18. School/University 19. Jail/Prison 20. Religious Bldg.
21. Airport 22. Bus/Rail Terminal 23. Construction Site 24. Other Structure		25. Parking Lot/Garage 26. Highway/Roadway 27. Park/Woodlands/Field 28. Lake/Waterway		29. Motor Vehicle 30. Other Mobile 88. Unknown 99. Other	
V/W Code V-Victim W-Witness R-Reporting Person	N-Next of Kin O-Other L.E. Officer 3. Adult	Victim/Subject Type 0. N/A 1. Juvenile 2. L.E. Officer 4. Business 5. Government 6. Church 8. Other	Address/Phone Type B. Business/Work C. Cell H. Home	M. Message N. Next of Kin O. Other	P. Pager S. School V. Vacation
Race W-White B-Black I-American Indian		Sex M-Male F-Female U-Unknown		Residence Type 0. NA 1. City 2. County 3. Florida 4. Out-of-State	
Residence Status 0. N/A 1. Full Year 2. Par. Year 3. Non-Resident		Means of Attack F-Firearm K-Knife/Cutting Inst.		O-Other Dangerous H-Hands, Fists, Feet, Etc.	
Extent of Injury 00. N/A 01. Gunshot 02. Stabbed		03. Laceration 04. Unconscious 05. Poss. Broken Bones		06. Poss. Internal Injury 07. Loss of Teeth 08. Burns 09. Abrasions/Bruises 10. No Visible Injury 99. Other Serious Injury	
Domestic Violence 1. Yes 2. No		Victim Relationship to Offender S-Spouse P-Parent C-Child B-Sibling O-Other Family H-Co-Habitant Z-Other			
Offense Indicator 1. #1 2. #2	V/W Code 1 R	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident) 42 Civil Complaint	
Name (Last/Business) SHEA		Name (First) RICHARD		Name (Middle) MATHEW	
Address (Street, Apt. Number) 113 KENDRA AVE.			City DELAND		State FL
Zip 32724		Residence Phone (386) 873-5045		Address Type B	
Business/School/Other Address (Street, Apt. Number) TIRE KINGDOM		City DELAND		State FL	
Zip 32724		Business/School/Other Phone (386) 736-2123		Phone Type B	
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement NEIGHBOR OF O1					
If Victim Type 1, 2, or 3	Race W	Sex M	Date of Birth	Age 22	Ethnicity N
Res. Type 2	Res. Status 1	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code 1 O	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident) 42 Civil Complaint	
Name (Last/Business) CASABURRO		Name (First) JOHN		Name (Middle) E	
Address (Street, Apt. Number) 111 KENDRA AVE.			City DELAND		State FL
Zip 32724		Residence Phone (386) 943-8922		Address Type O	
Business/School/Other Address (Street, Apt. Number) RETIRED		City DELAND		State FL	
Zip 32724		Business/School/Other Phone		Phone Type	
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement NEIGHBOR OF R1					
If Victim Type 1, 2, or 3	Race W	Sex M	Date of Birth	Age 57	Ethnicity N
Res. Type 1	Res. Status 1	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code	#	V. Type	Nature of Call (for Victim, if different from Incident)	
Name (Last/Business)		Name (First)		Name (Middle)	
Address (Street, Apt. Number)			City		State
Zip		Residence Phone		Address Type	
Business/School/Other Address (Street, Apt. Number)		City		State	
Zip		Business/School/Other Phone		Phone Type	
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement					
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity
Res. Type	Res. Status	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code	#	V. Type	Nature of Call (for Victim, if different from Incident)	
Name (Last/Business)		Name (First)		Name (Middle)	
Address (Street, Apt. Number)			City		State
Zip		Residence Phone		Address Type	
Business/School/Other Address (Street, Apt. Number)		City		State	
Zip		Business/School/Other Phone		Phone Type	
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement					
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity
Res. Type	Res. Status	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code	#	V. Type	Nature of Call (for Victim, if different from Incident)	
Name (Last/Business)		Name (First)		Name (Middle)	
Address (Street, Apt. Number)			City		State
Zip		Residence Phone		Address Type	
Business/School/Other Address (Street, Apt. Number)		City		State	
Zip		Business/School/Other Phone		Phone Type	
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement					
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity
Res. Type	Res. Status	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code	#	V. Type	Nature of Call (for Victim, if different from Incident)	
Name (Last/Business)		Name (First)		Name (Middle)	
Address (Street, Apt. Number)			City		State
Zip		Residence Phone		Address Type	
Business/School/Other Address (Street, Apt. Number)		City		State	
Zip		Business/School/Other Phone		Phone Type	
Other Contact Info (Time Available, Interpreter, etc.) Synopsis of Involvement					
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity
Res. Type	Res. Status	Means of Attack	Extent of Injury	Domestic Violence	Relationship

INCIDENT REPORT (CONT.)

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2	Subject Code S-Suspect V-Victim D-Defendant (Missing Person)	Code #	Subj. Type	Name (Last) (First) (Middle)	Race	Sex	Ethnicity		
	Date of Birth	Age To Age	Height To Height	Weight To Weight	Eye Color	Hair Color	Maiden Name			
	Nickname / Street Name		Place of Birth - City		County	State	Employer/Other/School		Occupation	
	Last Known Address (Street, Apt. Number)				City	State	Zip	Address Type	Phone Phone Type	
	Other Address (Street, Apt. Number)				City	State	Zip	Address Type	Phone Phone Type	
	Driver's License State/Number			Social Security Number		Other ID Number		ID Type		
	Clothing (Describe)			Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity	Glasses	
	If Subject:	Demeanor	Mask	Weapon Type		If Arrested:	Subject Was Already in Custody? 1. Yes 2. No	Warrant From: 1. This Agency 2. Other Agency		
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason		Personal Habits (Drugs / Alcohol)		
May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:		
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No	Photo Available? 1. Yes 2. No	Dental Record Available? 1. Yes 2. No
I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.										
SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2	Subject Code S-Suspect V-Victim D-Defendant (Missing Person)	Code #	Subj. Type	Name (Last) (First) (Middle)	Race	Sex	Ethnicity		
	Date of Birth	Age To Age	Height To Height	Weight To Weight	Eye Color	Hair Color	Maiden Name			
	Nickname / Street Name		Place of Birth - City		County	State	Employer/Other/School		Occupation	
	Last Known Address (Street, Apt. Number)				City	State	Zip	Address Type	Phone Phone Type	
	Other Address (Street, Apt. Number)				City	State	Zip	Address Type	Phone Phone Type	
	Driver's License State/Number			Social Security Number		Other ID Number		ID Type		
	Clothing (Describe)			Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity	Glasses	
	If Subject:	Demeanor	Mask	Weapon Type		If Arrested:	Subject Was Already in Custody? 1. Yes 2. No	Warrant From: 1. This Agency 2. Other Agency		
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason		Personal Habits (Drugs / Alcohol)		
May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:		
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No	Photo Available? 1. Yes 2. No	Dental Record Available? 1. Yes 2. No
I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.										
NARRATIVE	1 On 09/25/2009, at approximately 1148 hours, Deputy Passerrello responded to a telephone handled call regarding a civil complaint. Deputy									
	2 Passerrello contacted Shea, John(R1), who reported that he observed his neighbor, Casaburro, John(O1), taking photographs of Shea's house									
	3 and cars.									
	4									
	5 Shea stated that Casaburro consistently makes complaints against Shea by calling the Sheriff's Office. Deputy Passerrello asked Shea how									
	6 often this happens. Shea stated that the last incident was "a couple weeks ago." Deputy Passerrello advised Shea that there is no crime in taking									
	7 photographs, but if Casaburro would come onto Shea's property without permission, Shea should call V.C.S.O. to dispatch a Deputy to trespass									
	8 Casaburro.									
	9									
	10 Deputy Passerrello was later advised to follow up on the incident. Deputy Passerrello responded to 113 Kendra Ave., where he met with Shea.									
ADMINISTRATIVE	Final Case Status: <u>5</u>	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded						<input type="checkbox"/> Victim Advocate	<input type="checkbox"/> Triad	<input type="checkbox"/> SA Referral
	<input type="checkbox"/> DCF Hotline	Date:	Time:	<input type="checkbox"/> FCIC / NCIC Entry	<input type="checkbox"/> T.T. BOLO	Date:	By:			
	<input type="checkbox"/> CAC	Spoke With:	Additional Forms Attached:		<input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____					
	Connecting Report Number		Agency	Officer Reporting - Printed						
	Passerrello, Paul		Officer Reporting - Signature <i>DIS Passerrello</i>			ID. Number	Unit	Date		
Officer Reviewing - Printed (If Applicable)		Officer Reviewing - Signature (If Applicable)			ID. Number	Unit	Date			

VOLUSIA COUNTY SHERIFF'S OFFICE

NARRATIVE / SUPPLEMENT

Report Date	Report Time	Orig. Reported Date	Nature of Call (for Incident)	Agency Report Number	1. Original 2. Supplement
09-25-2009	1132	09-25-2009	42	090030503	

11 Shea informed Deputy Passerello that at 0930 hours, Casaburro had actually taken photographs from Shea's driveway. Deputy Passerello
 12 observed the two automobiles in Shea's driveway. The automobiles were in poor condition and missing major parts. Deputy Passerello obtained a
 13 sworn, written statement from Shea.
 14
 15 Deputy Passerello then met with Casaburro, who advised the following in a sworn, written statement. Casaburro stated that he had taken
 16 photographs of Shea's cars, but had done so from Casaburro's own property. Deputy Passerello advised Casaburro to not go onto Shea's
 17 property without Shea's permission. Casaburro indicated that he understood and would comply. Deputy Passerello gave Casaburro a business
 18 card with the case number. Casaburro claimed to be the president of a Homeowners Association, but then admitted that he merely initiates action
 19 to remove undesirable residents from the neighborhood. Casaburro stated that he has initiated petitions in the past to remove tenants from houses
 20 in the area, and showed Deputy Passerello copies of those petitions. Deputy Passerello advised Casaburro that in the future, Casaburro should
 21 contact V.C.S.O. to handle similar issues, and not to initiate his own actions.
 22
 23 Deputy Passerello met with Shea again and informed Shea that there was no evidence of any crime occurring, but to call if Casaburro
 24 trespasses on Shea's property. Deputy Passerello gave Shea a business card with the case number.
 25
 26 Case status: Closed.

NARRATIVE / CONTINUATION

Final Case Status: 5	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded	<input type="checkbox"/> Victim Advocate <input type="checkbox"/> Triad <input type="checkbox"/> SA Referral
<input type="checkbox"/> DCF Hotline <input type="checkbox"/> CAC	Spoke With: _____ Date: _____ Time: _____	<input type="checkbox"/> FCIC / NCIC Entry <input type="checkbox"/> T.T. BOLO <input type="checkbox"/> FCIC / NCIC Cancel
Connecting Report Number _____ Agency _____	Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____	Date: _____ By: _____
Officer Reporting - Printed Passerello, Paul	Officer Reporting - Signature <i>DISP</i>	ID. Number 7630
Officer Reviewing - Printed (If Applicable)	Officer Reviewing - Signature (If Applicable)	Unit 1A22
		Date 09-25-2009

ADMINISTRATIVE

MAY - 4 2005
 Volusia County Sheriff's Office
 Incident Report

- Juvenile
- Elderly Abuse/Exploitation
- Hate Crime
- Gang
- Domestic Violence VOR
- Endangered/Other



05 15026

Incident Number
 Page 1 of 1 Pages

STATUTE: 7777777
 ZONE: 25

Original Report

Incident Type: CIVIL COMPLAINT NUISANCE				Location of Incident: 111 KENDRA AVE DELAND, FL			
Date Reported	Time Reported	From Date Occ	To Date Occ	From-To Time Occ	THC	Connecting Report/Agency	
05/03/2005	1208	05/03/2005	05/03/2005	1200 - 1207	No	NONE	
Code	Name	Race	Sex	Age	DOB	Phone# (Home)	
V1	CASABURRO, JOHN	W	M	53		386-943-8922	
S1	MANDESE, ANTHONY	W	M	35		UNKNOWN	
Code	Address	Employed At/School/Other Address				Phone# (Bus.)	
V1	111 KENDRA AVE DELAND, FL 32724	RETIRED					
S1	109 KENDRA AVE DELAND, FL 32724	UNKNOWN					

Forced Entry: NO Weapons: () Firearms () Knife () Hands/Feet () Other:

Investigative Leads/Narrative:

NARRATIVE:

ON TUESDAY 05-03-2005 AT 1228 HRS DEPUTY MATHIS WAS CONTACTED BY CASABURRO, JOHN IN REFERENCE TO HIS NEIGHBOR MANDESE, ANTHONY (S1) CALLING HIM NAMES. CASABURRO STATED HE WANTED TO FILE HATE CRIME CHARGES AGAINST MANDESE BECAUSE MANDESE CALLED HIM A "FAGOT COCKSUCKER." DEPUTY MATHIS ASKED CASABURRO IF HE WAS A HOMOSEXUAL TO WHICH HE REPLIED NO. DEPUTY MATHIS EXPLAINED TO CASABURRO THAT MERELY CALLING SOMEONE A NAME IS NOT AGAINST THE LAW THAT THERE HAD TO BE OTHER CRIMES COMMITTED.

CASABURRO STATED THAT MANDESE IS STALKING HIM FROM HIS OWN YARD. DEPUTY MATHIS ASKED CASABURRO TO ELABORATE. CASABURRO STATED THAT MANDESE STANDS IN HIS OWN YARD AND STARES AT HIM WHILE HE IS WALKING AROUND HIS HOUSE IN HIS UNDERWEAR. DEPUTY MATHIS TOLD CASABURRO THAT IT MIGHT BE A GOOD IDEA TO CLOSE HIS BLINDS AND OR CURTAINS. CASABURRO STATED HE WANTED TO PRESS CHARGES AGAINST MANDESE FOR STALKING. DEPUTY MATHIS ASKED CASABURRO IF HE FELT MANDESE WAS A CREDIBLE THREAT, IF HE REPEATEDLY FOLLOWED OR HARASSED HIM.

CASABURRO STATED NO HE JUST CALLED ME A FAGOT COCKSUCKER. DEPUTY MATHIS INFORMED CASABURRO THAT HIS COMPLAINT DIDN'T MEET THE ELEMENTS FOR THE CRIME OF STALKING. CASABURRO THEN DEMANDED A REPORT BE DRAFTED. DEPUTY MATHIS SUPPLIED CASABURRO WITH A VOLUSIA COUNTY CASE NUMBER AND TOLD HIM TO DOCUMENT ANY MORE NAME CALLING.

Copies To:		Lab Request:	
<input type="checkbox"/> HRS Hotline	Date	Time	Case Status: CLOSED
<input type="checkbox"/> CAC	Spoke With:		Activity Type:
<input type="checkbox"/> FCIC/NCIC Entry			<input type="checkbox"/> Arr. Warrant
<input type="checkbox"/> FCIC/NCIC Cancel	Date	By	<input type="checkbox"/> Case Filed
<input type="checkbox"/> T.T. Bolo			<input type="checkbox"/> Cleared/Arr/Adult
		<input type="checkbox"/> Victim Advocate	<input type="checkbox"/> Exceptional/Juv
		<input type="checkbox"/> TRIAD	<input type="checkbox"/> Forfeiture
		<input type="checkbox"/> S.A. Referral	<input type="checkbox"/> Re-assigned
		<input type="checkbox"/> Exceptional/Adult	<input type="checkbox"/> Other
		<input type="checkbox"/> Search Warrant	<input type="checkbox"/> Unfounded
		<input checked="" type="checkbox"/> Closed	
Reporting Officer: DEPUTY J.R. MATHIS		Reporting Officer (Signature):	I.D. # 2515 Date: 05/03/2005
Approved By: SGT. M. CHILCOT		Approved By (Signature):	I.D. # 2347 Date: 5-3-05

AP**Mayoral Candidate's Remarks Upset Officials**

Top Stories Topics ▾ Video Listen

**Mayoral Candidate's Remarks Upset Officials**

MARLENE AIG January 12, 1989



WHITE PLAINS, N.Y. (AP) — A man seeking to be mayor of racially divided Yonkers said nearly all blacks lived well under slavery and made other comments that brought denunciations from political leaders, who called the remarks ignorant and inflammatory.

John Casaburro, who is seeking the Republican and Conservative nominations for mayor of the city just north of New York City, made the remarks at a Yonkers City Council meeting Tuesday night.

Casaburro said "90 percent of all blacks lived well and had it good" under slavery.

"They're no longer in the back of the bus. Now they're slaves to the bus," he said later. "Now they're spending two hours a day just to go to school. Not a school of their choice, but a school based on racial quotas.

"Most black men are encouraged not to marry a woman," he added. "They're encouraged to impregnate, not marry her, because it's almost an irresponsibility to get married since welfare will take care of her."

Mayor Nicholas Wasiczko, a Democrat seeking a second term in the November election, on Wednesday called Casaburro's remarks "extremely unfortunate. He's not typical of the sentiment of the city."

Such comments "do absolutely no good," said Westchester County Executive Andrew O'Rourke. "They're inflammatory. There's no basis in fact."

Racial relations are already strained in Yonkers due to opposition to a court-ordered housing desegregation plan.

Faced with bankrupting fines imposed by a federal judge, the council reversed itself Sept. 10 and agreed to support the judge's order to affordable housing to remedy what the judge determined was deliberate segregation.

Casaburro has campaigned as a member of the Save Yonkers Federation, a citizen's group which has sued to stop the desegregation plan.

However, federation President Jack O'Toole said Casaburro was neither an official nor a committee member for the association.

Huffman, 12 other parents to plead guilty in college scheme

BOSTON (AP) — "Desperate Housewives" star Felicity Huffman and a dozen other prominent ...

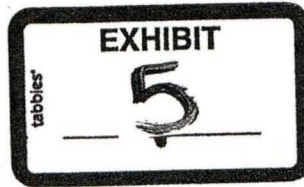


Trending on AP N

Backstage at Bre deals, delicate da

Plea deal puts Fe at pivotal point

Bodycam footage Minneapolis offic



Region News Briefs

Candidate Arrested In Prostitution Sweep

Special to The New York Times

WHITE PLAINS, Oct. 13 — A Yonkers man who tried to run for Congress but failed to win a spot on the ballot was arrested in Manhattan on Wednesday and charged with patronizing a prostitute.

John Casaburro, 43, was carrying a flier that identified him as a candidate in the 18th Congressional District race when he was arrested as part of a police sweep in the area around West 24th Street and 11th Avenue, said Sgt. Joe Gallagher. Five other men were arrested at the same time.

Mr. Casaburro spoke to local Republican officials about his desire to run for the seat held by Nita Lowey, a Democrat, and he filed a petition with the State Board of Elections seeking an independent line on the ballot. That petition was denied because it had only 273 signatures, and

3,500 signatures were required.

The Republican-Conservative candidate in the 18th District is Andy Hartzell of Scarsdale.

Woman Sues Town Over Slip on Dog Drool

CHESHIRE, Conn., Oct. 13 (AP) — A woman who injured herself after slipping on some dog drool is suing the town for negligence.

The woman, Carla S. Koch, says in her lawsuit that there were no mats on the floor last year at a town-run canine obedience class at the youth center. She broke her ankle during a fall on the linoleum floor, she said.

"It isn't a matter of dogs don't drool," she said. "There's a reason for mats in obedience school and this is it."

Town Attorney John K. Knott Jr. said he was not familiar with the specifics of the case, but said, "It's unbelievable the claims people make."

After the accident on Sept. 27, 1993,

Ms. Koch had surgery and was on crutches for 10 weeks. She says she has scars on both sides of her leg, and still has two pins in her leg.

Panel Approves Bill To End Lifelong Tenure

TRENTON, Oct. 13 (AP) — School principals and administrators would no longer be given lifelong job security under a bill approved by the Senate Education Committee today.

New Jersey is among only seven states that give school administrators lifelong job protection.

The bill would require school boards to hire school principals and managers on contracts that would run from three to five years. It would affect only principals and administrators hired after final approval of the bill.

The State Department of Education and the New Jersey School Boards Association both support the measure.

10/14/94

Ex "B"

Elect Ben Johnson for
Volusia County Council at Large
Leadership.

Vision.

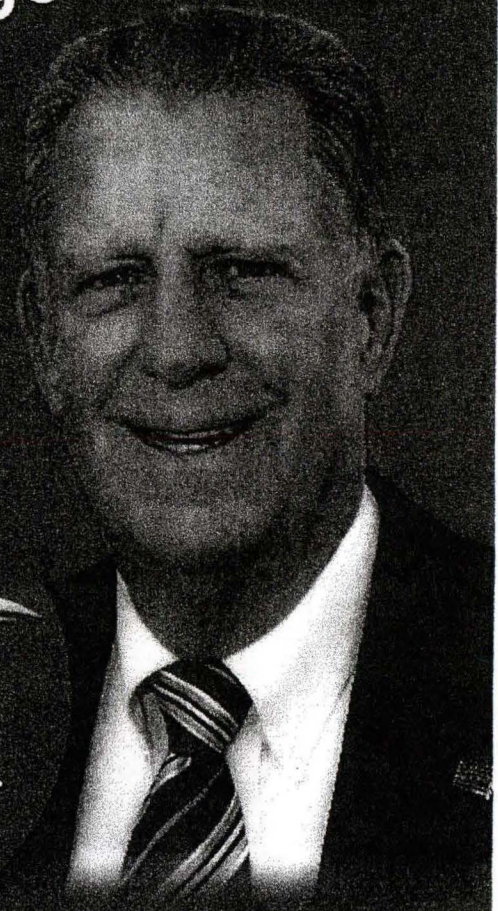
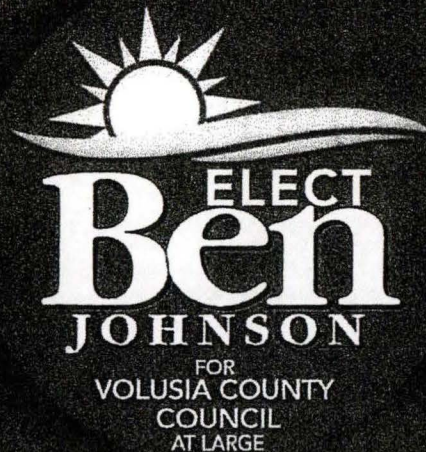
Commitment.

Please vote on
AUGUST 28!

386.748.2228

BenForCountyCouncil.com

Political Advertisement paid for and approved by
Ben Johnson for Volusia County Council at Large.



FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

Case No.: FEC 19-105

BEN F. JOHNSON,

Respondent.

NOTICE OF ADDITIONAL FACTS

1. In the complaint herein ("Complaint"), Complainant referred to the civil litigation matter he filed ("Circuit Court Case"). The Complaint was based on the Circuit Court Case and the complaint in that case was attached as an exhibit to the Complaint, herein.
2. The purpose of this filing is to put the Commission on notice that in the Circuit Court Case, Respondent, Johnson, served Complainant with a notice of intent to file a motion under Section 57.105, Fla. Stat. ("Statute") and, in response, Complainant voluntarily dismissed the Circuit Court Case within the twenty-one (21) day period as provided for under the Statute.
3. A copy of the Section 57.105 notice, as well as the accompanying motion which was served along with it, is attached hereto. As provided for in the statute, because the Circuit Court Case was voluntarily dismissed within the 21-day period, it was not filed in the Circuit Court Case.
4. The notice of voluntary dismissal was filed by Complainant in the Circuit Court Case, and a copy is attached.

Dated this 13th day of May, 2019.



F. A. (Alex) Ford, Jr., Esquire
Florida Bar No. 0381845
Landis Graham French, P.A.
Post Office Box 48
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A PROFESSIONAL ASSOCIATION

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April 3, 2019

VIA EMAIL AND US MAIL DELIVERY

John E. Casaburro
111 Kendra Ave.,
DeLand, Florida 32724

RE: John E. Casaburro v. Henry Frederick, AKA Headline Surfer (D.B.A.):
and Ben F. Johnson
Case No. 2019-10091-CIDL

Dear Mr. Casaburro:

This letter is written as notice pursuant to Section 57.105, *Florida Statutes*, to demand the Plaintiff withdraw or appropriately correct the *Complaint for Libel, Slander, Defamation and Breach of Contract*. Accordingly, please find enclosed a copy of *Defendant's Motion for Attorney's Fees and Costs Pursuant to Section 57.105, Florida Statutes* (the "Motion"), which may be filed after twenty-one days of this date, if the various issues specifically set forth below are not withdrawn or appropriately corrected.

As set forth in the attached Motion, Plaintiff knew or should have known that, at the time of filing the Complaint, it was not supported by the material facts necessary to establish Plaintiff's claims therein, or those claims would not be supported by the application existing law to the material facts. This is so for reasons including, without limitation: (1) Plaintiff's claims for defamation, slander, and libel are without legal or factual support for reasons including, without limitation, Johnson made none of the statements, Plaintiff has failed to allege the necessary allegations to state a cause of action thereunder, and all of the statements made by Frederick/Headline Surfer were true, protected speech, or both; (2) Plaintiff's claim for breach of contract is without legal and factual support for the same reasons, plus there is no enforceable contract to which Johnson was a party and the supposed contract did not prohibit the actions supposedly taken by any of the defendants; and (3) as otherwise set forth in the Motion.

Therefore, we demand that you withdraw or appropriately correct your Complaint within twenty-one days of this notice.

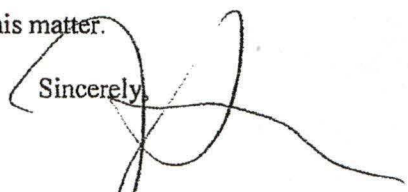
Over a Century of Service

- SINCE 1902 -

April 3, 2019
John E. Casaburro
Page 2

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'F.A. (Alex) Ford, Jr.', written over the word 'Sincerely,'.

F.A. (Alex) Ford, Jr.

FJR/kec
Enclosure

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR
VOLUSIA COUNTY, FLORIDA

JOHN E. CASABURRO

Plaintiff,

CASE NO: 2019-10091-CIDL

vs.

DIVISION: 01

HENRY FREDERICK
AKA HEADLINE SURFER (D.B.A),
AND BEN F. JOHNSON,

Defendants.

**DEFENDANT'S MOTION FOR ATTORNEY'S FEES
AND COSTS PURSUANT TO SECTION 57.105(1), FLORIDA STATUTES**

COMES NOW, the Defendant, BEN F. JOHNSON, by and through undersigned counsel, files this, his Motion for Attorney's Fees and Costs Pursuant to Section 57.105(1), *Florida Statutes*. In support thereof, the Defendant says as follows:

Statement of Facts

1. On or about January 16, 2019, Plaintiff filed a complaint against the Defendant for Libel, Slander, Defamation and Breach of Contract.
2. The Plaintiff's Complaint is completely without legal and factual support.
3. The statements Plaintiff's Complaint alleges were made do not constitute libel, slander, or defamation as a matter of law and, further, are true, privileged and protected under the Constitutions of the United States and the State of Florida, or both.
4. Johnson did not make the statements complained of in the Complaint.
5. Frederick/Headline Surfer is an internet news service and, as such, its speech is entitled to protection. Further, Plaintiff was, at all times pertinent hereto, a

candidate for public office and a public figure. Johnson was his opponent in the political campaign and, as such, also enjoyed enhanced protection. Thus, even if Johnson had said the things Plaintiff alleges Frederick/HeadlineSurfer said, those statements would be protected.

6. Plaintiff misstates the nature of the statements made in the article attached as Exhibit A. For example, the Complaint states that FREDERICK "accuses Plaintiff of a gross and perverted act of leaving a bloody condom on someone's doorstep." The article put forth by the Plaintiff as Exhibit A states that the Plaintiff "was once suspected by a neighboring DeLand family of four of leaving a dripping used condom with blood on it on the welcome mat of their front porch." (Emphasis added).

7. Plaintiff alleges purportedly defamatory statements by Frederick "such as, I am a monster in my neighborhood"; stating that the Defendant "calls [Plaintiff] a 'psycho,' dishonest and unethical person;" and "claims that [Plaintiff] had no good standing with the Republican Party." Again, these allegations are inconsistent with Exhibit A.

8. Plaintiff alleges that Frederick/Headline Surfer "takes out of context remarks from a biased reporter from 1989 NY, claiming that Plaintiff is a racist." However, Exhibit A quotes direct quotes from other news sources and is protected.

9. Plaintiff mischaracterizes the alleged agreement he is seeking to enforce, suggesting that the agreement would require "no slander allowed by members" of the Republican Party, and that Johnson is bound to an agreement to which he was not a party. Complaint, Paragraph XV.

Law and Analysis

10. Defamation, which includes libel and slander, has the following five elements: (1) publication; (2) falsity; (3) the actor must act with knowledge or reckless disregard as to the falsity on a matter concerning a public official, or at least negligently on a matter concerning a private person; (4) actual damages; and (5) the statement must be defamatory. *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098 (Fla. 2008)

11. To state a cause of action for libel, a private person must allege publication (1) of false and defamatory statements of and concerning that private person, (2) without reasonable care as to the truth or falsity of those statements, (3) resulting in actual damage to that private person. *Hay v. Independent Newspapers, Inc.* 450 So. 2d 293 (Fla. 2d DCA 1984).

12. Public figures seeking redress are held to a higher standard. A public figure must establish actual malice on behalf of a publisher in order to maintain a defamation action. *Mile Marker, Inc. v. Petersen Publ'g, Inc.*, 811 So. 2d 841 (Fla. 4th DCA 2002). Actual malice must be alleged and proved in a slander case when the Plaintiff is a public figure. *Hood v. Connors*, 419 So.2d 742 (Fla. 5th DCA 1982).

13. The statements made by the article as alleged by the Plaintiff in Paragraphs VI, VII, VIII, and IX are opinion and not defamatory as a matter of law. *De Moya v. Walsh*, 441 So. 2d 1120 (Fla. 3d DCA 1983)(Where appellee co-worker characterized appellant co-worker as "raving maniac" and "raving idiot" during the course of a heated professional disagreement in the presence of a small group of other co-workers, such statements were pure opinion based on disclosed facts, and, as such, did not constitute actionable slander.)

14. Pure expression of opinion exists when an article expressing an opinion is published and sets forth, in the article, the facts on which the opinion is based or when the parties to the communication are aware of the facts or assume their existence and the opinion is clearly based on those facts. *Demby v. English*, 667 So. 2d 350 (Fla. 1st DCA 1995).

15. Statements made regarding CASABURRO's arrest were reported by the New York Times on October 14, 1994, and the article noted as such.

16. The article contains direct quotes attributed to CASABURRO by the January 12, 1989 AP News article.

17. In re-printing an Associated Press, or other press service dispatch, of a purported news happening, emanating from other places or localities, the article or news item, as reproduced and published locally, is not considered as the original or voluntary composition of the newspaper publisher, who merely reproduces it in his daily news columns in the form in which it has been received, but is rather regarded by the public as a mere repetition of a publication that has already been made by its real authors in their course of disseminating the news. *Layne v. Tribune Co*, 108 Fla. 177 (Fla. 1933).

18. The elements of a breach of contract action are: (1) a valid contract, (2) a material breach, and (3) damages. The Plaintiff cannot maintain a cause of action for breach of contract in the absence of a valid contract. *J.J Gumberg Co. v. Janis Servs.*, 847 So. 2d 1048 (Fla. 4th DCA 2003).

19. Contract formation requires a manifestation of mutual assent, the existence of which is determined by an objective test. *Robbie v. City of Miami*, 469

So. 2d 1384, 1385 (Fla. 1985) (citing *Dorson v. Dorson*, 393 So. 2d 632 (Fla. 4th DCA 1981)).

20. CASABURRO alleges the Mediation Settlement Agreement is the basis for his breach of contract action.

21. Settlements are governed by the rules for interpretation of contracts. *Robbie v. City of Miami*, 469 So. 2d 1384, 1385 (Fla. 1985) (citing *Dorson v. Dorson*, 393 So. 2d 632 (Fla. 4th DCA 1981)).

22. Moreover, the party seeking to enforce a settlement bears the burden of establishing assent by the opposing party. *Vision Palm Springs, LLLP v. Michael Anthony Co.*, 44 Fla. L. Weekly D588b (citing *Nehleber v. Anzalone*, 345 So. 2d 822 (Fla. 4th DCA 1977)).

23. The clear, unambiguous language of the agreement requires that:

The Chairman of the RECVV shall present an article in the next monthly newsletter regarding zero tolerance of any member slandering or in any way causing or encouraging the defamation of any member of a Republican Party Committee in Volusia County.

24. The Complaint does not allege the Defendants failed to present such an article; further, even if the Plaintiff's characterization was correct, neither of the Defendants in the instant case are a party to that agreement or the previous litigation.

25. CASABURRO does not allege actual malice by any of the Defendants; the Complaint does not allege any legal or factual basis for a finder of fact to determine that JOHNSON made the statements or knew the statements were false or demonstrated reckless disregard as to the truth or falsity of the statements.

Sanctions are Appropriate

26. Section 57.105(1), Florida Statutes, provides in pertinent part that:

Upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial: (a) Was not supported by the material facts necessary to establish the claim or defense; or (b) Would not be supported by the application of then-existing law to those material facts.

27. The Plaintiff knew or should have known that the statements such as those referenced in Paragraph 5, supra, constitute opinion and are not defamatory as a matter of law.

28. The Plaintiff knew or should have known that reporting that neighbors suspected CASABURRO of certain acts referenced in Paragraph 4, supra, is not the same as reporting that CASABURRO in fact committed such acts.

29. The Plaintiff knew or should have known Johnson did not make the statements complained of and that the statements reported by Headline Surfer (attributed to Johnson by Plaintiff) were true, were protected speech, or both.

30. The Plaintiff knew or should have known from the plain language of the alleged agreement they are seeking to enforce that their breach of contract claim was baseless.

31. The Plaintiff knew or should have known that the contract is not enforceable against the Defendants, who were neither parties to the referenced litigation nor the mediation settlement agreement CASABURRO seeks to enforce

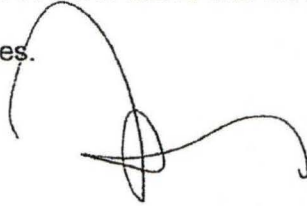
against them.

32. The Defendant, through undersigned counsel, served a copy of this Motion and a letter providing notice of its intent to seek sanctions 21 days prior to the filing of this motion in accordance with §57.105(4), Florida Statutes.

The Defendant moves this Honorable Court for an Order awarding attorney's fees and costs incurred for the preparation of this motion as a result of Plaintiff's untimely filing of his Motion for Partial Summary Judgment, including but not limited to travel time, preparation and attendance at a hearing in this matter. A copy of the 21-day letter is attached hereto as an Exhibit "A."

WHEREFORE, the Plaintiff respectfully requests this Honorable Court enter the relief sought herein for the reasons set forth above and for such other relief as is just and proper under the circumstances.

Respectfully submitted.



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Attorney for Defendant Ben F. Johnson

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA

JOHN CASABURRO,
Plaintiff,

vs

HENRY FREDERICK,
ETC., ET AL,
Defendant(s).

Case No: 2019 11091 CIDL

Division: 01

Judge: Randell H. Rowe III

NOTICE OF VOLUNTARY DISMISSAL

COMES NOW Plaintiff, JOHN CASABURRO, hereby files this Notice of Voluntary Dismissal of his Complaint in the above-styled case as to Ben F. Johnson only.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via E-Portal to Frank Alex Ford, Jr., Esquire at aford@landispa.com and US mailed to Henry Frederick at 500 W Airport Blvd Apt 1307 Sanford, FL 32773 on April 12, 2019.

/s/John Casaburro
JOHN CASABURRO
111 Kendra Avenue
Deland, FL 32724
386-215-7327

FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

Case No.: FEC 19-105

BEN F. JOHNSON,

Respondent.

**PETITION FOR ATTORNEYS FEES AND COSTS PURSUANT TO FLORIDA
STATUTES SECTION 106.265 AND RULE 2B-1.0045 OF THE FLORIDA ELECTION
COMMISSION RULES**

The Respondent, BEN F. JOHNSON, by and through his undersigned counsel, files this Petition for Attorney's Fees and Costs Pursuant to Florida Statute §106.265 and Rule 2B-1.0045(1) of the Florida Elections Commission Rules ("Petition"), and states the facts and grounds demonstrating he is entitled to an award of attorneys' fees, as follows:

I. Summary of basis for the imposition of attorneys' fees in this cause

1. Section 106.265(6), Florida Statutes, provides:

In any case in which the commission determines that a person has filed a complaint against another person with a malicious intent to injure the reputation of the person complained against by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this chapter or chapter 104, the complainant shall be liable for costs and reasonable attorney's fees incurred in the defense of the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees."

2. With regard to the complaint filed by John Casaburro against Ben Johnson, Mr. Casaburro has demonstrated a malicious intent to injure Mr. Johnson's reputation by filing the complaint herein. Also, Mr. Casaburro's knowledge of falsity and reckless disregard of falsity are present as to the various allegations made by him. The presence of either of is sufficient for this Commission to impose attorneys' fees.

3. Mr. Johnson has incurred significant attorneys' fees in defending against the meritless claims of Mr. Casaburro.
4. This Commission should determine that this Petition contains sufficient facts and grounds to support a claim for attorneys' fees and costs, schedule a hearing to consider any disputed material facts and the amount of fees and costs, and then impose attorneys' fees and costs against the complainant, John Casaburro.

II. Background

5. Mr. Casaburro filed an initial complaint ("Complaint" or "Complaints") which was assigned Case No. FEC 19-105. The apparent basis of the Complaint was that Mr. Johnson supposedly hired an internet news outlet reporter to make false statements with malice against Mr. Casaburro and filed a false, incorrect and misleading campaign treasurer's report.
6. Subsequently, the case was bifurcated, and a portion of the Complaint was assigned Case No. FEC 19-119.
7. Johnson has filed companion fee and cost petitions under each case number, but respectfully requests the cases should be re-consolidated for purposes of considering the petitions.
8. In both cases the Complaints were based, in large part, on a civil action Mr. Casaburro filed against Mr. Johnson ("Civil Action").
9. Mr. Casaburro had no proper basis for his allegations that Mr. Johnson made false allegations against him. In fact, as shown in the article complained of, other than Mr. Casaburro's own assertions that Johnson "hired a Internet New's Outlet Reporter/Publisher to make many false statements with malice against complainant" [sic], Mr. Casaburro failed to show that any of the claims in the article complained of were false.
10. Instead, it was Mr. Casaburro's "summary" of the article, as contained in his Complaint, that was false,¹ and the article itself was based on valid sources. (See Affidavit of Henry Frederick)
11. Pursuant to Rule 2B-1.0025(2) F.A.C, this Commission specifically found the Complaints were not based on information other than hearsay and were otherwise insufficient.
12. In Case No. 19-105, Mr. Casaburro filed an Amended Complaint, which was also deemed insufficient. In Case No. 19-119, no amended complaint was filed after the determination of insufficiency.

¹ See Civil Complaint attached to and incorporated in the Complaint herein.

13. By information and belief, after filing the Civil Action, Mr. Casaburro offered to dismiss the case against Mr. Frederick, the person who actually published the article, in exchange for his "cooperation" in pursuing that action against Mr. Johnson. Mr. Frederick rejected that offer.
14. Further, in the course of the Civil Action, Mr. Johnson served Mr. Casaburro with a notice and motion under §57.105, Florida Statutes², which afforded Mr. Casaburro the opportunity to withdraw or appropriately correct the Civil Action Complaint within twenty-one (21) days of the notice or be exposed to sanctions (attorneys' fees) being imposed against him in that action. (See Notice of Additional Facts filed herein)
15. Mr. Casaburro voluntarily dismissed the Civil Action against Mr. Johnson within the twenty-one (21) days after service of the §57.105 notice and motion. (See Notice of Additional Facts filed herein)
16. During the course of the campaign Mr. Casaburro, himself, made a number of false and malicious statements against Mr. Johnson, showing malicious intent to injure his reputation and on-going pattern of malice continuing through these proceedings. (See attached Campaign Ads by Mr. Casaburro)

III. Mr. Casaburro's Malicious Intent

17. Mr. Casaburro's intention in filing this complaint and the companion case was and is to embarrass, harass, and injure the reputation of Mr. Johnson, and was otherwise malicious towards Mr. Johnson.
18. His malicious intent is evidenced in a number of ways including, but not limited to:
 - a. The complete lack of factual predicate for the Complaints herein and Mr. Casaburro's conscious indifference to the truth or falsity of his allegations;
 - b. The false and horrific campaign literature Mr. Casaburro published against Mr. Johnson during their campaign (showing an ongoing pattern of false, malicious statements against Johnson);
 - c. The false statement by Mr. Casaburro, under oath, that Mr. Johnson violated Florida Elections Laws by failing to pay for advertising (as was reported) and by filing a false treasurer report, both allegations of which were easily ascertainable to be untrue;

² Section 57.105, Fla. Stat., provides a vehicle for a party to a court action to obtain an attorneys' fees award against the other party if that party pursues a claim that the party knew or should have known as either a) not supported by the necessary material facts or b) would not be supported by the application of then-existing law to those material facts.

- d. The fact that, once confronted with the §57.105 motion in the Civil Action, Mr. Casaburro dismissed the Civil Action against Mr. Johnson rather than subject himself to sanctions;
- e. The illicit efforts by Mr. Casaburro to gain Mr. Frederick's support in his Civil Action against Mr. Johnson; and
- f. The fact that the Headline Surfer article accurately reflected facts reported in legitimate sources, such as, the New York Times, the Associated Press, the West Volusia Beacon and police reports (See Affidavit of Henry Frederick), and the likelihood Mr. Casaburro knew of the existence of these articles and other sources of information.

IV. False Statements

A. Allegations of False and Misleading Treasurer's Report

- 19. The central theme of Mr. Casaburro's Complaint assigned Case No. 19-119 was that no ads were run for the Johnson campaign in the Headline Surfer internet news source. Instead, the complaint alleged that Johnson paid money to have false statements published by Headline Surfer about Mr. Casaburro.
- 20. Thus, Mr. Casaburro falsely alleged, "[t]he treasurer report was knowingly incorrect, false and misleading violating section 106.07(5) + 106.19, F.S." [sic].
- 21. Mr. Casaburro further stated "[Henry] Frederick's admits there was no ad's for Johnson." [sic]
- 22. Mr. Casaburro's allegations are, themselves, false.
- 23. The Treasurer's report (Exhibit H to the initial Complaint), accurately reflects payment for advertising with Headline Surfer.
- 24. The ads for Mr. Johnson did run during the course of the campaign, a fact this commission has previously verified, and which Mr. Casaburro very easily could have found. (See, also, Affidavit of Henry Frederick)³

³ This affidavit was originally drafted and signed in response to the Civil Action, prior to Mr. Casaburro's dismissal of that case. Thus, where the affidavit contains references to a case, the reference is to the Civil Action.

Allegations of Johnson Making False/Malicious Statements

25. The central theme of Mr. Casaburro's Complaint assigned Case No. 19-105 was that Johnson violated Section 104.271(2), F.S. by making false statements against him with malice, citing to the Headline Surfer article.
26. First, a comparison of the Headline Surfer article to Mr. Casaburro's representations of the contents of that article, as described in his Complaint, shows that his representations were clearly false, and that he completely misrepresented the contents of the article. (Also, See Affidavit of Henry Frederick)
27. Second, the article accurately reflected what was reported in reliable sources, such as the New York Times, Associated Press, West Volusia Beacon, court records and police reports. Therefore, it was not made with malice, as a matter of law, unless Headline Surfer (or, as alleged, Johnson) knew of their falsity. There is no indication of any basis for Johnson to have any knowledge of the falsity of these legitimate sources. See Shiver v Apalachee Pub. Co., 425 So.2d 1173 (Fla. 1st DCA 1983).
28. Third, there is no showing that the statements made in the Headline Surfer article were actually false. It is likely they are true, and that Mr. Casaburro knew they were true.

V. Misrepresentations Were Made with Knowledge of Their Falsity or With Reckless Disregard to their Truthfulness

29. It is clear from the record Mr. Casaburro had actual knowledge that some of his claims were false. It is believed he had actual knowledge other claims were false, and Mr. Casaburro should be required to show he did not have knowledge of their falsity.
30. For example, when he wrote the allegations describing the content of the Headline Surfer article he necessarily had actual knowledge that he was not accurately portraying the contents of that article. His knowledge can be shown on the existing record.
31. Other false claims were likely made with knowledge of their falsity but, at best, were made with reckless disregard to their truthfulness.
32. For example, even if Mr. Casaburro did not know the Headline Surfer's sources had previously publicized such things as his prostitution charges and racist comments, it was reckless of him to bring charges against Johnson for maliciously making false statements against him. The information (about Casaburro's own past) was readily available to him, as were the source

documents for the Headline Surfer article. He simply did not make the effort to investigate.

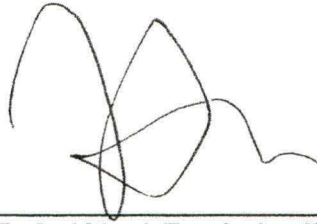
33. And, with regard to the claims Mr. Johnson did not buy ads but was merely paying for Headline Surfer to publish false statements about Mr. Casaburro, he apparently did little or no investigation on these claims. He was content to rely on mere conjecture and the hearsay statement of a third party, even though the true information was readily available to him by making a simple internet search.
34. The true facts were verified by this Commission, by an internet search, demonstrating how easily Mr. Casaburro could have determined these facts.
35. Mr. Casaburro knew or should have known the actual statements as set forth in the article, even if not true, were not made with malice as he alleged. Because those sources were readily available, he was reckless in not making an effort to discover them.

VI. Conclusion

36. This all demonstrates malicious intent and knowledge of falsity or reckless disregard by Mr. Casaburro regarding the truthfulness of his Complaint.
37. Where a party with malicious intent to injure another's reputation by filing a complaint with knowledge that it contains one or more false allegations, or with reckless disregard for the truth of the allegations contained in the complaint, and charges another with violations of the Florida Elections Code, then that person shall be liable to pay the reasonable attorney's fees and costs of the person who has been wrongfully or recklessly hailed before the Commission. See Florida Statutes §106.265(6).

NOW, THEREFORE, for the foregoing reasons outlined in this Petition, it is respectfully requested that this Commission consolidate Case Nos. 19-005 and 19-119, determine this Petition contains sufficient facts and grounds to support the claim for attorneys' fees and costs, and order a hearing to award and determine attorneys' fees and costs pursuant to Section 106.265(6), Florida Statutes, and Rule 2B-1.0045.

Dated this 13th day of May 2019.



F. A. (Alex) Ford, Jr., Esquire

Florida Bar No. 0381845

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Attorney for Respondent, BEN F. JOHNSON

AFFIDAVIT OF HENRY FREDERICK

AFFIDAVIT OF HENRY FREDERICK

STATE OF FLORIDA
COUNTY OF VOLUSIA

Before this day personally appeared HENRY FREDERICK, Defendant in the above-styled case, who duly sworn, deposes and says:

1. I, HENRY FREDERICK, am over the age of 18.
2. I write and publish news and opinion articles on my website and do business as HEADLINE SURFER ("Surfer").
3. Surfer is an online news website.
4. Each and every statement in the HEADLINE SURFER article that was attached as Exhibit A to the Circuit Court complaint filed by John Casaburro ("Article") was thoroughly researched and carefully considered.
5. Prior to publishing the Article, I left Mr. Casaburro a voicemail seeking comment from Plaintiff, John Casaburro ("Plaintiff" or "Casaburro"), but he never responded.
6. Prior to filing suit in this cause, Plaintiff emailed me seeking corrections to the Article, to which I responded with an email asking for him to cite to me any specific errors in the Article.
7. As to the points of fact complained of by Plaintiff, the sources for the facts reported in Surfer were interviews, and public records and outside news stories which are attached to this affidavit and demonstrate the reports in Surfer were an accurate reporting of what was stated in the original source documents.

NEIGHBORHOOD ISSUES

8. JOHN E. CASABURRO ("Casaburro") states in his Complaint that I "accuse[d] Plaintiff of a gross and perverted act of leaving a bloody condom on someone's doorstep." What was actually stated in the Article is that the Plaintiff "was once suspected by a neighboring DeLand family of four of leaving a dripping used condom with blood on it on the welcome mat of their front porch."

9. I did not include the entire police report in the article; however, the article accurately summarized the incident report.

10. The source for my report of that incident was a Volusia County Sheriff's Office Incident Report, a true and correct copy of which is attached hereto as Exhibit 1, and which indicates the victimized family told the police they suspected Casaburro was the culprit.

11. Casaburro also complains that I called him a monster in his neighborhood, but what the Article actually says is that he is an ogre to his neighbors, which is my opinion of him.

12. In addition to the neighbor's suspicions as set forth in Exhibit 1, see attached Exhibit 2. Exhibit 2 is a Volusia County Sheriff's Office Incident Report indicating a neighbor's complaints about Plaintiff trespassing on his property and taking photographs of his cars and his house, as well as constantly making complaints against him to the Volusia County Sheriff's Office.

13. Exhibit 2 also indicates Casaburro admitted to initiating "action to remove undesirable residents" from his neighborhood.

14. During the course of my investigation into Casaburro's issues with neighbors, I became aware of complaints against another neighbor, Anthony Mandese.

15. Exhibit 3 indicates that Mr. Casaburro and Mr. Mandese got into an argument, during which there was apparently name-calling and the police were called.

POLITICAL ISSUES

16. Casaburro stated in his Complaint that I reported he was in "some sort of conspiracy with Mike Chitwood, Sheriff (sic) and Councilwoman Heather Post."

17. The Article makes no such statement.

18. It does report my opinion that Mr. Casaburro takes his cues from Sheriff Mike Chitwood which is based, in part, on the fact Casaburro repeatedly published disparaging remarks about Defendant, Johnson, which he attributed to Sheriff Chitwood.

REPUBLICAN PARTY ISSUES

19. Casaburro also complains in his Complaint that I reported he "had no good standing with the Republican Party."

20. The Article makes no such statement.

21. However, even if the Article did make that statement, I would consider it to be fair opinion based on the fact Casaburro has been at odds with the Republican party, including having been in litigation against it. A copy of a settlement agreement from litigation between Casaburro and the Republican Party is attached to the Complaint herein.

ETHICS AND MENTAL HEALTH ISSUES

22. Casaburro stated in his Complaint the Article calls him a psycho, dishonest and unethical.

23. While the Article does not say he is a psycho, it does report he distributed "phony sleaze."

24. The "phony sleaze" referred to in the Article consisted of false allegations Casaburro made against Johnson and distributed as part of his campaign including, without limitation, the disparaging remarks Plaintiff attributed to Sheriff Chitwood, as mentioned above.

25. The article also gives an account of Casaburro's efforts to bully a member of the public who demanded proof of his false allegations about Defendant, Johnson, as reported to me by the victim of Casaburro's intimidation.

26. Further, as noted in Exhibit 2, Casaburro made false claims of being the president of a homeowner's association. As it turns out, the supposed association did not even have a legal existence.

27. Thus, while the Article did not specifically call Plaintiff dishonest or unethical, in my opinion there is sufficient grounds to have this opinion of him.

RACIST REMARKS, SOLICITATION OF PROSTITUTION
AND PRIOR POLITICAL RACES

28. Casaburro claims in his Complaint that the article "takes out of context remarks from a biased reporter from 1989 NY, claiming that Plaintiff is a racist" and that I "misquote[d] [Plaintiff] to harm and injure like Plaintiff is some sort of mental case."

29. What was actually reported in the Article was commentary on headlines about Plaintiff from New York city newspapers for his racist remarks. The source for the statements made by Casaburro was a 1989 AP News article, which is attached hereto

as Exhibit 4, which purports to directly quote statements made by the him during the course of his campaign for Mayor of Yonkers.

30. Casaburro complains in his Complaint that statements regarding his 1994 arrest for solicitation of prostitution in New York were mischaracterized, apparently because the charges were reduced to disorderly conduct.

31. My source was the New York Times article attached hereto as Exhibit 5, which specifically states that Casaburro "was arrested in Manhattan on Wednesday and charged with patronizing a prostitute" while "carrying a flier that identified him as a candidate in the 18th Congressional District race when he was arrested."

32. These articles describing Casaburro's candidacies for Mayor of Yonkers and Congress in the 18th Congressional District in New York also served as the bases for my reporting that the race against Defendant, Johnson, was not Casaburro's first time running for political office, as was reported by the West Volusia Beacon in that publication's account of an interview with Casaburro.

PAYMENT FOR ADVERTISING

33. Casaburro states in his Complaint that Co-Defendant, BEN JOHNSON, ("Johnson"), paid me to "to trash/slander Plaintiff."

34. I was not paid to trash/slander Plaintiff or to make any comment whatsoever about Plaintiff, nor was I paid to write the Article or publish it on Surfer.

35. Casaburro and Johnson were competing candidates for Volusia County Council At-Large at all times pertinent to the Plaintiff's claims.

36. Johnson's campaign paid me \$1,000.00 for advertising on the Surfer website.

37. The ads for Johnson did not run immediately, as was intended, because I was suffering from recurring health problems at the time they were received from the Johnson campaign.

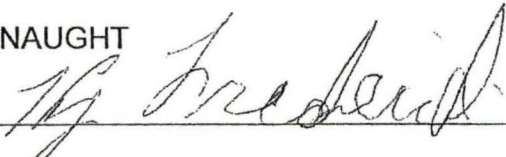
38. However, the ad did run before the conclusion of the campaign and a copy of the ad that was posted on the Surfer website are attached as Exhibit 6.

39. In addition to the ad, a campaign video ran on the Headline Surfer website.

40. Other political candidates also advertised on my website during the 2018 elections.

41. I know of no reason why the information sources for the Article should not be considered reliable.

FURTHER AFFIANT SAYETH NAUGHT


HENRY FREDERICK

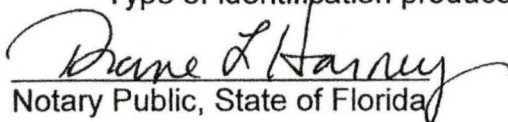
Sworn to or affirmed and signed before me on the April 11, 2019 by HENRY FREDERICK.

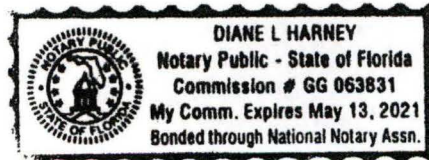
Personally known

Produced identification

Type of identification produced: Florida Driver's License

[REDACTED]


Notary Public, State of Florida



EXHIBIT

1

VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

<input type="checkbox"/> Juvenile <input type="checkbox"/> Gang <input type="checkbox"/> Domestic Violence <input type="checkbox"/> Endangered / Other	<input type="checkbox"/> Liberty Abuse / Exploitation VOR _____	Agency Report Number 090028523	Agency ORI Number FL0640000	Zone # 25	Telephone Handled Call? (T.H.C.) 1. Yes 2. No 2						
Reported: Day Tuesday	Date 09-08-2009	Time (mil.) 0257	Time Dispatched (mil.) 0302	Time Arrived (mil.) 0308	Time Completed (mil.) 0331	Nature of Call (Report Type) 13A Suspicious Incident					
Incident Type: 1. Felony 2. Traffic Felony	3. Misdemeanor 4. Traffic Misdemeanor	5. Ordinance 9. Other	Incident: Day From Monday	Date 09-07-2009	Time (mil.) 2100	TO Day Tuesday	Date 09-08-2009	Time (mil.) 0220	Occurred During: D - Day U - Unknown N - Night	1. Yes 2. No 2	
Offense #1 9	Type 77777777	Statute Violation Number 77777777	Description Suspicious Incident	A - Attempted C - Committed C	#2 Statute Violation Number	Description	A - Attempted C - Committed	Incident Location (Street, Apt. Number) 113 Kendra Av	City DELAND	Zip 32725	
Business Name / Area Identifier	# Prem. Entered	Drug Related 0. N/A 1. Yes 2. No 2	Alcohol Related 0. N/A 1. Yes 2. No 2	Forced Entry 1. Yes 3. Attempted 2. No	Arson-Inhabited 1. Occupied 3. Abandoned 2. Unoccupied	Arson-Attempted 1. Yes 2. No					
Location Type 01	Location Type Codes 01. Residence-Single 02. Apartment/Condo 03. Residence/Other 04. Hotel/Motel	05. Convenience Store 06. Gas Station 07. Liquor Sales 08. Bar/Nightclub	09. Supermarket 10. Dept/Discount Store 11. Specialty Store 12. Drug Store/Hospital	13. Bank/Financial Inst. 14. Commercial/Office Bldg. 15. Industrial/Mfg. 16. Storage	17. Gov't/Public Bldg. 18. School/University 19. Jail/Prison 20. Religious Bldg.	21. Airport 22. Bus/Rail Terminal 23. Construction Site 24. Other Structure	25. Parking Lot/Garage 26. Highway/Roadway 27. Park/Woodlands/Field 28. Lake/Waterway	29. Motor Vehicle 30. Other Mobile 88. Unknown 99. Other			
V/W Code V-Victim N-Next of Kin W-Witness O-Other R-Reporting Person	Victim/Subject Type 0. N/A 1. Juvenile 2. L.E. Officer 3. Adult	4. Business 5. Government 6. Church 9. Other	Address/Phone Type B. Business/Work C. Cell H. Home	M. Message N. Next of Kin O. Other	P. Pager S. School V. Vacation	Race W-White O-Oriental/Asian B-Black U-Unknown I-American Indian	Sex M-Male F-Female U-Unknown	Residence Type 0. NA 1. City 2. County 3. Florida 4. Out-of-State	Residence Status 0. N/A 1. Full Year 2. Par. Year 3. Non-Resident		
Means of Attack F-Firearm K-Knife/Cutting Inst.	O-Other Dangerous H-Hands, Fists, Feet, Etc.	Extent of Injury 00. N/A 01. Gunshot 02. Stabbed	03. Laceration 04. Unconscious 05. Poss. Broken Bones	06. Poss. Internal Injury 07. Loss of Teeth 08. Burns	09. Abrasions/Bruises 10. No Visible Injury 99. Other Serious Injury	Domestic Violence 1. Yes 2. No	Vicim Relationship to Offender S-Spouse P-Parent C-Child B-Sibling O-Other Family H-Co-Habitant Z-Other				
Offense Indicator 1. #1 2. #2	V/W Code R	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident) Mentally Ill Person	Name (Last/Business) Shea	(First) Amber	(Middle) R				
Address (Street, Apt. Number) 113 Kenfra Av	City DELAND	State FL	Zip 32725	Residence Phone (386) 568-5161							
Business/School/Other Address (Street, Apt. Number)	City	State	Zip	Address Type	Business/School/Other Phone	Phone Type					
Other Contact Info (Time Available, Interpreter, etc.)	Synopsis of Involvement Discovered the condom on her doorstep										
If Victim Type 1, 2, or 3 W	Race F	Sex F	Date of Birth 01-11-1982	Age 22	Ethnicity N	Res. Type 2	Res. Status 1	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code O	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident) Mentally Ill Person	Name (Last/Business) Casaburro	(First) John	(Middle) E				
Address (Street, Apt. Number) 11 Kendra Av	City DELAND	State FL	Zip 32725	Residence Phone (386) 943-8922							
Business/School/Other Address (Street, Apt. Number)	City	State	Zip	Address Type	Business/School/Other Phone	Phone Type					
Other Contact Info (Time Available, Interpreter, etc.)	Synopsis of Involvement										
If Victim Type 1, 2, or 3 W	Race M	Sex M	Date of Birth 01-11-1982	Age 27	Ethnicity N	Res. Type 2	Res. Status 1	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code O	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident)	Name (Last/Business)	(First)	(Middle)				
Address (Street, Apt. Number)	City	State	Zip	Residence Phone							
Business/School/Other Address (Street, Apt. Number)	City	State	Zip	Address Type	Business/School/Other Phone	Phone Type					
Other Contact Info (Time Available, Interpreter, etc.)	Synopsis of Involvement										
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity	Res. Type	Res. Status	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code O	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident)	Name (Last/Business)	(First)	(Middle)				
Address (Street, Apt. Number)	City	State	Zip	Residence Phone							
Business/School/Other Address (Street, Apt. Number)	City	State	Zip	Address Type	Business/School/Other Phone	Phone Type					
Other Contact Info (Time Available, Interpreter, etc.)	Synopsis of Involvement										
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity	Res. Type	Res. Status	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code O	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident)	Name (Last/Business)	(First)	(Middle)				
Address (Street, Apt. Number)	City	State	Zip	Residence Phone							
Business/School/Other Address (Street, Apt. Number)	City	State	Zip	Address Type	Business/School/Other Phone	Phone Type					
Other Contact Info (Time Available, Interpreter, etc.)	Synopsis of Involvement										
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity	Res. Type	Res. Status	Means of Attack	Extent of Injury	Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	V/W Code O	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident)	Name (Last/Business)	(First)	(Middle)				
Address (Street, Apt. Number)	City	State	Zip	Residence Phone							
Business/School/Other Address (Street, Apt. Number)	City	State	Zip	Address Type	Business/School/Other Phone	Phone Type					
Other Contact Info (Time Available, Interpreter, etc.)	Synopsis of Involvement										

INCIDENT REPORT (CONT.)

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2		Subject Code S-Suspect V-Victim D-Defendant (Missing Person)		Code #	Subj. Type	Name (Last) (First) (Middle)			Race	Sex	Ethnicity	
	Date of Birth		Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name		
	Nickname / Street Name				Place of Birth - City		County	State	Employer/Other/School		Occupation		
	Last Known Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Other Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Driver's License State/Number				Social Security Number			Other ID Number			ID Type		
	Clothing (Describe)						Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features			Speech/Voice	Deformity		Glasses		
	If Subject:	Demeanor	Mask	Weapon Type			If Arrested:			Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency	
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason			Personal Habits (Drugs / Alcohol)				
May Be With:		Physical Condition:			Mental Condition:			Doctor Name:		Dentist Name:			
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No		Photo Available? 1. Yes 2. No		Dental Record Available? 1. Yes 2. No	

I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2		Subject Code S-Suspect V-Victim D-Defendant (Missing Person)		Code #	Subj. Type	Name (Last) (First) (Middle)			Race	Sex	Ethnicity	
	Date of Birth		Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name		
	Nickname / Street Name				Place of Birth - City		County	State	Employer/Other/School		Occupation		
	Last Known Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Other Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Driver's License State/Number				Social Security Number			Other ID Number			ID Type		
	Clothing (Describe)						Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features			Speech/Voice	Deformity		Glasses		
	If Subject:	Demeanor	Mask	Weapon Type			If Arrested:			Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency	
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason			Personal Habits (Drugs / Alcohol)				
May Be With:		Physical Condition:			Mental Condition:			Doctor Name:		Dentist Name:			
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No		Photo Available? 1. Yes 2. No		Dental Record Available? 1. Yes 2. No	

I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.

1 On 09-08-2009 at approximately 0302 hours Deputy King responded to 113 Kendra Av in Deland in reference to a suspicious incident. Upon
2 arrival Deputy King contacted Shea, Amber R1 who advised the following. Shea returned home around 0220 on 09-08-2009 after taking her child
3 to Deland Hospital. Shea found what appeared to be a bloody, used condom on her front porch. She used a pair of blue nitrile gloves to pick up
4 said condom. Shea had no information as to why a condom would be on her doorstep and immediately checked on her two children who were
5 both in good health. Shea said her husband has no information about this either. Shea told Deputy King several residents have had problems
6 with Casaburro, John O1 at 111 Kendra Av, Deland. Shea said her husband suspects this condom was left by Casaburo. She provided a sworn
7 statement.
8
9 Deputy King used a pair of latex gloves to secure the condom and both blue nitrile gloves into a brown paper evidence bag. Deputy King later
10 secured the evidence into the VCISO Evidence System via the Evidence Refrigerator at District II.

ADMINISTRATIVE	Final Case Status: <u>5</u>	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded	<input type="checkbox"/> Victim Advocate	<input type="checkbox"/> Triad	<input type="checkbox"/> SA Referral	
	<input type="checkbox"/> DCF Hotline	Date: _____ Time: _____	<input type="checkbox"/> FCIC / NCIC Entry	<input type="checkbox"/> T.T. BOLO	Date: _____ By: _____	
	<input type="checkbox"/> CAC	Spoke With: _____	<input type="checkbox"/> FCIC / NCIC Cancel			
	Connecting Report Number: <u>090024812</u>	Agency: <u>VCISO</u>	Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh/Tow Sheet <input type="checkbox"/> Other Describe: _____			
	Officer Reporting - Printed: <u>King, Caleb</u>	Officer Reporting - Signature: 	ID. Number: <u>6919</u>	Unit: <u>1B25</u>	Date: <u>09-08-2009</u>	

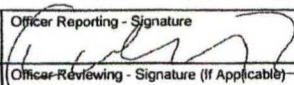
VOLUSIA COUNTY SHERIFF'S OFFICE

NARRATIVE / SUPPLEMENT

Report Date	Report Time	Orig. Reported Date	Nature of Call (for Incident)	Agency Report Number	1.Original	2.Supplement
09-08-2009	0257	09-08-2009	13A	090028523		1

11
 12 As of this writing, there is no information linking the condom to a crime. This report is for documentation purposes in the event new information
 13 regarding this incident is developed in the future. A copy of this report was faxed VCSO Sex Crimes for their review.
 14
 15 The case status is: Closed.

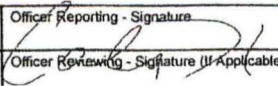
NARRATIVE / CONTINUATION

Final Case Status: 5	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded	<input type="checkbox"/> Victim Advocate <input type="checkbox"/> Triad <input type="checkbox"/> SA Referral
<input type="checkbox"/> DCF Hotline <input type="checkbox"/> CAC	Spoke With: _____ Date: _____ Time: _____	<input type="checkbox"/> FCIC / NCIC Entry <input type="checkbox"/> T.T. BOLO <input type="checkbox"/> FCIC / NCIC Cancel
Connecting Report Number: 090024812	Agency: VCSO	Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____
Officer Reporting - Printed: King, Caleb	Officer Reporting - Signature: 	ID. Number: 6919 Unit: 1B25 Date: 09-08-2009
Officer Reviewing - Printed (If Applicable):	Officer Reviewing - Signature (If Applicable):	ID. Number: Unit: Date:

ADMINISTRATIVE

VOLUSIA COUNTY SHERIFF'S OFFICE

PROPERTY REPORT

T	Report Date	Report Time	Original Incident Date	Nature of Call (for Incident)	Agency Report Number	1. Original	2. Supplement				
	09-08-2009	0257	09-08-2009	13A	090028523		1				
EVT	Type Theft	Type Theft Codes									
		00. N/A	02. Robbery	04. Pocket Picking	06. Embezzlement	08. From Public	09. From Vehicle	11. By Computer	13. Bicycle	99. Other	
CODES	Person Code	Person Involvement Code		Status Code:		Category Code		Viewing Equip (Binoculars)			
	V-Victim S-Suspect D-Defendant W-Witness	N-Next of Kin O-Other R-Reporting Party	1. Finder 2. Owner 3. Suspect 4. Other	1. Evidence 2. Damaged Prop. 3. Arson/Burned 4. Photo & Release	5. Lost 6. Recovered 7. Recovered (Outside Agency Recovered)	8. Found 9. Found/Contraband 10. Prisoner's Pers. Prop. 11. Stolen	12. Stolen And Recovered 13. Disposal 14. Prop. Of Deceased 15. Return to Owner	16. Vehicle Inventory Prop. 17. Baker Act 18. Seized/Confiscated 19. Abandoned			
DRUG	Category Code	E-Equipment/Measuring Devices/Tools		I-Items of Identification		M. Musical Instrument		R-Radio/TV/Sound Devices		Y-Viewing Equip (Binoculars)	
	B. Bicycle C. Camera/Photo Equipment D-Data Processing Equipment	F-Furniture and Furnishings G-Games and Gambling Apparatus H-Household Appliance/Housewares		J-Special Docs/Food Stamps/Tickets K-Keepsakes and Collectibles L. Livestock		O. Office Equipment P. Personal Accessories		S-Sports/Camping/Rec. Equip. T-Toxic Chemicals		W-Well-drilling Equipment Y-All Other Items and Equipment (GUNS,DRUGS,JWLRY, Etc.)	
PROPERTY	Activity	D. Deliver	Z. Other	Type		Unit					
	P. Possess S. Sell B. Buy T. Traffic R. Smuggle	E. Use K. Dispense/Distribute M. Manufacture/Produce/ Cultivate		A. Amphetamine B. Barbiturates C. Cocaine E. Heroin H. Hallucinogen	M. Marijuana O. Opium/Derivative P. Paraphernalia/ Equipment S. Synthetic	U. Unknown Z. Other	1. Gram 2. Milligram 3. Klogram 4. Ounce 5. Pound	6. Ton 7. Liter 8. Milliter 9. Dose Unit/Term 99. Other			
PROPERTY	Leave Blank:	Person Code #	Pers. Invl.	Item #	Status	Category	Article	Description			
				1	1	Y	Condom	Used condom with 2 blue nitrile gloves			
PROPERTY	Serial Number	Owner Applied Number	Value Recovered:	Date Recovered:	Forfeiture Y / N:	F.W.T.C. (Y/N)	Value				
			\$				\$				
PROPERTY	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value
											\$
PROPERTY	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type		
PROPERTY	Leave Blank:	Person Code #	Pers. Invl.	Item #	Status	Category	Article	Description			
PROPERTY	Serial Number	Owner Applied Number	Value Recovered:	Date Recovered:	Forfeiture Y / N:	F.W.T.C. (Y/N)	Value				
			\$				\$				
PROPERTY	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value
											\$
PROPERTY	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type		
PROPERTY	Leave Blank:	Person Code #	Pers. Invl.	Item #	Status	Category	Article	Description			
PROPERTY	Serial Number	Owner Applied Number	Value Recovered:	Date Recovered:	Forfeiture Y / N:	F.W.T.C. (Y/N)	Value				
			\$				\$				
PROPERTY	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value
											\$
PROPERTY	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type		
CHAIN OF CUSTODY	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
	1	09-08-2009	0400	C. D. King		D2 Evidence Locker					
CHAIN OF CUSTODY	Leave Blank:	Reason for Change:									
		Evidence									
CHAIN OF CUSTODY	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
CHAIN OF CUSTODY	Leave Blank:	Reason for Change:									
CHAIN OF CUSTODY	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
CHAIN OF CUSTODY	Leave Blank:	Reason for Change:									
CHAIN OF CUSTODY	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
CHAIN OF CUSTODY	Leave Blank:	Reason for Change:									
CHAIN OF CUSTODY	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
CHAIN OF CUSTODY	Leave Blank:	Reason for Change:									
MIN.	Officer Reporting - Printed	Officer Reporting - Signature			ID. Number	Unit	Date				
	King, Caleb				6919	1B25	09-08-2009				
MIN.	Officer Reviewing - Printed (If Applicable)	Officer Reviewing - Signature (If Applicable)			ID. Number	Unit	Date				



VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

Form containing incident details: Agency Report Number 090030503, Agency ORI Number FL0640000, Zone # 25, Telephone Handled 1. Yes 2. No 2, Reported: Day Friday, Date 09-25-2009, Time (mil.) 1132, Time Dispatched (mil.) 1148, Time Arrived (mil.) 1342, Time Completed (mil.) 1412, Nature of Call (Report Type) 42 Civil Complaint, Incident Type: 3. Misdemeanor, 4. Traffic, 9. Other, Incident: Day Friday, Date 09-25-2009, Time (mil.) 0930, TO Friday, Date 09-25-2009, Time (mil.) 1000, Occurred During: D - Day, U - Unknown, N - Night, D, Offense #1 9, Statute Violation Number 777777777, Description INFORMATION ONLY, Incident Location (Street, Apt. Number) 113 KENDRA AV, City DELAND, Zip 32724, Business Name / Area Identifier, # Prem. Entered, Drug Related, Alcohol Related, Forced Entry, Arson-Inhabited, Arson-Attempted, Location Type, Location Type Codes, V/W Code, Victim/Subject Type, Address/Phone Type, Race, Sex, Residence Type, Residence Status, Means of Attack, Extent of Injury, Domestic Violence, Victim Relationship to Offender, Offense Indicator, V/W Code, #, V. Type, Nature of Call (for Victim, if different from incident), Name (Last/Business), Address (Street, Apt. Number), City, State, Zip, Residence Phone, Business/School/Other Address (Street, Apt. Number), City, State, Zip, Address Type, Business/School/Other Phone, Phone Type, Other Contact Info (Time Available, Interpreter, etc.), Synopsis of Involvement, If Victim Type, Race, Sex, Date of Birth, Age, Ethnicity, Res. Type, Res. Status, Means of Attack, Extent of Injury, Domestic Violence, Relationship, Offense Indicator, V/W Code, #, V. Type, Nature of Call (for Victim, if different from incident), Name (Last/Business), Address (Street, Apt. Number), City, State, Zip, Residence Phone, Business/School/Other Address (Street, Apt. Number), City, State, Zip, Address Type, Business/School/Other Phone, Phone Type, Other Contact Info (Time Available, Interpreter, etc.), Synopsis of Involvement, If Victim Type, Race, Sex, Date of Birth, Age, Ethnicity, Res. Type, Res. Status, Means of Attack, Extent of Injury, Domestic Violence, Relationship, Offense Indicator, V/W Code, #, V. Type, Nature of Call (for Victim, if different from incident), Name (Last/Business), Address (Street, Apt. Number), City, State, Zip, Residence Phone, Business/School/Other Address (Street, Apt. Number), City, State, Zip, Address Type, Business/School/Other Phone, Phone Type, Other Contact Info (Time Available, Interpreter, etc.), Synopsis of Involvement, If Victim Type, Race, Sex, Date of Birth, Age, Ethnicity, Res. Type, Res. Status, Means of Attack, Extent of Injury, Domestic Violence, Relationship, Offense Indicator, V/W Code, #, V. Type, Nature of Call (for Victim, if different from incident), Name (Last/Business), Address (Street, Apt. Number), City, State, Zip, Residence Phone, Business/School/Other Address (Street, Apt. Number), City, State, Zip, Address Type, Business/School/Other Phone, Phone Type, Other Contact Info (Time Available, Interpreter, etc.), Synopsis of Involvement, If Victim Type, Race, Sex, Date of Birth, Age, Ethnicity, Res. Type, Res. Status, Means of Attack, Extent of Injury, Domestic Violence, Relationship

INCIDENT REPORT (CONT.)

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	<p>1 On 09/25/2009, at approximately 1148 hours, Deputy Passerello responded to a telephone handled call regarding a civil complaint. Deputy Passerello contacted Shea, John(R1), who reported that he observed his neighbor, Casaburro, John(O1), taking photographs of Shea's house and cars.</p> <p>2</p> <p>3</p> <p>4</p> <p>5 Shea stated that Casaburro consistently makes complaints against Shea by calling the Sheriff's Office. Deputy Passerello asked Shea how often this happens. Shea stated that the last incident was "a couple weeks ago." Deputy Passerello advised Shea that there is no crime in taking photographs, but if Casaburro would come onto Shea's property without permission, Shea should call V.C.S.O. to dispatch a Deputy to trespass Casaburro.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10 Deputy Passerello was later advised to follow up on the incident. Deputy Passerello responded to 113 Kendra Ave., where he met with Shea.</p>																																																																																																																																																																																	
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Officer Reporting - Printed Passerello, Paul				Officer Reporting - Signature <i>DIS Passerello</i>				ID. Number 7630		Unit 1A22		Date 09-25-2009																																																																																																																																																																						
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VOLUSIA COUNTY SHERIFF'S OFFICE

NARRATIVE / SUPPLEMENT

Page 3 of 3 Pages

Report Date	Report Time	Orig. Reported Date	Nature of Call (for Incident)	Agency Report Number	1.Original 2.Supplement
09-25-2009	1132	09-25-2009	42	090030503	

11 Shea informed Deputy Passerello that at 0930 hours, Casaburro had actually taken photographs from Shea's driveway. Deputy Passerello
 12 observed the two automobiles in Shea's driveway. The automobiles were in poor condition and missing major parts. Deputy Passerello obtained a
 13 sworn, written statement from Shea.
 14
 15 Deputy Passerello then met with Casaburro, who advised the following in a sworn, written statement. Casaburro stated that he had taken
 16 photographs of Shea's cars, but had done so from Casaburro's own property. Deputy Passerello advised Casaburro to not go onto Shea's
 17 property without Shea's permission. Casaburro indicated that he understood and would comply. Deputy Passerello gave Casaburro a business
 18 card with the case number. Casaburro claimed to be the president of a Homeowners Association, but then admitted that he merely initiates action
 19 to remove undesirable residents from the neighborhood. Casaburro stated that he has initiated petitions in the past to remove tenants from houses
 20 in the area, and showed Deputy Passerello copies of those petitions. Deputy Passerello advised Casaburro that in the future, Casaburro should
 21 contact V.C.S.O. to handle similar issues, and not to initiate his own actions.
 22
 23 Deputy Passerello met with Shea again and informed Shea that there was no evidence of any crime occurring, but to call if Casaburro
 24 trespasses on Shea's property. Deputy Passerello gave Shea a business card with the case number.
 25
 26 Case status: Closed.

NARRATIVE / CONTINUATION

ADMINISTRATIVE	Final Case Status: <u>5</u>	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded	<input type="checkbox"/> Victim Advocate	<input type="checkbox"/> Triad	<input type="checkbox"/> SA Referral	
	<input type="checkbox"/> DCF Hotline	Date: _____ Time: _____	<input type="checkbox"/> FCIC / NCIC Entry	<input type="checkbox"/> T.T. BOLO	Date: _____ By: _____	
	<input type="checkbox"/> CAC	Spoke With: _____	<input type="checkbox"/> FCIC / NCIC Cancel			
	Connecting Report Number _____ Agency _____	Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____				
Officer Reporting - Printed Passerello, Paul	Officer Reporting - Signature <i>DISP</i>		ID. Number 7630	Unit 1A22	Date 09-25-2009	
Officer Reviewing - Printed (If Applicable)	Officer Reviewing - Signature (If Applicable)		ID. Number	Unit	Date	

MAY - 4 2005
 Volusia County Sheriff's Office
 Incident Report



05 15026

Incident Number

Page 1 of 1 Pages

- Juvenile
- Elderly Abuse/Exploitation
- Hate Crime
- Gang
- Domestic Violence VOR
- Endangered/Other



STATUTE: 7777777
 ZONE: 25

Original Report

Incident Type: CIVIL COMPLAINT NUISANCE				Location of Incident: 111 KENDRA AVE DELAND, FL			
Date Reported	Time Reported	From Date Occ	To Date Occ	From-To Time Occ	THC	Connecting Report/Agency	
05/03/2005	1208	05/03/2005	05/03/2005	1200 - 1207	No	NONE	
Code	Name	Race	Sex	Age	DOB	Phone# (Home)	
V1	CASABURRO, JOHN	W	M	53	[REDACTED]	386-943-8922	
S1	MANDESE, ANTHONY	W	M	35	[REDACTED]	UNKNOWN	
Code	Address	Employed At/School/Other Address				Phone# (Bus.)	
V1	111 KENDRA AVE DELAND, FL 32724	RETIRED					
S1	109 KENDRA AVE DELAND, FL 32724	UNKNOWN					

Forced Entry: NO Weapons: () Firearms () Knife () Hands/Feet () Other:

Investigative Leads/Narrative:

NARRATIVE:

ON TUESDAY 05-03-2005 AT 1228 HRS DEPUTY MATHIS WAS CONTACTED BY CASABURRO, JOHN IN REFERENCE TO HIS NEIGHBOR MANDESE, ANTHONY (S1) CALLING HIM NAMES. CASABURRO STATED HE WANTED TO FILE HATE CRIME CHARGES AGAINST MANDESE BECAUSE MANDESE CALLED HIM A "FAGOT COCKSUCKER." DEPUTY MATHIS ASKED CASABURRO IF HE WAS A HOMOSEXUAL TO WHICH HE REPLIED NO. DEPUTY MATHIS EXPLAINED TO CASABURRO THAT MERELY CALLING SOMEONE A NAME IS NOT AGAINST THE LAW THAT THERE HAD TO BE OTHER CRIMES COMMITTED.

CASABURRO STATED THAT MANDESE IS STALKING HIM FROM HIS OWN YARD. DEPUTY MATHIS ASKED CASABURRO TO ELABORATE. CASABURRO STATED THAT MANDESE STANDS IN HIS OWN YARD AND STARES AT HIM WHILE HE IS WALKING AROUND HIS HOUSE IN HIS UNDERWEAR. DEPUTY MATHIS TOLD CASABURRO THAT IT MIGHT BE A GOOD IDEA TO CLOSE HIS BLINDS AND OR CURTAINS. CASABURRO STATED HE WANTED TO PRESS CHARGES AGAINST MANDESE FOR STALKING. DEPUTY MATHIS ASKED CASABURRO IF HE FELT MANDESE WAS A CREDIBLE THREAT, IF HE REPEATEDLY FOLLOWED OR HARASSED HIM.

CASABURRO STATED NO HE JUST CALLED ME A FAGOT COCKSUCKER. DEPUTY MATHIS INFORMED CASABURRO THAT HIS COMPLAINT DIDN'T MEET THE ELEMENTS FOR THE CRIME OF STALKING. CASABURRO THEN DEMANDED A REPORT BE DRAFTED. DEPUTY MATHIS SUPPLIED CASABURRO WITH A VOLUSIA COUNTY CASE NUMBER AND TOLD HIM TO DOCUMENT ANY MORE NAME CALLING.

Copies To:			Lab Request:			
<input type="checkbox"/> HRS Hotline	Date	Time	Case Status: CLOSED			
<input type="checkbox"/> CAC			Activity	<input type="checkbox"/> Arr. Warrant	<input type="checkbox"/> Exceptional/Juv	<input type="checkbox"/> Supp Submitted
Spoke With:			Type:	<input type="checkbox"/> Case Filed	<input type="checkbox"/> Forfeiture	<input type="checkbox"/> Suspended
<input type="checkbox"/> FCIC/NCIC Entry			<input type="checkbox"/> Victim Advocate	<input type="checkbox"/> Cleared/Arr/Adult	<input type="checkbox"/> Re-assigned	<input type="checkbox"/> Other
<input type="checkbox"/> FCIC/NCIC Cancel	Date	By	<input type="checkbox"/> TRIAD	<input type="checkbox"/> Cleared/Arr/Juv.	<input type="checkbox"/> Recovered Prop	<input type="checkbox"/> Unfounded
<input type="checkbox"/> T.T. Bolo			<input type="checkbox"/> S.A. Referral	<input type="checkbox"/> Exceptional/Adult	<input type="checkbox"/> Search Warrant	<input checked="" type="checkbox"/> Closed
Reporting Officer: DEPUTY J.R. MATHIS			Reporting Officer (Signature)		I.D. # 2515	Date: 05/03/2005
Approved By: SGT. M. CHILCOT			Approved By (Signature)		I.D. # 2347	Date: 5-3-05



Mayoral Candidate's Remarks Upset Officials

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Mayoral Candidate's Remarks Upset Officials

MARLENE AIG January 12, 1989



WHITE PLAINS, N.Y. (AP) — A man seeking to be mayor of racially divided Yonkers said nearly all blacks lived well under slavery and made other comments that brought denunciations from political leaders, who called the remarks ignorant and inflammatory.

John Casaburro, who is seeking the Republican and Conservative nominations for mayor of the city just north of New York City, made the remarks at a Yonkers City Council meeting Tuesday night.

Casaburro said "90 percent of all blacks lived well and had it good" under slavery.

"They're no longer in the back of the bus. Now they're slaves to the bus," he said later. "Now they're spending two hours a day just to go to school. Not a school of their choice, but a school based on racial quotas.

"Most black men are encouraged not to marry a woman," he added. "They're encouraged to impregnate, not marry her, because it's almost an irresponsibility to get married since welfare will take care of her."

Mayor Nicholas Wasiczko, a Democrat seeking a second term in the November election, on Wednesday called Casaburro's remarks "extremely unfortunate. He's not typical of the sentiment of the city."

Such comments "do absolutely no good," said Westchester County Executive Andrew O'Rourke. "They're inflammatory. There's no basis in fact."

Racial relations are already strained in Yonkers due to opposition to a court-ordered housing desegregation plan.

Faced with bankrupting fines imposed by a federal judge, the council reversed itself Sept. 10 and agreed to support the judge's order to affordable housing to remedy what the judge determined was deliberate segregation.

Casaburro has campaigned as a member of the Save Yonkers Federation, a citizen's group which has sued to stop the desegregation plan.

However, federation President Jack O'Toole said Casaburro was neither an official nor a committee member for the association.

Huffman, 12 other parents to plead guilty in college scheme

BOSTON (AP) — "Desperate Housewives" star Felicity Huffman and a dozen other prominent ...

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Plea deal puts Fe at pivotal point

Bodycam footage Minneapolis offic



Region News Briefs

Candidate Arrested In Prostitution Sweep

Special to The New York Times

WHITE PLAINS, Oct. 13 — A Yonkers man who tried to run for Congress but failed to win a spot on the ballot was arrested in Manhattan on Wednesday and charged with patronizing a prostitute.

John Casaburro, 43, was carrying a flier that identified him as a candidate in the 18th Congressional District race when he was arrested as part of a police sweep in the area around West 24th Street and 11th Avenue, said Sgt. Joe Gallagher. Five other men were arrested at the same time.

Mr. Casaburro spoke to local Republican officials about his desire to run for the seat held by Nita Lowey, a Democrat, and he filed a petition with the State Board of Elections seeking an independent line on the ballot. That petition was denied because it had only 273 signatures, and

3,500 signatures were required.

The Republican-Conservative candidate in the 18th District is Andy Hartzell of Scarsdale.

Woman Sues Town Over Slip on Dog Drool

CHESHIRE, Conn., Oct. 13 (AP) — A woman who injured herself after slipping on some dog drool is suing the town for negligence.

The woman, Carla S. Koch, says in her lawsuit that there were no mats on the floor last year at a town-run canine obedience class at the youth center. She broke her ankle during a fall on the linoleum floor, she said.

"It isn't a matter of dogs don't drool," she said. "There's a reason for mats in obedience school and this is it."

Town Attorney John K. Knott Jr. said he was not familiar with the specifics of the case, but said, "It's unbelievable the claims people make."

After the accident on Sept. 27, 1993,

Ms. Koch had surgery and was on crutches for 10 weeks. She says she has scars on both sides of her leg, and still has two pins in her leg.

Panel Approves Bill To End Lifelong Tenure

TRENTON, Oct. 13 (AP) — School principals and administrators would no longer be given lifelong job security under a bill approved by the Senate Education Committee today.

New Jersey is among only seven states that give school administrators lifelong job protection.

The bill would require school boards to hire school principals and managers on contracts that would run from three to five years. It would affect only principals and administrators hired after final approval of the bill.

The State Department of Education and the New Jersey School Boards Association both support the measure.

10/14/94

EX "B"

Elect Ben Johnson for
Volusia County Council at Large
Leadership.

Vision.

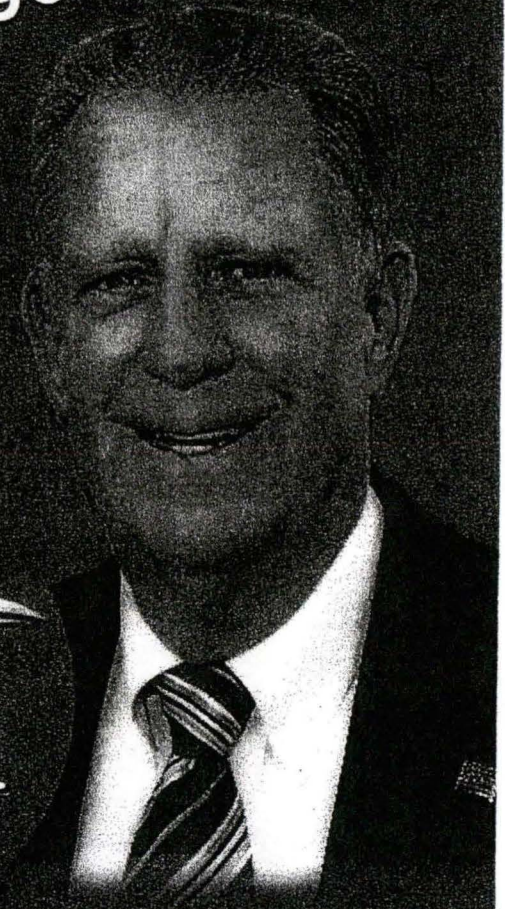
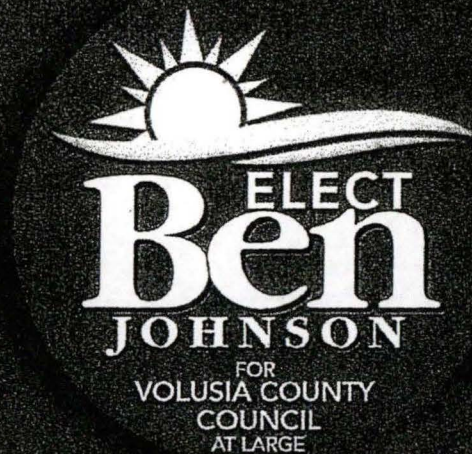
Commitment.

Please vote on
AUGUST 28!

386.748.2228

BenForCountyCouncil.com

Political Advertisement paid for and approved by
Ben Johnson for Volusia County Council at Large.



CAMPAIGN ADS BY MR. CASABURRO

John Casaburro

Candidate for Volusia County Council, At Large.

111 Kendra Avenue

Deland, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July 4, 2018

In Re: An important message to voting members of the VCREC, and club presidents.

The following are very important reasons why the VCREC should not vote to endorse Ben Johnson at the special meeting scheduled to occur on July 10, 2018. Nor should Ben Johnson's name appear on any issued voter guides. If this man is endorsed there is no doubt that the Dem's will use this as an issue to attack him and the party.

- (1.) According to Sheriff Mike Chitwood, and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
- (2.) Florida Highway Patrol Lt. Kevin Vaughn (R.) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a televised broadcast that he has a drinking problem, and that while serving in the capacity of Sheriff he drove under the influence.
- (3.) Ben Johnson caused several federal law suits to be filed against himself, and the county due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK, and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas.

Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017 that Ben Johnson, as Sheriff, refused to investigate and clean up; Why?

Lastly, Ben Johnson will vote like a R.I.N.O., and appears to be ready, willing, and able to serve special interests.

John Casaburro, on the other hand, is a reliable conservative that has worked for the party over 20 years , as Vice Chair (received award), district coordinator (received award), local club volunteer (award), and campaign strategy chair.

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)

John Casaburro

Candidate for Volusia County Council, at Large

111 Kendra Avenue

DeLand, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July, 2018

The following are very important reasons why you should not vote for Ben Johnson.

1. According to Sheriff Mike Chitwood and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
2. Florida Highway Patrol Lt. Kevin Vaughn (R) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a television broadcast that he has a drinking problem, and while serving in the capacity of Sheriff, he drove under the influence.
3. Ben Johnson caused several federal law suits to be filed against himself, and the county, due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas. Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017, that Ben Johnson, as Sheriff, refused to investigate and clean up. Why?
4. Ben Johnson will vote like an aristocrat on the county council, and appears to be ready, willing, and able to serve special interests.
5. Ben Johnson is under investigation for corruption and sexual misconduct. He will eventually have to quit the race or leave office.

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)



Ben Johnson <benforcountycouncil@gmail.com>

Fwd: To REC voting members. Update concerning 2018 Volusia County Council at large race.

2 messages

Fred Costello <costello.fred@gmail.com>
To: benforcountycouncil@gmail.com

Wed, Jul 11, 2018 at 4:44 PM

I am SO VERY SORRY you have to put up with this nonsense!!!

As you likely recall, I had false allegations made against me (by my own daughter after we cut her off due to her drug issues) that were front page news. Fortunately, those who conspired with her (Jeff Boyle and those who supported him as he tried to become mayor of Ormond Beach) did not make sure she only accused me. She accused not only me of sexually abusing her, but she also accused Linda, her brother and an uncle. And fortunately she also said I abused my two granddaughters who were able to testify that no such nonsense had ever happened. But it was still a mess.

Obviously you will win the election and "everybody" will know the allegations are false. But you still have to go through it.

Holler if you ever want to commiserate and I'll fill you in on the back story of the accusations. Although it took the judge about 30 seconds to rule "not guilty" after a half day in court ... we still had to endure the accusations in open court.

Stay strong!
Good Luck my friend!

Fred Costello
1 Tomoka Cove Way
Ormond Beach, FL 32174
Dental Office: 386.673.1611
Cell: 386.451.1558

Begin forwarded message:

From: John Casaburro <johncasaburro@yahoo.com>
Date: July 11, 2018 at 2:33:16 PM EDT
To: John Casaburro <johncasaburro@yahoo.com>
Subject: To REC voting members. Update concerning 2018 Volusia County Council at large race.
Reply-To: John Casaburro <johncasaburro@yahoo.com>

Dear Friends:

Pleased bead advised about Tuesday night's REC vote for Volusia County Council at large. Reliable sources have advised that several area young women are hiring the law firm of Gloria Allred (the attorney for the 'me too' movement) to sue Ben Johnson for questionable activities during his term of office as sheriff under the federal civil rights code and for personal injury.

Allegedly Johnson, as sheriff, would have sex with young girls addicted to drugs in return for a "get out of jail free pass." Rather than directing or encouraging these girls to rehab; he would keep them in this pitiful downward cycle. Shame on him; this is sexual abuse!

The party name will be damaged by this for years and Johnson will have to quit the race.
Do everyone a favor and i
insist he step aside now so the party can endorse one of its own who is reliable and can win the seat.

Please vote for John Casaburro. John will be on the Marc Bernier show (WNDB) to discuss the issues on Thursday July 12, 2018 at 5:00 p.m. Please tune in.

7/21/2018

C... Fwd: To REC voting members. Update concerning 2018 Volusia County Council at large race.

Regards,

John

P.S. Pictures of Johnson will follow.

Ben Johnson <benforcountycouncil@gmail.com>

Wed, Jul 11, 2018 at 4:53 PM

To: Ben Johnson <benfj1950@gmail.com>, Linda White <whitel@cfl.rr.com>

[Quoted text hidden]



FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com**

April 15, 2019

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-105; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission has received your amended complaint, including any additional information you provided, alleging violations of Florida's election laws. I have reviewed your amended complaint and still find it to be legally insufficient.

Complainant's initial complaint alleged that Respondent made false, malicious statements against Complainant. Section 104.271(2), F.S., prohibits a candidate from making or causing to be made any statement about an opposing candidate which is false. Such statements must be made with actual malice.

Complainant originally alleged that Respondent hired Henry Frederick, an internet reporter/publisher, to make false statements against Complainant during the campaign for the Volusia County Council At Large seat. Complainant pointed to an expenditure item on one of Respondent's campaign treasurer's reports disclosing a \$1,000 expenditure to "Headline Surfer" for "Advertising" on July 23, 2018. Complainant claimed no advertising was provided. Rather, Complainant alleged the article at issue was written by Mr. Frederick on a news website called *Headline Surfer* in which false statements were made against Complainant.

However, Complainant provided no evidence to support his allegation that Respondent paid Mr. Frederick to make the statements in his news article, and the Florida Elections Commission determined that the complaint was legally insufficient.

In his amended complaint, Complainant focused much of his narrative on describing his attempt to have Mr. Frederick's pleadings struck in the ongoing civil action for defamation and slander relative to the same article at issue in this complaint. The related documents provided by Complainant fail to include any evidence supporting Complainant's allegations regarding Respondent.

Complainant also referred to an ad showing no date, presumably referring to an attachment to his amended complaint showing an undated email titled "Ben Johnson Digital ads." It

John Casaburro
April 12, 2019
Page 2
FEC 19-105

appears Complainant provided the email in an attempt to show that no ads were printed in exchange for Respondent's reported payment of \$1,000 to *Headline Surfer* for advertising. However, as noted in the review of FEC 19-119, Respondent provided a weblink to the *Headline Surfer* website showing that a video advertisement in support of Respondent was inserted under the headline for an article posted on August 27, 2018. The video ends with a disclaimer noting it is a political advertisement paid for by Respondent. In his Motion to Dismiss Amended Complaint, Respondent provided the same link.

In his amended complaint narrative, Complainant asserted that Mr. Frederick has a reputation for slander and "trashing people" with malice for money and provided names of local candidates who were "witness to his offers." However, that allegation appears to be directed toward Mr. Frederick and is not based upon personal information or information other than hearsay.

Complainant also alleges that Respondent "co-authored" the article at issue. His basis for this allegation appears to be that in his answers to interrogatories in the civil action, Respondent acknowledged that he provided Mr. Frederick with certain records and documents pertaining to Complainant. However, providing records to a journalist is not the same as co-authoring an article written by that journalist, especially when Respondent was interviewed and quoted by Mr. Frederick for the article, which was about a campaign involving both Complainant and Respondent.

In his Motion to Dismiss, Respondent argued that Complainant failed to allege he had personal knowledge or information other than hearsay that Respondent hired *Headline Surfer* to make false statements against him.

Based upon the foregoing, Complainant has not provided evidence based on personal information or information other than hearsay that Respondent wrote the article or paid Mr. Frederick to write the article.

This case is now closed. If you have any questions, please contact us at fec@myfloridalegal.com.

Sincerely,



Tim Vaccaro
Executive Director

TV/dm
cc: F.A. "Alex" Ford, Jr., Attorney for Respondent



FEC Case No: 19-105; Respondent: Ben F. Johnson

Diane Harney

to:

fec@myfloridalegal.com

04/10/2019 04:59 PM

Cc:

"Alex Ford", "Diane Harney"

Hide Details

From: "Diane Harney" <dharney@landispa.com>

To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>

Cc: "Alex Ford" <aford@landispa.com>, "Diane Harney" <dharney@landispa.com>

1 Attachment



2019.04.10 Motion to Dismiss Amended Complaint for Insufficiency FINAL.pdf

Attention Donna Malphurs:

As per the instructions listed with the complaint received, attached please find our Motion to Dismiss Amended Complaint for Insufficiency. I understand we will be notified by letter whether the amended complaint is determined to be legally sufficient. Please advise if you need additional information. Please confirm receipt.

Thank you,

Diane Harney, Legal Secretary
to F.A. (Alex) Ford, Jr., Esquire
to Kathrine E. Conroy, Esquire
Landis Graham French, P.A.
145 E. Rich Avenue, Suite C
DeLand, Florida 32724
Phone: 386-734-3451
Fax: 386-736-1350
dharney@landispa.com



FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

Case No.: FEC 19-105

BEN F. JOHNSON,

Respondent.

MOTION TO DISMISS AMENDED COMPLAINT FOR INSUFFICIENCY

1. This case involves alleged violations of Section 104.271(2), FS and is authorized for an expedited hearing process under Rule 2B-1.0041, F.A.C.
2. The Executive Director of the Florida Elections Commission is required to make a determination as the legal sufficiency of the Complaint herein.
3. In his letter ruling dated March 14, 2019, the Executive Director determined the Complaint to be legally insufficient, for reasons as set forth therein, and informed Complainant of his right to submit additional information to correct the grounds of insufficiency.
4. The reasons stated in the letter order included (without limitation) the Complainant provided no support other than speculation for his allegation Respondent paid to have false statements made against him.
5. On or about April 5, 2019, Complainant provided his additional information. For purposes of this motion, Respondent will refer to the Complaint as supplemented by the additional information as the "Amended Complaint."
6. Respondent, Johnson, maintains that the Amended Complaint did not cure the deficiencies of the original Complaint and is still legally insufficient for reasons including, without limitation, as follows:

I. Requirements of Rule 2B-1.0025(2) F.A.C.

7. Pursuant to Rule 2B-1.0025(2) F.A.C.:

Upon receipt of a complaint from Commission staff after the completion of the technical and clerical review required by subsection (1), of this rule, the executive

director shall determine whether the complaint is legally sufficient. A complaint is legally sufficient if it meets the following criteria:

- a. **The complaint alleges a violation of Chapter 104 or 106, F.S.;**
 - b. The complaint contains specific facts upon which the complainant bases the allegation of a violation of law;
 - c. The complaint alleges a violation that occurred within two years of the date the complaint is filed with the Commission;
 - d. **The complaint is based on personal information or information other than hearsay;** and,
 - e. The complaint otherwise complies with the requirements of paragraph (1)(a), of this rule. (Emphasis added)
8. While Respondent denies the allegations of the Amended Complaint and will have a subsequent opportunity to provide evidence in support of his position, Respondent maintains the Amended Complaint fails to meet standards for sufficiency as outlined in the above-cited rule and therefore moves to dismiss for lack of sufficiency.

II. Failure to Allege a Violation of Chapter 104 or 106

A. No Sufficient Allegation of a Violation of the Statute; Lack of Actual Malice

9. Complainant asserts Respondent has violated FS Section 104.271(2), but has not made a sufficient allegation thereof.
10. Section 104.271(2) provides, in pertinent part:
- Any candidate who, in a primary election or other election, with actual malice makes or causes to be made any statement about an opposing candidate which is false is guilty of a violation of this code. (Emphasis added)
11. The Amended Complaint fails to allege Johnson made or caused to be made the supposedly false statements with actual malice. Because actual malice is a necessary element to allege a violation of Section 104.271(2), FS, and the allegation of this element is missing, the Amended Complaint is insufficient.
12. At best, Complainant has alleged in certain instances Respondent provided information (including, without limitation, copies of articles from the New York Times, Associated Press and the West Volusia Beacon, police reports, court filings and records and other credible materials noted in Exhibit 4 to the Amended Complaint) and Headline Surfer failed to investigate certain facts which were reported in those materials.
13. While Headline Surfer is not a party hereto, Complainant attributes its actions to Respondent. But, even if Headline Surfer failed to fully investigate the charges it

reported, failure to investigate is insufficient to rise to the level of actual malice as required to support a determination of Section 104.271(2). See, *Shiver v. Apalachee Pub. Co.*, 425 So. 2d 1173, 1983 Fla. App. LEXIS 18481 (Fla. 1st DCA 1983).

B. No Sufficient Allegation of a Violation of the Statute; Internal Inconsistency/Lack of Falsity

14. As previously mentioned, a violation of Section 104.271(2) requires the alleged statement(s) to be false. The Amended Complaint fails to allege a false statement in several respects.
15. The text of the Amended Complaint alleges several supposed false statements made about the Complainant.
16. Attached to and incorporated by the Amended Complaint is a copy of the Amended Complaint filed by Complainant in a circuit court case.
17. The circuit court case was brought by Complainant against the Respondent and another defendant, an Internet news source known as Headline Surfer ("Headline Surfer").
18. That circuit court case complaint has an article attached as Exhibit A thereto, also attached as Exhibit A hereto, which contains the supposedly false statements. (Note, the Amended Complaint attached a different version of the article, updated January 10, 2019, but did not cite to any allegations contained in the updated article.)
19. The false statements as alleged in the text of Complainant's Amended Complaint herein are inconsistent with what is stated in the actual publication or are demonstrably not false. (See Exhibit A, the "article").
20. For example, in Paragraph VI of the article, Complainant alleged he was called a "monster" in his neighborhood. The article shows the reporter/opinion writer actually did not call Complainant a "monster" but merely gave his personal opinion that Complainant is an "ogre" to his neighbors. Further, the source document for this opinion is available, showing it was a matter of public record Complainant had issues with his neighbors. See Exhibit B, police report.
21. In Paragraph VI, Complainant alleges he was accused of being in "some sort of conspiracy" with two other public figures. However, the article did not say that. It simply gave the writer's opinion that the Complainant took "his cues" from one public official. The other public official was mentioned but the article made no reference to further relationship, if any, with Complainant. Again, the statement made in the article is inconsistent with Complainant's representation of it.

22. In Paragraph VI, Complainant also alleges the article accused him of leaving a bloodied condom on a neighbor's doorstep. In actuality, the article says Complainant was suspected of leaving the condom on a neighbor's front porch. See attached Exhibit C, police report, demonstrating Complainant's neighbor suspected him.
23. In Paragraph VII, Complainant alleges the article referred to him as a "psycho, dishonest and unethical person." The article simply does not do this. Although it does refer to him distributing a "phony sleaze piece," apparently referring to allegations' Complainant was himself making against Respondent. See attached Exhibit D, ("campaign literature" distributed by Complainant attacking Respondent and, presumably, the phony sleaze piece referred to in the article).
24. In Paragraph VII, Complainant alleges statements were made that he "had no good standing with the Republican Party." The article makes no mention of Complainant's standing with the Republican Party. Interestingly, Complainant did attach a copy of the settlement agreement in a lawsuit he had against the Republican Executive Committee, which would seem to justify Headline Surfer's opinion commentary on Complainant's relationship with the Republican Party.
25. In Paragraph IX, Complainant complains of the article quoting "out of context" remarks by a "biased reporter" from another news organization and claiming that he is a racist. The Amended Complaint does not allege the Headline Surfer article falsely reported anything, nor does the article claim Complainant is a racist, even though the quoted comments were clearly racist. There is no allegation Complainant was misquoted by the original New York Times article, or that Headline Surfer misquoted the New York Times article or that Respondent knew the original reporter's comments were false.
26. In Paragraph X, Complainant does not allege the statements about his arrest for solicitation of prostitution were false, as required by the statute, but that the article omitted certain facts. Apparently, Complainant is not arguing falsehood but omission of facts favorable to him which he feels should have been presented alongside the discussion of his arrest during a prostitution sweep. See attached Exhibit E (the reported decision from the court in New York).
27. Even though Complainant accuses Respondent of knowingly causing Frederick to make false statements, there is no suggestion in the Amended Complaint that the actual statements in the Article are untrue. Nor has Complainant provided support that the actual statements made were untrue.
28. Further, by reference to the materials cited in the Article and Complainant's Exhibit 4 (which is Respondent's Response to Complainant's Request for Production in the circuit court case), it is apparent that there were third party sources for the statements actually made in the article. Even if those sources (New York Times, Associated Press, West Volusia Beacon, police reports, court

- papers, etc.) were all untrue, there is no showing of a non-hearsay basis that Respondent knew they were false.
29. Accordingly, the Complainant has failed to show that the statements he complains of were even made, much less that they were false or made with actual malice and, so the Amended Complaint is insufficient.

C. Failure of Amended Complaint to be Based on Personal Information/Information Other Than Hearsay

30. Complainant still fails to sufficiently allege that his allegations are based on personal information or information other than hearsay, as set forth in Rule 2B-1.0025(2) F.A.C.
31. Specifically, Complainant failed to allege he had personal knowledge (or information other than hearsay) that Johnson hired Headline Surfer to make false statements against him.
32. Although his Amended Complaint now makes the bare statement that "there is no proof of an ad," Complainant does not actually make the factual assertion supported by non-hearsay that there was no ad. Instead, he still relies upon the double hearsay statement of Robert Moni that he had searched Headline Surfer for Johnson's campaign ads and found none for three (3) months prior to the court filing. Apparently, this alleged failure to advertise was intended to support a leap to the conclusion that Johnson's payment for advertising was, instead, payment for Headline Surfer publishing false statements against Complainant. The danger of relying upon such hearsay is demonstrated by visiting the following link, where some of Johnson's paid advertising appears:
<https://headlinesurfer.com/content/our-endorsement-school-board-dis-1-jamie-haynes-can-parlay-valuable-classroom-experience>.
33. Besides being hearsay, this amounts to mere speculation that the one thousand dollars (\$1,000.00) paid by the Johnson's campaign to Headline Surfer for advertising was in fact payment for writing a false article. Thus, speculation is piled on top of hearsay, which is not sufficient under the statute.¹
34. Complainant, in his Amended Complaint, apparently now attempts to overcome the lack of sufficiency by referring to the court file in the circuit court case he has filed, alleging that the publisher of the internet news site which published the Article was defaulted in the circuit court action. However, there are several problems with this position:

¹ Complainant correctly states respondent paid Headline Surfer \$1,000 in July 2018. That payment was for advertising.

- a. First, Mr. Frederick was not defaulted. A review of the Clerk of Court's online docket reveals Complainant moved for default but Mr. Frederick answered prior to entry of a default. This information is available at <http://www.clerk.org/> under "case inquiry" for Case Number 2019 10091 CIDL.
 - b. Rule 1.500 (c), Fla. R. Civ. P., clearly allows a party to plead or defend at any time up until entry of the default.
 - c. As noted in the Amended Complaint, Mr. Frederick did answer the complaint in the circuit court case. His answer is also available online at the clerk of court's website.
 - d. Even if the law were not clear that Mr. Frederick was entitled to respond up until entry of the default, Complainant's motion to strike his answer has not yet been heard, and
 - e. Complainant has shown no basis for supporting that a default in a different case, even if one had been entered, constitutes non-hearsay support of the matters alleged. This is particularly true given Respondent Johnson is also a party to that action and has responded.
35. Complainant further attempts to overcome his inability to show his Amended Complaint is based on non-hearsay evidence by attacking the reputation of Mr. Frederick and Respondent. However, the personal attacks on Frederick and Respondent are, themselves, not shown to be based on non-hearsay (see Complainant's reference to the supposed knowledge of other persons). And, even if these personal attacks on the reputations of Frederick and Respondent were true, they would not constitute a basis for finding violation of Chapter 104 or 106. The question in this case is not the reputation of Frederick or Respondent, but alleged false statements about the Complainant supposedly made by Respondent.
36. As previously mentioned, the Amended Complaint now attaches a January 10, 2019, updated version of the article, apparently in support of Complainant's contention there is no advertisement on Headline Surfer for Respondent.

37. Again, there are several problems with Complainant's position:
- a. As of January 10, 2019, neither Respondent nor Complainant were candidates for office. Section 104.271(2) only applies to a candidate who is in a primary election or other election and makes false statement about an opposing candidate. The statute is clearly inapplicable to Complainant and Respondent, vis a vis the updated article, now that they are no longer opposing candidates for office.
 - b. The race was decided in August, 2018. There is no reason the advertisement would continue to appear on the Headline Surfer website nearly six months after the election occurred.

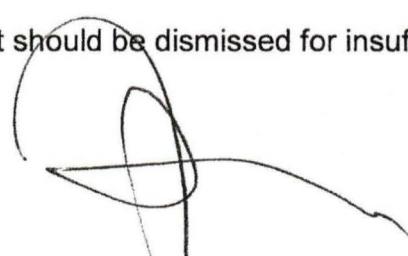
III. Protected Speech

38. Opinion statements such as those regarding whether Complainant is a good neighbor, whether other public officials have aligned with Complainant, his standing with Republican Party, and whether he is dishonest and unethical are constitutionally protected speech. Even if Respondent did cause the statements to be made or even if those statements were made, they would constitute protected speech under the Constitution of the United States of America and the State of Florida.

IV. Conclusion

Accordingly, the Amended Complaint should be dismissed for insufficiency

Dated this 10th day of April, 2019.



F. A. (Alex) Ford, Jr., Esquire
Florida Bar No. 0381845
Landis Graham French, P.A.
Post Office Box 48
DeLand, FL 32721-0048
Tel: (386) 734-3451
Fax: (386) 736-1350
primary email: aford@landispa.com
secondary email: dharney@landispa.com
Attorney for Respondent, BEN F. JOHNSON

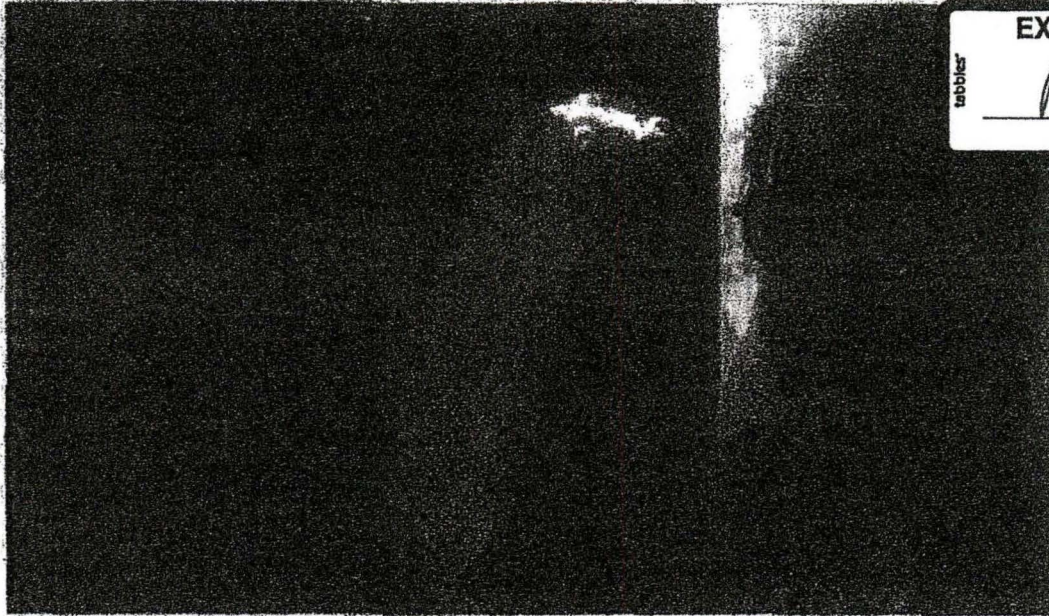


EXHIBIT
tabbler
A



Headline Surfer multimedia presentation / Shown above is John Casaburro, an ogre to his DeLand-area neighbors for years and an enigma over the years in insider politics is now a write-in candidate for countywide elected

office taking his cues from vitriolic Volusia Sheriff Mike Chitwood in trying to derail the former sheriff, Ben Johnson, considered an overwhelming favorite to outright win the Aug. 28 primary and succeed retiring At-Large County Councilwoman Joyce Cusack on the dais in DeLand. Not only is Chitwood threatened by the prospect of Johnson's return to elected office, but so too is first-term Councilwoman Heather Post, a former deputy, whose veracity is easily called into question as to the prior illicit use of cocaine as indicated in her personnel file.

By HENRY FREDERICK
Headline Surfer

DAYTONA BEACH, Fla. — He was once suspected by a neighboring DeLand family of four of leaving a dripping used condom with blood on it on the welcoming mat of their front porch door as a perverse act of intimidation.

The wife and mom of two little kids discovered it upon returning from an errand — snagging a pair of sterile gloves to pick it up before it could lead to disaster.

Several Volusia County Sheriff's deputies responded and one of them in turn put on a pair of sterile gloves to pick up the nasty find crumpled within the mom's discarded and bunched-up gloves subsequently scooped into an evidence bag to be brought back to headquarters for storage.

One voter who attended a recent political event where Casaburro was distributing his phony sleaze piece reported that the candidate got downright ugly and intimidating when he was challenged to provide proof of the allegations. Naturally, Casaburro was unable to back up his allegations – for the very reason that they have no basis in fact. They aren't true, period.

Instead, Casaburro tried to bully the person demanding to see proof.



"He got so angry at me that he hovered over me in a very threatening manner," said the vote of his encounter with Cassaburro. His name is being withheld by Headline Surfer to spare him further harassment from Casaburro and others like him that are stirring the pot behind the scenes.

For his part, Ben Johnson reports being flooded with phone calls and social media messages from outraged voters. So far, Johnson has taken the high road and purposely keeping his public comments to a minimum.

Certainly, plenty of people are hopping mad about Casaburro's gutter tactics.

"I hate trashy campaigns!" one Johnson supporter wrote in an e-mail to him. "But it really makes me angry when they trash honorable people!"

Another said of the slime piece: "I think it is slander and libel against you." Yet another was even more blunt in a post on Johnson's Facebook campaign page: "Time to crucify this clown."

In a recent story published in the West Volusia Beacon profiling the at-large council race, Casaburro evidently told the bylined writer that this was his first time running for political office. That, as it turns out, also isn't true. But it's certainly understandable why Casaburro would want to run away from his past.

In 1989, while living in New York and running for Mayor of Yonkers, Casaburro made headlines in the New York city newspapers for highly inflammatory and degrading comments suggesting that most African-Americans had it good during this country's slavery era. "Ninety percent of all Blacks lived well and had it good" under slavery, Casaburro was quoted as saying.

The article went on to report that Casaburro degraded the African-American culture by saying: "Most Blacks are encouraged not to marry a woman. They're encouraged to impregnate, not marry her because it's almost an irresponsibility to get married since welfare will take care of her."

Casaburro's racist remarks, outed by Johnson in an NAACP candidate forum ????????????????????

In 1994, the New York Times reported that following a failed Congressional bid in New York, Casaburro was arrested during a prostitution sweep in Manhattan after he struck up a conversation about oral sex and money with a woman who turned out to be an undercover officer.

When he was arrested, Casaburro was reported to be carrying a flier identifying himself as a candidate in the 18th Congressional District race. He was charged with patronizing a prostitute. Casaburro sued then-New York Mayor Rudy Giuliani and the City of New York over the arrest, seeking \$10 million in damages. It didn't take long for the suit to be thrown out.

EX-A-Pg. 2



VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

Page 1 of 3 Pages

<input type="checkbox"/> Juvenile <input type="checkbox"/> Gang <input type="checkbox"/> Domestic Violence <input type="checkbox"/> Endangered / Other		<input type="checkbox"/> Hate Crime <input type="checkbox"/> Elderly Abuse / Exploitation VOR _____		Agency ORI Number FL0640000		Zone # 25		Telephone Handled 1. Yes 2. No 2															
Reported: Day Friday		Date 09-25-2009		Time (mil.) 1132		Time Dispatched (mil.) 1148		Time Arrived (mil.) 1342		Time Completed (mil.) 1412		Nature of Call (Report Type) 42 Civil Complaint											
Incident Type: 1. Felony 2. Traffic Felony		3. Misdemeanor 4. Traffic Misdemeanor		5. Ordinance 9. Other		Incident: Day Friday		Date 09-25-2009		Time (mil.) 0930		Day Friday		Date 09-25-2009		Time (mil.) 1000		Occurred During: D - Day N - Night D					
Offense #1 9		Type 9		Statute Violation Number 7777777777		Description INFORMATION ONLY		A - Attempted C - Committed		Offense #2 9		Type 9		Statute Violation Number 7777777777		Description INFORMATION ONLY		A - Attempted C - Committed					
Incident Location (Street, Apt. Number) 113 KENDRA AV		City DELAND		Zip 32724		Business Name / Area Identifier TIRE KINGDOM		# Prem. Entered 2		Drug Related 0. N/A 1. Yes 2. No 2		Alcohol Related 0. N/A 1. Yes 2. No 2		Forced Entry 1. Yes 3. Attempted 2. No		Arson-Inhabited 1. Occupied 3. Abandoned 2. Unoccupied		Arson-Attempted 1. Yes 2. No					
Location Type 01		Location Type Codes 01. Residence-Single 02. Apartment/Condo 03. Residence/Other 04. Hotel/Motel		05. Convenience Store 06. Gas Station 07. Liquor Sales 08. Bar/Nightclub		09. Supermarket 10. Dept/Discount Store 11. Specialty Store 12. Drug Store/Hospital		13. Bank/Financial Inst. 14. Commercial/Office Bldg. 15. Industrial/Mfg. 16. Storage		17. Gov/P Public Bldg. 18. School/University 19. Jail/Prison 20. Religious Bldg.		21. Airport 22. Bus/Rail Terminal 23. Construction Site 24. Other Structure		25. Parking Lot/Garage 26. Highway/Roadway 27. Park/Woodlands/Field 28. Lake/Waterway		29. Motor Vehicle 30. Other Mobile 88. Unknown 99. Other							
V/W Code V-Victim W-Witness R-Reporting Person		N-Next of Kin O-Other Person		Victim/Subject Type 0. N/A 1. Juvenile 2. L.E. Officer 3. Adult		4. Business 5. Government 6. Church 9. Other		Address/Phone Type B. Business/Work C. Cell H. Home		M. Message N. Next of Kin O. Other		P. Pager S. School V. Vacation		Race W-White B-Black I-American Indian		O-Oriental/Asian U-Unknown		Sex M-Male F-Female U-Unknown		Residence Type 0. N/A 1. City 2. County 3. Florida 4. Out-of-State		Residence Status 0. N/A 1. Full Year 2. Par. Year 3. Non-Resident	
Means of Attack K-Firearm K-Knife/Cutting Inst.		O-Other Dangerous H-Hands, Fists, Feet, Etc.		Extent of Injury 00. N/A 01. Gunshot 02. Stabbed		03. Laceration 04. Unconscious 05. Poss. Broken Bones		06. Poss. Intomal Injury 07. Loss of Teeth 08. Burns		09. Abrasions/Bruses 10. No Visible Injury 99. Other Serious Injury		Domestic Violence 1. Yes 2. No		Victim Relationship to Offender S-Spouse P-Parent C-Child		B-Sibling O-Other Family H-Co-Habitant		Z-Other					
Offense Indicator 1. #1 2. #2 3. Both		V/W Code 1 R		# 1		V. Type 3		Nature of Call (for Victim, if different from Incident) 42 Civil Complaint		Name (Last/Business) SHEA		(First) RICHARD		(Middle) MATHEW									
Address (Street, Apt. Number) 113 KENDRA AVE.		City DELAND		State FL		Zip 32724		Residence Phone (386) 873-5045															
Business/School/Other Address (Street, Apt. Number) TIRE KINGDOM		City DELAND		State FL		Zip 32724		Address Type B		Business/School/Other Phone (386) 736-2123		Phone Type B											
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement NEIGHBOR OF O1																					
If Victim Type 1, 2, or 3 W		Race M		Sex M		Date of Birth 09/25/1982		Age 22		Ethnicity N		Res. Type 2		Res. Status 1		Means of Attack		Extent of Injury		Domestic Violence		Relationship	
Offense Indicator 1. #1 2. #2 3. Both		V/W Code 1 O		# 1		V. Type 3		Nature of Call (for Victim, if different from Incident) 42 Civil Complaint		Name (Last/Business) CASABURRO		(First) JOHN		(Middle) E									
Address (Street, Apt. Number) 111 KENDRA AVE.		City DELAND		State FL		Zip 32724		Residence Phone (386) 943-8922															
Business/School/Other Address (Street, Apt. Number) RETIRED		City DELAND		State FL		Zip 32724		Address Type O		Business/School/Other Phone (386) 943-8922		Phone Type O											
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement NEIGHBOR OF R1																					
If Victim Type 1, 2, or 3 W		Race M		Sex M		Date of Birth 09/25/1982		Age 27		Ethnicity N		Res. Type 1		Res. Status 1		Means of Attack		Extent of Injury		Domestic Violence		Relationship	
Offense Indicator 1. #1 2. #2 3. Both		V/W Code 1 O		# 1		V. Type 3		Nature of Call (for Victim, if different from Incident) 42 Civil Complaint		Name (Last/Business) CASABURRO		(First) JOHN		(Middle) E									
Address (Street, Apt. Number) 111 KENDRA AVE.		City DELAND		State FL		Zip 32724		Residence Phone (386) 943-8922															
Business/School/Other Address (Street, Apt. Number) RETIRED		City DELAND		State FL		Zip 32724		Address Type O		Business/School/Other Phone (386) 943-8922		Phone Type O											
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement NEIGHBOR OF R1																					
If Victim Type 1, 2, or 3 W		Race M		Sex M		Date of Birth 09/25/1982		Age 27		Ethnicity N		Res. Type 1		Res. Status 1		Means of Attack		Extent of Injury		Domestic Violence		Relationship	
Offense Indicator 1. #1 2. #2 3. Both		V/W Code 1 O		# 1		V. Type 3		Nature of Call (for Victim, if different from Incident) 42 Civil Complaint		Name (Last/Business) CASABURRO		(First) JOHN		(Middle) E									
Address (Street, Apt. Number) 111 KENDRA AVE.		City DELAND		State FL		Zip 32724		Residence Phone (386) 943-8922															
Business/School/Other Address (Street, Apt. Number) RETIRED		City DELAND		State FL		Zip 32724		Address Type O		Business/School/Other Phone (386) 943-8922		Phone Type O											
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement NEIGHBOR OF R1																					
If Victim Type 1, 2, or 3 W		Race M		Sex M		Date of Birth 09/25/1982		Age 27		Ethnicity N		Res. Type 1		Res. Status 1		Means of Attack		Extent of Injury		Domestic Violence		Relationship	
Offense Indicator 1. #1 2. #2 3. Both		V/W Code 1 O		# 1		V. Type 3		Nature of Call (for Victim, if different from Incident) 42 Civil Complaint		Name (Last/Business) CASABURRO		(First) JOHN		(Middle) E									
Address (Street, Apt. Number) 111 KENDRA AVE.		City DELAND		State FL		Zip 32724		Residence Phone (386) 943-8922															
Business/School/Other Address (Street, Apt. Number) RETIRED		City DELAND		State FL		Zip 32724		Address Type O		Business/School/Other Phone (386) 943-8922		Phone Type O											
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement NEIGHBOR OF R1																					



VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

<input type="checkbox"/> Juvenile <input type="checkbox"/> Gang <input type="checkbox"/> Domestic Violence <input type="checkbox"/> Endangered / Other		<input type="checkbox"/> Hate Crime <input type="checkbox"/> Elderly Abuse / Exploitation VOR _____		Agency Report Number 090028523	
Agency ORI Number FL0640000		Zone # 25	Telephone Handled 1. Yes 2. No <input checked="" type="checkbox"/>		
Reported: Day Tuesday	Date 09-08-2009	Time (mil.) 0257	Time Dispatched (mil.) 0302	Time Arrived (mil.) 0308	Time Completed (mil.) 0331
Incident Type: 1. Felony 2. Traffic Felony		3. Misdemeanor 4. Traffic Misdemeanor	5. Ordinance 9. Other	Incident: Day From Monday	Date 09-07-2009
				Time (mil.) 2100	Day Tuesday
					Date 09-08-2009
					Time (mil.) 0220
					Occurred During: D - Day N - Night <input checked="" type="checkbox"/>
Offense #1		Type 9	Statute Violation Number 7777777	Description Suspicious Incident	
Offense #2		Type	Statute Violation Number	Description	
Incident Location (Street, Apt. Number) 113 Kendra Av		City DELAND		Zip 32725	
Business Name / Area Identifier		# Prem. Entered	Drug Related 0. N/A 1. Yes 2. No <input checked="" type="checkbox"/>	Alcohol Related 0. N/A 1. Yes 2. No <input checked="" type="checkbox"/>	Forced Entry 1. Yes 3. Attempted 2. No
					Arson-Inhabited 1. Occupied 3. Abandoned 2. Unoccupied
					Arson-Attempted 1. Yes 2. No
Location Type 01	Location Type Codes 01. Residence-Single 02. Apartment/Condo 03. Residence/Other 04. Hotel/Motel 05. Convenience Store 06. Gas Station 07. Liquor Sales 08. Bar/Nightclub 09. Supermarket 10. Dept/Discount Store 11. Specialty Store 12. Drug Store/Hospital 13. Bank/Financial Inst. 14. Commercial/Office Bldg. 15. Industrial/Mfg. 16. Storage 17. Gov/ Public Bldg. 18. School/University 19. Jail/Prison 20. Religious Bldg. 21. Airport 22. Bus/Rail Terminal 23. Construction Site 24. Other Structure 25. Parking Lot/Garage 26. Highway/Roadway 27. Park/Woodlands/Field 28. Lake/Waterway 29. Motor Vehicle 30. Other Mobile 88. Unknown 99. Other				
VW Code V-Victim W-Witness R-Reporting Person	N-Next of Kin O-Other	Victim/Subject Type 0. N/A 1. Juvenile 2. L.E. Officer 3. Adult	4. Business 5. Government 6. Church 9. Other	Address/Phone Type B. Business/Work C. Cell H. Home	M. Message N. Next of Kin O. Other
				P. Pager S. School V. Vacation	Race W-White B-Black I-American Indian
					Sex M-Male F-Female U-Unknown
					Residence Type 0. NA 1. City 2. County 3. Florida 4. Out-of-State
					Residence Status 0. N/A 1. Full Year 2. Par. Year 3. Non-Resident
Means of Attack F-Firearm K-Knife/Cutting Inst.		O-Other Dangerous H-Hands, Fists, Foot, Etc.		Extent of Injury 00. N/A 01. Gunshot 02. Stabbed	
				03. Laceration 04. Unconscious 05. Poss. Broken Bones	
				06. Poss. Internal Injury 07. Loss of Teeth 08. Burns	
				09. Abrasions/Bruiuses 10. No Visible Injury 99. Other Serious Injury	
				Domestic Violence 1. Yes 2. No	
				Victim Relationship to Offender S-Spouse P-Parent C-Child B-Sibling O-Other Family H-Co-Habitant Z-Other	
Offense Indicator 1. #1 2. #2	VW Code 1 R	# 1	V. Type 3	Nature of Call (for Victim, if different from incident) Mentally Ill Person	
Address (Street, Apt. Number) 113 Kendra Av		City DELAND		State FL	Zip 32725
Business/School/Other Address (Street, Apt. Number)		City		State	Zip
				Address Type	Business/School/Other Phone (386) 566-5161
				Phone Type	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement Discovered the condom on her doorstep			
If Victim Type 1, 2, or 3	Race W	Sex F	Date of Birth	Age 22	Ethnicity N
				Res. Type 2	Res. Status 1
				Means of Attack	Extent of Injury
				Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	VW Code 1 O	# 1	V. Type 3	Nature of Call (for Victim, if different from incident) Mentally Ill Person	
Address (Street, Apt. Number) 11 Kendra Av		City DELAND		State FL	Zip 32725
Business/School/Other Address (Street, Apt. Number)		City		State	Zip
				Address Type	Business/School/Other Phone (386) 943-8922
				Phone Type	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement			
If Victim Type 1, 2, or 3	Race W	Sex M	Date of Birth	Age 57	Ethnicity N
				Res. Type 2	Res. Status 1
				Means of Attack	Extent of Injury
				Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	VW Code	#	V. Type	Nature of Call (for Victim, if different from incident)	
Address (Street, Apt. Number)		City		State	Zip
Business/School/Other Address (Street, Apt. Number)		City		State	Zip
				Address Type	Business/School/Other Phone
				Phone Type	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement			
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity
				Res. Type	Res. Status
				Means of Attack	Extent of Injury
				Domestic Violence	Relationship
Offense Indicator 1. #1 2. #2	VW Code	#	V. Type	Nature of Call (for Victim, if different from incident)	
Address (Street, Apt. Number)		City		State	Zip
Business/School/Other Address (Street, Apt. Number)		City		State	Zip
				Address Type	Business/School/Other Phone
				Phone Type	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement			
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity
				Res. Type	Res. Status
				Means of Attack	Extent of Injury
				Domestic Violence	Relationship

EVENT DATA

CODES

VICTIM/WITNESS

VICTIM/WITNESS

VICTIM/WITNESS

VICTIM/WITNESS

INCIDENT REPORT (CONT.)

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 2. #2	3. Both	Subject Code S-Suspect D-Defendant	V-Victim (Missing Person)	Code	#	Subj. Type	Name (Last)	(First)	(Middle)	Race	Sex	Ethnicity	
	Date of Birth	Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name				
	Nickname / Street Name			Place of Birth - City		County	State	Employer/Other/School		Occupation				
	Last Known Address (Street, Apt. Number)					City	State	Zip	Address Type	Phone	Phone Type			
	Other Address (Street, Apt. Number)					City	State	Zip	Address Type	Phone	Phone Type			
	Driver's License State/Number				Social Security Number			Other ID Number		ID Type				
	Clothing (Describe)				Scars/Marks/Tattoos (Type/Describe)				Scars/Marks/Tattoos (Type/Describe)					
	Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity	Glasses					
	If Subject:	Demeanor	Mask	Weapon Type		If Arrested:		Subject Was Already In Custody?		1. Yes 2. No		Warrant From:		1. This Agency 2. Other Agency
	Date of Last Contact		Date of Emancipation		Cautious	Cautious Reason		Personal Habits (Drugs / Alcohol)						
May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:						
Incident Type		6. Disaster Victim		Foul Play Suspected?		Missing Before?		Fingerprints Available?		Photo Available?		Dental Record Available?		
1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		7. Voluntary Adult 8. Unknown		1. Yes 2. No 8. Unknown		1. Yes 2. No 8. Unknown		1. Yes 2. No		1. Yes 2. No		1. Yes 2. No		
I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.														
SUBJECT / MISSING SECTION	Offense Indicator 1. #1 2. #2	3. Both	Subject Code S-Suspect D-Defendant	V-Victim (Missing Person)	Code	#	Subj. Type	Name (Last)	(First)	(Middle)	Race	Sex	Ethnicity	
	Date of Birth	Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name				
	Nickname / Street Name			Place of Birth - City		County	State	Employer/Other/School		Occupation				
	Last Known Address (Street, Apt. Number)					City	State	Zip	Address Type	Phone	Phone Type			
	Other Address (Street, Apt. Number)					City	State	Zip	Address Type	Phone	Phone Type			
	Driver's License State/Number				Social Security Number			Other ID Number		ID Type				
	Clothing (Describe)				Scars/Marks/Tattoos (Type/Describe)				Scars/Marks/Tattoos (Type/Describe)					
	Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity	Glasses					
	If Subject:	Demeanor	Mask	Weapon Type		If Arrested:		Subject Was Already In Custody?		1. Yes 2. No		Warrant From:		1. This Agency 2. Other Agency
	Date of Last Contact		Date of Emancipation		Cautious	Cautious Reason		Personal Habits (Drugs / Alcohol)						
May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:						
Incident Type		6. Disaster Victim		Foul Play Suspected?		Missing Before?		Fingerprints Available?		Photo Available?		Dental Record Available?		
1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		7. Voluntary Adult 8. Unknown		1. Yes 2. No 8. Unknown		1. Yes 2. No 8. Unknown		1. Yes 2. No		1. Yes 2. No		1. Yes 2. No		
I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.														
NARRATIVE	<p>1 On 09-08-2009 at approximately 0302 hours Deputy King responded to 113 Kendra Av in Deland in reference to a suspicious incident. Upon</p> <p>2 arrival Deputy King contacted Shea, Amber R1 who advised the following. Shea returned home around 0220 on 09-08-2009 after taking her child</p> <p>3 to Deland Hospital. Shea found what appeared to be a bloody, used condom on her front porch. She used a pair of blue nitrile gloves to pick up</p> <p>4 said condom. Shea had no information as to why a condom would be on her doorstep and immediately checked on her two children who were</p> <p>5 both in good health. Shea said her husband has no information about this either. Shea told Deputy King several residents have had problems</p> <p>6 with Casaburro, John O1 at 111 Kendra Av, Deland. Shea said her husband suspects this condom was left by Casaburo. She provided a sworn</p> <p>7 statement.</p> <p>8</p> <p>9 Deputy King used a pair of latex gloves to secure the condom and both blue nitrile gloves into a brown paper evidence bag. Deputy King later</p> <p>10 secured the evidence into the VCISO Evidence System via the Evidence Refrigerator at District II.</p>													
	Final Case		Final Case											

VOLUSIA COUNTY SHERIFF'S OFFICE

NARRATIVE / SUPPLEMENT

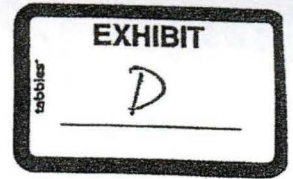
Report Date	Report Time	Orig. Reported Date	Nature of Call (for Incident)	Agency Report Number	1.Original	2.Supplement
09-08-2009	0257	09-08-2009	13A	090028523		1
<p>11</p> <p>12 As of this writing, there is no information linking the condom to a crime. This report is for documentation purposes in the event new information</p> <p>13 regarding this incident is developed in the future. A copy of this report was faxed VCSC Sex Crimes for their review.</p> <p>14</p> <p>15 The case status is: Closed.</p>						

NARRATIVE / CONTINUATION

VOLUSIA COUNTY SHERIFF'S OFFICE

PROPERTY REPORT

Report Date 09-08-2009		Report Time 0257		Original Incident Date 09-08-2009		Nature of Call (for Incident) 13A		Agency Report Number 090028523		1.Original 2.Supplement 1																																																																																									
THEFT EVNT	Type Theft 00. N/A 01. Burglary											Type Theft Codes 02. Robbery 03. Shoplifting											04. Pocket Picking 05. Purse Snatching											06. Embezzlement 07. From Coin Oper.Machine											08. From Public Access Bldg.											09. From Vehicle 10. Extortion											11. By Computer 12. Fraud											13. Bicycle 14. Motor Vehicle Parts											99.Other										
	Person Code V-Victim S-Suspect D-Defendant W-Witness			N-Next of Kin O-Other R-Reporting Party			Person Involvement Code 1. Finder 2. Owner 3. Suspect 4. Other			Status Code: 1. Evidence 2. Damaged Prop. 3. Arson/Burned 4.Photo & Release			5.Lost 6.Recovered 7.Recovered (Outside Agency Recovered)			8.Found 9.Found/Contraband 10.Prisoner's Pers.Prop. 11.Stolen			12.Stolen And Recovered 13.Disposal 14.Prop. Of Deceased 15.Return to Owner			16.Vehicle Inventory Prop. 17.Baker Act 18.Seized/Confiscated 19.Abandoned																																																																													
CODES	Category Code B. Bicycle C. Camera/Photo Equipment D-Data Processing Equipment											E-Equipment/Measuring Devices/Tools F-Furniture and Furnishings G-Games and Gambling Apparatus H-Household Appliance/Housewares											I-Items of Identification J-Special Docs/Food Stamps/Tickets K-Keepsakes and Collectibles L. Livestock											M. Musical Instrument O. Office Equipment P.Personal Accessories											R-Radio/TV/Sound Devices S-Sports/Camping/Rec.Equip. T-Toxic Chemicals											V.Viewing Equip (Binoculars) W.Well-drilling Equipment Y-All Other Items and Equipment (GUNS,DRUGS,JWLRY, Etc.)																																											
	Activity P. Possess S. Sell B. Buy T. Traffic R. Smuggle			D. Deliver E. Use K. Dispense/Distribute M. Manufacture/Produce/ Cultivate			Z. Other			Type A. Amphetamine B. Barbiturates C. Cocaine E. Heroin H. Hallucinogen			M. Marijuana O. Opium/Derivative P. Paraphernalia/ Equipment S. Synthetic			U. Unknown Z. Other			Unit 1. Gram 2. Milligram 3. Kilogram 4. Ounce 5. Pound			6. Ton 7. Liter 8. Milliliter 9. Dose Unit/Term 99.Other																																																																													
PROPERTY	Leave Blank: Person Code # Pers. Invl. Item # Status Category Article Description											Value Recovered: \$ Date Recovered: Forfeiture Y / N: F.W.T.C. (Y/N) Value \$																																																																																							
	Serial Number Owner Applied Number											Description Used condom with 2 blue nitrile gloves																																																																																							
	If Article Qty. Brand Model Jewelry Type			If Drug Activity Type Quantity Unit			Estimated Street Value \$																																																																																												
	If Gun Make Model Caliber Type/Cat Action Finish Barrel Length Barrel Type																																																																																																		
PROPERTY	Leave Blank: Person Code # Pers. Invl. Item # Status Category Article Description											Value Recovered: \$ Date Recovered: Forfeiture Y / N: F.W.T.C. (Y/N) Value \$																																																																																							
	Serial Number Owner Applied Number											Description																																																																																							
	If Article Qty. Brand Model Jewelry Type			If Drug Activity Type Quantity Unit			Estimated Street Value \$																																																																																												
	If Gun Make Model Caliber Type/Cat Action Finish Barrel Length Barrel Type																																																																																																		
PROPERTY	Leave Blank: Person Code # Pers. Invl. Item # Status Category Article Description											Value Recovered: \$ Date Recovered: Forfeiture Y / N: F.W.T.C. (Y/N) Value \$																																																																																							
	Serial Number Owner Applied Number											Description																																																																																							
	If Article Qty. Brand Model Jewelry Type			If Drug Activity Type Quantity Unit			Estimated Street Value \$																																																																																												
	If Gun Make Model Caliber Type/Cat Action Finish Barrel Length Barrel Type																																																																																																		
PROPERTY	Leave Blank: Person Code # Pers. Invl. Item # Status Category Article Description											Value Recovered: \$ Date Recovered: Forfeiture Y / N: F.W.T.C. (Y/N) Value \$																																																																																							
	Serial Number Owner Applied Number											Description																																																																																							
	If Article Qty. Brand Model Jewelry Type			If Drug Activity Type Quantity Unit			Estimated Street Value \$																																																																																												
	If Gun Make Model Caliber Type/Cat Action Finish Barrel Length Barrel Type																																																																																																		
CHAIN OF CUSTODY	Item #	Date:		Time:		Released by (Printed):			Released by (Signature):			Received by (Printed):			Received by (Signature):																																																																																				
	1	09-08-2009		0400		C.D. King						D2 Evidence Locker																																																																																							
	Leave Blank: Reason for Change:											Evidence																																																																																							
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John Casaburro

Candidate for Volusia County Council, At Large.

111 Kendra Avenue

Deland, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July 4, 2018

In Re: An important message to voting members of the VCREC, and club presidents.

The following are very important reasons why the VCREC should not vote to endorse Ben Johnson at the special meeting scheduled to occur on July 10, 2018. Nor should Ben Johnson's name appear on any issued voter guides. If this man is endorsed there is no doubt that the Dem's will use this as an issue to attack him and the party.

- (1.) According to Sheriff Mike Chitwood, and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
- (2.) Florida Highway Patrol Lt. Kevin Vaughn (R.) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a televised broadcast that he has a drinking problem, and that while serving in the capacity of Sheriff he drove under the influence.
- (3.) Ben Johnson caused several federal law suits to be filed against himself, and the county due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK, and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas.

Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017 that Ben Johnson, as Sheriff, refused to investigate and clean up; Why?

Lastly, Ben Johnson will vote like a R.I.N.O., and appears to be ready, willing, and able to serve special interests.

John Casaburro, on the other hand, is a reliable conservative that has worked for the party over 20 years, as Vice Chair (received award), district coordinator (received award), local club volunteer (award), and campaign strategy chair.

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)

John Casaburro

Candidate for Volusia County Council, at Large

111 Kendra Avenue

DeLand, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July, 2018

The following are very important reasons why you should not vote for Ben Johnson.

1. According to Sheriff Mike Chitwood and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
2. Florida Highway Patrol Lt. Kevin Vaughn (R) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a television broadcast that he has a drinking problem, and while serving in the capacity of Sheriff, he drove under the influence.
3. Ben Johnson caused several federal law suits to be filed against himself, and the county, due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas. Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017, that Ben Johnson, as Sheriff, refused to investigate and clean up. Why?
4. Ben Johnson will vote like an aristocrat on the county council, and appears to be ready, willing, and able to serve special interests.
5. Ben Johnson is under investigation for corruption and sexual misconduct. He will eventually have to quit the race or leave office.

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)



Ben Johnson <benforcountycouncil@gmail.com>

Fwd: To REC voting members. Update concerning 2018 Volusia County Council at large race.

2 messages

Fred Costello <costello.fred@gmail.com>
To: benforcountycouncil@gmail.com

Wed, Jul 11, 2018 at 4:44 PM

I am SO VERY SORRY you have to put up with this nonsense!!!

As you likely recall, I had false allegations made against me (by my own daughter after we cut her off due to her drug issues) that were front page news. Fortunately, those who conspired with her (Jeff Boyle and those who supported him as he tried to become mayor of Ormond Beach) did not make sure she only accused me. She accused not only me of sexually abusing her, but she also accused Linda, her brother and an uncle. And fortunately she also said I abused my two granddaughters who were able to testify that no such nonsense had ever happened. But it was still a mess.

Obviously you will win the election and "everybody" will know the allegations are false. But you still have to go through it.

Holler if you ever want to commiserate and I'll fill you in on the back story of the accusations. Although it took the judge about 30 seconds to rule "not guilty" after a half day in court ... we still had to endure the accusations in open court.

Stay strong!
Good Luck my friend!

Fred Costello
1 Tomoka Cove Way
Ormond Beach, FL 32174
Dental Office: 386.673.1611
Cell: 386.451.1558

Begin forwarded message:

From: John Casaburro <johncasaburro@yahoo.com>
Date: July 11, 2018 at 2:33:16 PM EDT
To: John Casaburro <johncasaburro@yahoo.com>
Subject: To REC voting members. Update concerning 2018 Volusia County Council at large race.
Reply-To: John Casaburro <johncasaburro@yahoo.com>

Dear Friends:

Pleased bead advised about Tuesday night's REC vote for Volusia County Council at large. Reliable sources have advised that several area young women are hiring the law firm of Gloria Allred (the attorney for the 'me too' movement) to sue Ben Johnson for questionable activities during his term of office as sheriff under the federal civil rights code and for personal injury.

Allegedly Johnson, as sheriff, would have sex with young girls addicted to drugs in return for a "get out of jail free pass." Rather than directing or encouraging these girls to rehab; he would keep them in this pitiful downward cycle. Shame on him; this is sexual abuse!

The party name will be damaged by this for years and Johnson will have to quit the race.
Do everyone a favor and i
insist he step aside now so the party can endorse one of its own who is reliable and can win the seat.

Please vote for John Casaburro. John will be on the Marc Bernier show (WNDB) to discuss the issues on Thursday July 12, 2018 at 5:00 p.m. Please tune in.

7/21/2018

Gmail - Fwd: To REC voting members. Update concerning 2018 Volusia County Council at large race.

Regards,

John

P.S. Pictures of Johnson will follow.

Ben Johnson <benforcountycouncil@gmail.com>
To: Ben Johnson <benfj1950@gmail.com>, Linda White <whitel@cfl.rr.com>

Wed, Jul 11, 2018 at 4:53 PM

[Quoted text hidden]

<https://law.justia.com/cases/federal/district-courts/FSupp/986/176/1459315/>



Casaburro v. Giuliani, 986 F. Supp. 176 (S.D.N.Y. 1997)

US District Court for the Southern District of New York - 986 F. Supp. 176
(S.D.N.Y. 1997)
September 29, 1997

986 F. Supp. 176 (1997)

John E. CASABURRO, Plaintiff,

v.

Mayor Rudolph GIULIANI; The City of New York; The NYC Police Dept./Officer (#
13318) Edward Steinmacher; The Command of the 10th Precinct NY; The Criminal
Court of the City of NY; And Midtown Community Court/Clerk D. Vasti, et al., and
other Defendants (Names Unknown), Defendants.
No. 95 Civ. 492(SAS).

United States District Court, S.D. New York.
September 29, 1997.

*177 John E. Casaburro, Deland, FL, for Plaintiff.

Michael Kennedy, Asst. Atty. Gen., New York City, Stephen Kitzinger, Asst. Corp.
Counsel, New York City, for Defendants.

OPINION AND ORDER

SCHEINDLIN, District Judge.

Pro se plaintiff John Casaburro ("Plaintiff") filed this action pursuant to 42 U.S.C. § 1983 seeking damages of \$10,000,000 for alleged violations of his civil rights at the time of his arrest. Plaintiff was arrested on October 12, 1994, for solicitation of a prostitute. He pled guilty to a lesser charge of disorderly conduct, for which he was sentenced to a single day of community service, attendance at a health education/prostitution class, and a fine of \$45. In addition, his truck and the tools contained therein were confiscated. On January 24, 1995, plaintiff initiated an action against the above-named defendants

alleging multiple violations of his constitutional rights. His Complaint was dismissed *sua sponte* (Griesa, Ch. J.) based on Plaintiff's guilty plea and subsequent conviction. Plaintiff appealed. On June 7, 1995, the Court of Appeals vacated the judgment and reinstated Plaintiff's Eighth Amendment claims.

The Complaint alleges that Plaintiff's constitutional rights were violated by the defendants' imposition of excessive punishment, cruel treatment, and excessive fines prohibited by the Eighth Amendment. See Complaint ("Compl.") at ¶ 4. Plaintiff argues (1) that his treatment by defendants constituted cruel and unusual punishment proscribed by the Eighth Amendment; and (2) that defendants' failure to return his truck and tools amounted to an excessive fine.

The named defendants have divided themselves into two groups according to their affiliation with the City or State of New York. Defendants identifying themselves as New York City defendants consist of Mayor Rudolph Giuliani, the City of New York, the New York City Police Department, Police Officer Edward Steinmacher and the Command of the 10th Precinct (the "City defendants"). The New York State defendants are composed of the Criminal Court of the City of New York, Midtown Community *178 Court and Court Clerk Don Vasti (the "State defendants"). Both groups of defendants move separately to dismiss the Complaint pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted. For the reasons stated below, the Complaint is dismissed as to the State defendants on 11th Amendment grounds. It is also dismissed against defendant Mayor Rudolph Giuliani for lack of personal involvement. The Complaint is not dismissed as to the remaining City defendants against whom Plaintiff has cognizable Eighth Amendment claims.

I. The Facts

Before the incident in issue, Plaintiff was a politician, house painter and contractor. See Compl. at ¶¶ 10, 11. On the night of October 12, 1994, Plaintiff drove his leased truck, in which he stored the equipment used in his house painting business, to 11th Avenue and 24th Street in Manhattan. *Id.* at ¶¶ 6, 10. There, he encountered a woman with whom he discussed "oral sex and money." *Id.* Plaintiff was subsequently "surrounded by police" and learned that the woman with whom he had been conversing was an undercover police officer. *Id.* at ¶ 6. Plaintiff was arrested for solicitation of a prostitute, his truck and tools were seized, and he was brought to the 10th Precinct. *Id.* at ¶¶ 7, 8, 10.

Plaintiff and six others were placed in a holding cage "that had no seats, no water, poor ventilation." *Id.* at ¶ 9. Plaintiff notified the arresting officers that he was under a chiropractor's care for back problems and complained that being tightly handcuffed behind his back was inhumane. *Id.* at ¶¶ 8, 9. He was then re-handcuffed to a hook

approximately 12 inches above the floor. *Id.* at ¶ 9. On complaining that this was worse, Plaintiff was cuffed to the front of the cell in a standing position. *Id.* He still complained that the handcuffs were too tight. *Id.* Plaintiff asserts that he was forced to stand upright, without sleep or water, tightly "handcuffed for over seven hours." *Id.*

The following morning, Plaintiff was transported to the Midtown Community Court, where he was kept waiting in a van for over half an hour with his hands cuffed behind his back. *Id.* at ¶ 13. Plaintiff reportedly begged Officer Steinmacher to loosen the cuffs, put them in front of Plaintiff or cuff him to the van. *Id.* Plaintiff informed Office Steinmacher of his back/neck condition. *Id.* Plaintiff also requested water which was denied until "the tail end of this ordeal," when Plaintiff was given some water by Steinmacher's partner. *Id.*

Plaintiff pled guilty to the lesser charge of disorderly conduct. *Id.* at ¶ 14. Plaintiff was sentenced to one day of community service, attendance at a health education/prostitution class, and a fine of \$45. *Id.* Plaintiff's attempts to retrieve the truck he leased were impeded by the "threat of an additional fine of \$1,200 to \$2,400," presumably to be paid prior to the release of the truck. *Id.* at ¶¶ 14, 16. Plaintiff concedes that the truck was eventually returned to its owner, the Ford Motor Company. See Plaintiff's Reply to New York City Motion to Dismiss at ¶ 5. Plaintiff asserts further that he was held a second time by Clerk Vasti, who refused to acknowledge Plaintiff's completion of his community service obligation until he received computer confirmation. Compl. at ¶ 18.

II. Discussion

A. Legal Standard Applicable to a Motion to Dismiss

A motion to dismiss must be decided based on the allegations contained on the face of the complaint. *Kramer v. Time Warner, Inc.*, 937 F.2d 767, 773 (2d Cir. 1991). However, the complaint must be construed liberally where the plaintiff is proceeding pro se. *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S. Ct. 594, 595-96, 30 L. Ed. 2d 652 (1972) (*per curiam*). In deciding such a motion, a district court must accept as true all of plaintiff's factual allegations, *Papasan v. Allain*, 478 U.S. 265, 283, 106 S. Ct. 2932, 2943, 92 L. Ed. 2d 209 (1986), and the allegations must be "construed favorably to the plaintiff." *LaBounty v. Adler*, 933 F.2d 121, 123 (2d Cir. 1991). Such a motion cannot be granted simply because recovery appears remote or *179 unlikely; "the issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims." *Scheuer v. Rhodes*, 416 U.S. 232, 236, 94 S. Ct. 1683, 1686, 40 L. Ed. 2d 90 (1974). Rather, dismissal is warranted "only if it is clear that no

relief could be granted under any set of facts that could be proved consistent with the allegations." *Hishon v. King & Spalding*, 467 U.S. 69, 73, 104 S. Ct. 2229, 2232, 81 L. Ed. 2d 59 (1984) (citing *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S. Ct. 99, 101-02, 2 L. Ed. 2d 80 (1957)). Furthermore, a motion to dismiss "need not be granted in part nor denied in toto but may be granted as to part of the complaint and denied as to the remainder." *Decker v. Massey-Ferguson, Ltd.*, 681 F.2d 111, 115 (2d Cir.1982). "This standard is applied with even greater force where the plaintiff alleges civil rights violations...." *Hernandez v. Coughlin*, 18 F.3d 133, 136 (2d Cir.1994).

B. Section 1983

Section 1983 provides a civil action for the deprivation of constitutional rights by stating:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. ...

42 U.S.C. § 1983. "To state a valid claim under § 1983, a plaintiff must allege (1) that the challenged conduct was attributable at least in part to a person acting under color of state law, and (2) that such conduct deprived the plaintiff of a right, privilege, or immunity secured by the Constitution or laws of the United States."¹¹ *Morris v. Dann*, 95 Civ. 975, 1996 WL 732559 at *3 (N.D.N.Y. Dec. 11, 1996) (quoting *Eagleston v. Guido*, 41 F.3d 865, 876 (2d Cir.1994) (internal quotation omitted)).

C. The Eighth Amendment

The Eighth Amendment to the United States Constitution provides that "[e]xcessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. Amend. VIII. Here, Plaintiff invokes the Cruel and Unusual Punishments Clause (for the way he was treated handcuffed, denied water) and the Excessive Fines Clause (for the forfeiture of his truck and tools).

1. Cruel and Unusual Punishments

As a preliminary matter, it must be noted that Plaintiff relied upon the wrong constitutional provision in seeking redress for his claim of inhumane treatment. As the Supreme Court noted:

Eighth Amendment scrutiny is appropriate only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions....

[T]he State does not acquire the power to punish with which the Eighth Amendment is concerned until after it has secured a formal adjudication of guilt in accordance with due process of law. *Where the State seeks to impose punishment without such an adjudication, the pertinent constitutional guarantee is the Due Process Clause of the Fourteenth Amendment.*

Ingraham v. Wright, 430 U.S. 651, 671 n. 40, 97 S. Ct. 1401 n. 40, 1412, 51 L. Ed. 2d 711 (1977) (emphasis added); see also *Whitley v. Albers*, 475 U.S. 312, 318, 106 S. Ct. 1078, 1083-84 (1986); *Bell v. Wolfish*, 441 U.S. 520, 535 n. 16, 99 S. Ct. 1861, 1872 n. 16, 60 L. Ed. 2d 447 (1979).^[2]

"Notwithstanding its prior holdings, the Supreme Court has recognized that conduct imposed on a non-convicted person *180 may warrant Eighth Amendment scrutiny if such conduct constitutes `punishment.'" *Mann v. Meachem*, 929 F. Supp. 622, 633 (N.D.N.Y.1996) (citing *Bell*, 441 U.S. at 538, 99 S.Ct. at 1873-74). The question thus arises whether the conduct that Plaintiff was subjected to can be considered punishment. The Supreme Court has developed the following two-pronged test in determining if conduct is punishment: (1) was there a legitimate purpose for engaging in the conduct complained of; and (2) was the conduct excessive in relation to the legitimate purpose. *Bell*, 441 U.S. at 538, 99 S. Ct. at 1873-74. Within the context of pretrial detention, the Supreme Court has noted:

Restraints that are reasonably related to the institution's interest in maintaining jail security do not, without more, constitute unconstitutional punishment even if they are discomforting.... It is enough simply to recognize that in addition to ensuring the detainee's presence at trial, the effective management of the detention facility once the individual is confined is a valid objective that may justify imposition of conditions and restrictions of pretrial detention and dispel any inference that such restrictions are intended as punishment.

Id. at 540, 99 S. Ct. at 1875. The Court then cautioned courts to defer to the expert judgment of corrections officials "unless the officials have exaggerated their response to these considerations." *Id.* (quoting *Pell v. Procunier*, 417 U.S. 817, 827, 94 S. Ct. 2800, 2806-07, 41 L. Ed. 2d 495 (1974)). That is precisely what may have occurred here. Plaintiff alleges that he was handcuffed for over seven hours *while inside a holding cell*. Although there may be a legitimate reason for doing so, it is not apparent at this stage of the litigation. As there is a fact question surrounding the conduct in issue, it

will be deemed punishment for purposes of Eighth Amendment analysis and this motion to dismiss.

In determining whether an Eighth Amendment violation has occurred, the Supreme Court applies a two-prong test consisting of an objective component and a subjective component. *Farmer v. Brennan*, 511 U.S. 825, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994). First, the plaintiff must demonstrate that the conditions of his confinement resulted "in unquestioned and serious deprivations of basic human needs." *Jolly v. Coughlin*, 76 F.3d 468 (2d Cir. 1996) (quoting *Anderson v. Coughlin*, 757 F.2d 33, 35 (2d Cir. 1985)). See also *Farmer*, 511 U.S. at 834, 114 S. Ct. at 1977 (prison official's acts must deprive inmate of the "the minimal civilized measure of life's necessities") (quoting *Rhodes v. Chapman*, 452 U.S. 337, 347, 101 S. Ct. 2392, 2399-2400, 69 L. Ed. 2d 59 (1981)). Second, the plaintiff must demonstrate that the defendants imposed those conditions with "deliberate indifference." *Id.* (citing *Wilson v. Seiter*, 501 U.S. 294, 297, 111 S. Ct. 2321, 2323, 115 L. Ed. 2d 271 (1991)). See also *Farmer*, 511 U.S. at 834, 114 S. Ct. at 1977 (prison official must have a "sufficiently culpable state of mind") (quoting *Wilson*, 501 U.S. at 297, 111 S.Ct. at 2323).

Regarding the subjective component, where prison officials stand accused of using excessive physical force, the Supreme Court has held that the "core judicial inquiry is ... whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Hudson v. McMillian*, 503 U.S. 1, 7, 112 S. Ct. 995, 999, 117 L. Ed. 2d 156 (1992) (citing *Whitley v. Albers*, 475 U.S. 312, 320-21, 106 S. Ct. 1078, 1084-85, 89 L. Ed. 2d 251 (1986)). As the *Hudson* Court stated:

In determining whether the use of force was wanton and unnecessary, it may also be proper to evaluate the need for application of force, the relationship between that need and the amount of force used, the threat "reasonably perceived by the responsible officials," and "any efforts made to temper the severity of a forceful response."

Hudson, 503 U.S. at 7, 112 S. Ct. at 999 (quoting *Whitley*, 475 U.S. at 321, 106 S.Ct. at 1085), Where wantonness is established, a plaintiff may recover even though he did not suffer serious injury. *Id.* at 9, 112 S. Ct. at 1000 ("When prison officials maliciously and sadistically use force to cause harm, contemporary standards of decency are always violated.").

Here, Plaintiff has alleged a cognizable claim against the City defendants under the *181 Eighth Amendment.¹³ As stated earlier, the need to handcuff Plaintiff while he was in a holding cell is not yet apparent, much less the need to handcuff him tightly for over seven hours. The Second Circuit has recognized Eighth Amendment claims in the context of tight handcuffs. See, e.g., *Davidson v. Flynn*, 32 F.3d 27 (2d Cir. 1994) (claim not based on use of handcuffs but on their "deliberate and improperly motivated application so tightly as to injure"); *Reid v. Coughlin*, No. 86 Civ. 1351, 1994 WL 23152 at * 4 (S.D.N.Y. Jan. 26, 1994) (officers' actions in causing handcuffs to become painfully tight, for the sole purpose of causing plaintiff harm, would not amount to a *de*

minimis use of force but would be actionable under *Hudson*). Accordingly, Plaintiff may maintain his claim of cruel and unusual punishment against the City defendants.

2. Excessive Fine

Plaintiff alleges that he faced a fine of 10% to 20% of the truck's value, amounting to \$1,200 to \$2,400, before he could retrieve his truck and tools or risk forfeiture thereof.⁽⁴⁾ The monetary payment aspect can be analyzed as a traditional fine as can the related forfeiture which represents an *in personam* criminal forfeiture that is "clearly a form of monetary punishment no different, for Eighth Amendment purposes, from a traditional 'fine'."⁽⁵⁾ *Alexander v. United States*, 509 U.S. 544, 558, 113 S. Ct. 2766, 2775, 125 L. Ed. 2d 441 (1993). Both can be analyzed under the Excessive Fines Clause which "limits the government's power to extract payments, whether in cash or in kind, 'as punishment for some offense.'" *Austin*, 509 U.S. at 609-10, 113 S. Ct. at 2805 (1993) (quoting *Browning-Ferris Industries of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 265, 109 S. Ct. 2909, 2915, 106 L. Ed. 2d 219 (1989)).

With respect to punishments other than *in rem* civil forfeitures, the Supreme Court has indicated that "a monetary penalty will be considered excessive within the meaning of the Eighth Amendment when there is a lack of proportion between the gravity of the offense and the harshness of the penalty." *United States v. Milbrand*, 58 F.3d 841, 845 (2d Cir.1995) (citing *Alexander*, 509 U.S. at 558-59, 113 S.Ct. at 2775-76). Whether a forfeiture is "grossly disproportionate" and thus violates the Eighth Amendment is a fact-bound issue that must be analyzed on a case-by-case basis. *United States v. Alexander*, 32 F.3d 1231, 1236-37 (8th Cir.1994). Two relevant factors include the extent of the criminal activity and the quantum of property forfeited. *Id.* at 1236. Other factors include: the seriousness of the offense, an assessment of the personal benefit reaped by the defendant, the defendant's motive and culpability, and the "extent that the defendant's interest and the enterprise itself are tainted by criminal conduct." *Id.* at 1236-37 (quoting *United States v. Sarbello*, 985 F.2d 716, 724 (3d Cir.1993)). See also *United States v. Bieri*, 68 F.3d 232, 236 (8th Cir. 1995) (district court must consider multiple factors including "the extent and duration of the criminal conduct, the gravity of the offense weighed against the severity of the criminal sanction, and the value of the property forfeited").

Here, the minimum fine faced by Plaintiff was 10% of the truck's value (\$1,200). Even this minimum fine can be seen as grossly disproportionate to a charge of disorderly *182 conduct for which Plaintiff was fined a mere \$45. However, the question of excessiveness "requires factual analysis, so that a mere allegation of excessiveness suffices to survive a 12(b) (6) motion." *Grove v. Kadlic*, 968 F. Supp. 510, 516 (D.Nev.1997) (citing *United States v. One 1978 Piper Cherokee Aircraft*, 91 F.3d 1204, 1210 (9th Cir.1996)). Accordingly, Plaintiff may maintain his excessive fine claim against the City defendants.

D. The Eleventh Amendment

The Eleventh Amendment provides:

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or subjects of any Foreign State.

U.S. Const. Amend. XI.⁶¹ Hence, a "state, its agencies and state officials sued in their official capacities are all immune from suit in federal court brought by a citizen of that state ..." *Richards v. State of New York*, 597 F. Supp. 692 (E.D.N.Y.1984) (citing, *inter alia*, *Alabama v. Pugh*, 438 U.S. 781, 98 S. Ct. 3057, 57 L. Ed. 2d 1114 (1978)), *aff'd*, 767 F.2d 908 (2d Cir.1985). Section 1983 was not intended to override a state's Eleventh Amendment immunity. *Quern v. Jordan*, 440 U.S. 332, 343, 99 S. Ct. 1139, 1146, 59 L. Ed. 2d 358 (1979). Moreover, there is no subject matter jurisdiction over Plaintiff's claims for monetary relief against the State defendants as the Supreme Court has stated that "neither a State nor its officials acting in their official capacities are 'persons' under § 1983." *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71, 109 S. Ct. 2304, 2312, 105 L. Ed. 2d 45 (1989).

Here, the Criminal Court of the City of New York and the Midtown Community Court are state agencies. *Zuckerman v. Appellate Division, Second Dep't*, 421 F.2d 625, 626 (2d Cir.1970) (courts are "the judicial arm of the State of New York"). Accordingly, they are immune from Plaintiff's action for money damages. *Mathis v. Clerk of the First Dep't, Appellate Division*, 631 F. Supp. 232, 235 (S.D.N.Y.1986) ("a state court is not amenable to suit under 42 U.S.C. § 1983 ... on the grounds that it is immune from suit by virtue of the Eleventh Amendment ..."). Defendant Vasti is being sued in his official capacity as County Clerk for the Midtown Community Court. Official capacity suits "generally represent only another way of pleading an action against an entity of which an officer is an agent." *Kentucky v. Graham*, 473 U.S. 159, 165, 105 S. Ct. 3099, 3104-05, 87 L. Ed. 2d 114 (1985) (quoting *Monell v. New York City Dep't of Social Servs.*, 436 U.S. 658, 690, 98 S. Ct. 2018, 2035, 56 L. Ed. 2d 611 (1978)). Moreover, the "immunities available to the defendant in an official-capacity action are those that the governmental entity possesses." *Hafer v. Melo*, 502 U.S. 21, 25, 112 S. Ct. 358, 361-62, 116 L. Ed. 2d 301 (1991). Accordingly, Plaintiff's complaint against defendant Vasti is also barred on Eleventh Amendment grounds.

E. Lack of Personal Involvement

It is well settled in this Circuit that in a Section 1983 action a plaintiff must allege direct and personal involvement on the part of a defendant in the alleged constitutional deprivation. *Moffitt v. Town of Brookfield*, 950 F.2d 880, 886 (2d Cir.1991); *McKinnon v. Patterson*, 568 F.2d 930, 934 (2d Cir.1977) (citations omitted). As the doctrine of *respondeat superior* does not apply in Section 1983 actions, a showing of defendant's personal responsibility is required. *Wright v. Smith*, 21 F.3d 496, 501 (2d Cir. 1994) (citing *Johnson v. Glick*, 481 F.2d 1028, 1034 (2d Cir.1973)). Moreover, "[f]ailure to set forth facts pertaining to such personal involvement results in a 'fatally defective' complaint." *Murphy v. Neuberger*, No. 94 Civ. 7421, 1996 WL 442797, at * 3 (S.D.N.Y. Aug.6, 1996) (citing *Alfaro Motors, Inc. v. Ward*, 814 F.2d 883, 886 (2d Cir.1987)).

Plaintiff's only allegations relating to defendant Mayor Giuliani consist of a complaint to a Legal Aid attorney that "this administration *183 (Mayor Giuliani's) has gone too far with entrapments, excessive fines ..., excessive punishment ..." Compl. ¶ 14. Because Plaintiff fails to allege any personal involvement on the part of this defendant, his claims against Mayor Giuliani are dismissed.

III. Conclusion

For the reasons stated above, Plaintiff's claims against the State defendants and defendant Mayor Giuliani are dismissed. Plaintiff's claims against the remaining City defendants survive. Plaintiff shall amend his complaint within 30 days of receipt of this Opinion. A conference has been scheduled for November 7, 1997.

So Ordered.

NOTES

[1] Because the Court of Appeals has explicitly directed that only Plaintiff's Eighth Amendment claims be considered, the second prong of § 1983 will be limited to violations of the Eighth Amendment.

[2] Given Plaintiff's *pro se* status, he will be granted leave to amend his complaint in order to add a claim under the Due Process Clause. However, for purposes of this motion to dismiss, Plaintiff's claims will be analyzed under the Eighth Amendment.

[3] From this point on, the "City defendants" shall not include defendant Mayor Giuliani who is dismissed from this action. See discussion *infra* at pp. 182-183.

[4] No one has identified the statutory basis underlying this fine/forfeiture scheme.

[5] "An *in personam* criminal forfeiture is an action against the person as distinguished from an *in rem* forfeiture which is an action against the property itself." *United States v.*

Wild, 47 F.3d 669, 674 (4th Cir.1995). The "defendant in a criminal forfeiture proceeding is the person, and the defendant in a civil forfeiture proceeding is the particular property." *United States v. \$814,254.76 in U.S. Currency*, 51 F.3d 207 (9th Cir. 1995). The "theory of in rem forfeiture is said to be that the lawful property has committed an offense." *Austin v. United States*, 509 U.S. 602, 624, 113 S. Ct. 2801, 2813, 125 L. Ed. 2d 488 (1993) (Scalia J., concurring). The forfeiture in issue here is clearly an *in personam* criminal forfeiture as the Supreme Court has noted: "There is nothing even remotely criminal in possessing an automobile." *One 1958 Plymouth Sedan v. Pennsylvania*, 380 U.S. 693, 699, 85 S. Ct. 1246, 1250, 14 L. Ed. 2d 170 (1965).

[6] While the Eleventh Amendment does not expressly bar suits against a state by its own citizens, the Supreme Court has consistently held that "an unconsenting State is immune from suits brought in federal courts by her own citizens as well as by citizens of another state." *Edelman v. Jordan*, 415 U.S. 651, 662-63, 94 S. Ct. 1347, 1355-56, 39 L. Ed. 2d 662 (1974).



Re: FEC Case No.: 19-105; Respondent: Ben F. Johnson 

Florida Elections Commission to: Diane Harney
<dharney@landispa.com>

04/10/2019 11:19 AM

Sent by: Donna Malphurs

Dear Mr. Ford,

Attached is a courtesy copy of the amended information received by the Florida Elections Commission pertaining to FEC 19-105. A copy of the information was mailed to you on April 8th via certified mail. Upon receipt of the certified mail, you will have 14 days to submit a response to the amended information.

The executive director will then review the response along with the amended information and will issue a second and final legal sufficiency determination. You will be notified by letter of the executive director's determination.

Sincerely,

Donna Ann Malphurs
Agency Clerk



2019-04-08_2nd 14 day ltr w amended complaint.doc



2019-04-05_Amended Complaint_Redacted.pdf

"Diane Harney"

Good afternoon Erin Riley: I wanted to verify that...

04/09/2019 08:24:54 AM

From: "Diane Harney" <dharney@landispa.com>
To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>
Cc: "Diane Harney" <dharney@landispa.com>
Date: 04/09/2019 08:24 AM
Subject: FEC Case No.: 19-105; Respondent: Ben F. Johnson

Good afternoon Erin Riley:

I wanted to verify that Mr. Casaburro did not file any additional information to correct the stated ground of insufficiency for the above referenced FEC Case, and you have closed the file. Please advise.

Thank you,

Diane Harney, Legal Secretary
to F.A. (Alex) Ford, Jr., Esquire
to Kathrine E. Conroy, Esquire
Landis Graham French, P.A.
145 E. Rich Avenue, Suite C
DeLand, Florida 32724
Phone: 386-734-3451

Fax: 386-736-1350
dharney@landispa.com





FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539

www.fec.state.fl.us; fec@myfloridalegal.com

April 8, 2019

CERTIFIED MAIL 9214 8969 0099 9790 1627 1105 68

F. A. "Alex" Ford, Jr.
Attorney for Ben F. Johnson
145 East Rich Avenue
Suite C
DeLand, FL 32724

RE: Case No.: FEC 19-105; Respondent: Ben F. Johnson

Dear Mr. Ford:

On April 5, 2019, the Florida Elections Commission received the enclosed amended letter of information/complaint alleging that your client violated Florida's election laws. Section 106.25(2), Florida Statutes states:

The respondent shall have 14 days *after receipt* of the complaint to file an initial response, and the executive director may not determine the legal sufficiency of the complaint during that time period.

If you choose to file a response to the amended complaint, please send it to my attention at the address listed above. To ensure that I receive your response in a timely manner, you may also want to send it via e-mail to my attention, at fec@myfloridalegal.com. You will be notified by letter whether the complaint is determined legally sufficient.

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address.

Under section 106.25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you and your client, the Respondent, unless you waive confidentiality in writing.

Ben F. Johnson
April 5, 2019
Page 2
FEC 19-105

Sincerely,

Donna Malphurs
Agency Clerk

/med
Enclosure: Amended Complaint

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee 9214 8969 0099 9790 1627 1105 68

Certified Mail Fee	\$	\$0.50
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	\$3.50
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	\$1.60
Postage	\$	\$0.00
Total Postage and Fees	\$	\$5.600

Electronic Return Receipt Requested

Postmark
Here

Code: 19-105; 2nd 14 day w AMD comp

Sent To F. A. "Alex" Ford, Jr.
 Landis Graham French, P.A.
Street, Apt. No., or PO Box No. 145 East Rich Avenue
 Suite C
City, State, Zip+4 DeLand, FL 32724

4/8/2019 2:20:55PM

PS Form 3800, April 2015

See Reverse for Instructions

FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224,
Tallahassee, FL 32399-1050

REC'D: FL ELECTIONS COM
5 APR '19 AM 10:37

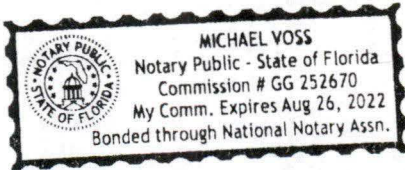
ADDITIONAL COMPLAINT INFORMATION

Case Number: FEC 19-105

Pursuant to Rule 2B-1.0025, Florida Administrative Code, if you have additional information to correct the ground(s) of legal insufficiency stated in the attached letter, please explain in a concise narrative statement. Attach the statement and any relevant documentation to this form:

STATE OF FLORIDA
COUNTY OF Volusia

I swear or affirm that the information in the attached statement is true and correct to the best of my knowledge.



John Casaluna
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 1 day of April, 2019.

[Signature]

Signature of Officer Authorized to Administer
Oaths or Notary Public

MICHAEL VOSS
(Print, Type, or Stamp Commissioned Name of
Notary Public)

Personally Known _____ Or Produced Identification

Type of Identification Produced [Redacted]

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

C

Mr. John E. Casaburro
111 Kendra Avenue
Deland, FL 32724

April 1, 2019

F.E.C. 107 W. Gaines St. suite 224

Tallahassee, FL. 323-99-1050

Tim Vaccaro EX. Dir.

Case no. 19-105

Res. - Johnson

Re: AS per Today's Phone 10 DAY extension for
Additional Complaint Information -

(Att.#2) Dear Mr. Vaccaro, In Response to your finding
Letter of 3-14-19... 1. Henry Frederick /HeadLine
Surfer writer defaulted in CIVIL Action on Feb. 20,
2019 see Att.#1 Motion For Default (Doc#14) AND
recent Motion to final Judgment & strike all
his Pleading's. I motioned to strike his null &
Void answer (Doc#25.5) & matter's will be heard
soon. Law clerk Dianna is trying to Pin him
down on a hearing date (A.W.O.L.) 386-736-5946.
Frederick is so disingenuous I would not
be surprised if he gave you a different
(Answers) version from what he attempted with court
file (Please check docket & you will see).

2. A copy of his alledged AD was produced before
default /six day late answer showing "No DATE"

(Att.#3) This too is null & void in Court (His EXF)
Frederick does have a reputation for slander &
Trashing people with Malice for money. Former
Local Candidate's who are witness to his

offers to defame people with malice are - A-Ted
Noftall 857 Chickadee Dr. Port Orange FL 32127
386-566-1424 - b-Greg Gimbert 386-852-0751
Former Deputy Wendell Bradford 407-692-6678
Respondent Ben F. Johnson in Politics since
2000 knew Frederick's reputation & made a check
to pay him from "Campaign Funds" (there is no
proof of an ad). Johnson knowingly co-authored
False (17 points) info omitted facts/defamed this
complainant to slander with malice (see sworn
admission by Johnson attached) Johnson provided
documents & police records (police records may be considered
illegally obtained*) to Frederick's. Plaintiff/complainant
responded with there is no proof of false statements
& omitted facts to slander with malice

(Att.#4)

Att.#5

Thank you in advance for your consideration
in this matter

yours truly,
John Casalino
386-215-7327

* Johnson is Former Sheriff.

Frederick's had his readers share falsehoods on
Face book, Twitter, Google (with malice) Pg 1 of Article
Just type in my name pg-2. & see what comes up.
Cost to clear up over \$22,000.

IN THE CIRCUIT COURT OF THE 7 TH JUDICIAL CIRCUIT,
IN AND FOR KOLUSA COUNTY, FLORIDA

Case No.: 2019-10091CIDL
Division: 01-Randell #. Rowe, III

John E. Casaburro
Plaintiff

and

Henry Frederick, AKA
Head Line Surfer (D.O.A.):
Ben F. Johnson

MOTION FOR DEFAULT

TO THE CLERK OF THE CIRCUIT COURT:

PLEASE ENTER A DEFAULT AGAINST RESPONDENT WHO HAS FAILED TO
RESPOND TO THE PETITION ^{*defendant} Plaintiff - Henry Frederick, AKA
Head Line Surfer @ 416 Dorchester Sq, Lake Mary, FL 32746

I certify that a copy of this document was [one only] mailed () faxed and mailed ()
hand delivered to the person(s) listed below on {date} Feb. 20, 2019

Other party or his/her attorney:

Name: Henry Frederick
Address: 416 Dorchester Sq
City, State, Zip: Lake Mary FL 32746
Fax Number: cell-386-689-2830

Dated: Feb. 20, 2019

John Casaburro
Signature of Plaintiff
Printed Name: John Casaburro
Address: 111 Kendra ave.
City, State, Zip: Deland FL 32724
Telephone Number: 386-215-7327
Fax Number: -

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE
BLANKS BELOW: [fill in all blanks]

I, {full legal name and trade name of nonlawyer} N/A,
a nonlawyer, located at {street} _____, {city} _____,
{state} _____, {phone} _____, helped {name} _____
who is the petitioner, fill out this form.

* See Attachment #2 Defendant Was served on
Jan. 30, 2019 Due 20 days on Feb. 19, 2019.

In The Circuit Court, 7th Judicial Circuit
In and For Volusia County, FL.

John Casaburro	x	Case no. 2019-1009,
Plaintiff,	x	CIDL, Div. 01-Rowe II
-vs-	x	
Henry Frederick,	x	
Head Line Surfer, etal.	x	<u>MOTION</u>
defendants.	x	

Plaintiff Casaburro MOTION To Strike
Defendant(s) Henry Frederick / D.B.A. HeadLine
Surfer Pleading's Due to his Default
of 2-20-19 (Doc #14) AND Motion for Final
Judgment (Fl. civ. R. 7.170(b)) to be Entered.

I, John Casaburro Affirm and state's the
following to be true and correct...

1- Plaintiff filed a Motion for Default
on Defendant(s) Henry Frederick / HeadLine
Surfer on Feb. 20, 2019 (Doc #14) with an
attached final Judgment form For his honor
to sign. (defendant's 30 day notice to Appeal
has expired).

2- Six day's Later Defendant's Frederick,
pg-1- (2)

HeadLine Surfer filed an overdue answer and Plaintiff filed a Motion to strike (Doc# 25.5) due to Defendant's Default.

3- Since Then Defendant's Frederick/HeadLine filed numerous Discovery Pleadings and Plaintiff has ignored since default and one motion to strike by Plaintiff.

4- Plaintiff requests that "ALL" of Defendant's Frederick, HeadLine be stricken from the record since default to date, (Pleadings and subsequent Answers).

5- Whereas, Plaintiff respectfully Requests the court enter a Final Judgment as described in default Motion (Doc# 14, ^{was} Attached) and order a sworn Fact info sheet for defendant's assets and income.

Date 3-25-19

John Casaburro

386-215-7327

111 Kendra ave DeLand, FL. 32724

I certify- that a copy of this Document was U.S. mailed on 3-25-19 to Henry Frederick @ 500 W. Airport Blvd. Apt. 1307 Sanford, FL. 32773

John Casaburro
John Casaburro

Exhibit 4

Ben Johnson Digital ads Inbox x

Cindy Jenkins <cindyjenkins@bellsouth.net>
to me x

Mon, Aug 13, 2018, 11:52 AM

I know you received these and they are OK

Thank you

Cindy Jenkins
386.615.8170 | Fax 386.615.8758



Cindy Jenkins (cindyjenkins@bellsouth.net)

The ads should be sent via attachment either as a gif or a jpeg with the precise sizing.

BJC-1024 790 x 95.jpg (73K) x

BJC-1024 240 x 200.jpg (58K) x

No DATE
3

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR
VOLUSIA COUNTY, FLORIDA

JOHN E. CASABURRO

Plaintiff,

CASE NO: 2019-10091-CIDL

vs.

DIVISION: 01

HENRY FREDERICK
AKA HEADLINE SURFER (D.B.A),
AND BEN F. JOHNSON,

Defendants.

**NOTICE OF FILING DEFENDANT'S ANSWERS TO PLAINTIFF'S
INTERROGATORIES**

YOU ARE HEREBY NOTIFIED that the Defendant, BEN F. JOHNSON, by and through his undersigned attorney, has filed his answers to interrogatories.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to JOHN CASABURRO, Plaintiff, at 111 Kendra Ave., DeLand, FL 32724, this 20th day of March 2019.

F. A. (Alex) Ford, Jr., Esquire

Florida Bar No. 0381845

Landis Graham French, P.A.

Post Office Box 48

DeLand, FL 32721-0048

Tel: (386) 734-3451

Fax: (386) 736-1350

primary email: aford@landispa.com

secondary email: dharney@landispa.com

Attorney for Defendant, BEN F. JOHNSON

ANSWER SHEET

1. No.

2. Objection, overbroad. Plaintiff and Defendant were opposing candidates in a political campaign. Defendant, Frederick is a member of the press, and this article was about the campaign. Thus, the potential issues herein are very limited on a constitutional level. Further, by definition, even absent constitutional limitations, the scope of the request should be limited to false information. Further, the interrogatory requires Defendant to speculate on the intent of a third party in providing documents to Frederick. Notwithstanding these objections, Defendant knows of no false information provided to Frederick and, by information and belief, the following documents and police records were provided to Frederick:

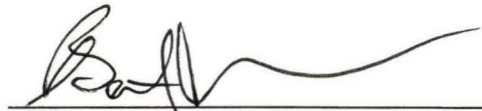
- a. 10-14-94 NY Times Article re Plaintiff's Prostitution Arrest
- b. 9-8-09 incident report - condom on doorstep
- c. 1-12-89 A.P. Story re Plaintiff's Racist Remarks
- d. 4-13-11 Court Filings referred Case No 2010-32956 (REC)
- e. 7-5-18 Emails Complaining about Casaburro Campaign
- f. 7-18-18 West Volusia Beacon re News Article on Candidates
- g. 9-29-97 Court Filings re Casaburro v. Giuliani, (Prostitution Arrest)
- h. 2019 Casaburro as Plaintiff in other Lawsuits
- i. 2000 thru Present - Clerk of Court re Casaburro Summary
- j. 7-10-07 Casaburro v. Volusia County Corporation
- k. 7-29-14 Charging Affidavit - Distributing False Info re Sex Offender
- l. 2000 thru Present - Summary of Volusia County Sheriff's Office Reports
- m. 08-06-09 Incident Report #09-24812
- n. 09-25-09 Incident Report #09-30503 Civil
- o. 4-13-11 Mediated Settlement with Republican Executive Committee
- p. 5-4-05 Incident Report No. 05-15026 Civil Complaint
- q. 7-27-18 Fine Letter from Department of Elections to Casaburro

3. Objection, not reasonably calculated to lead to evidence admissible in the Trial of this cause. In particular, Plaintiff has claimed Defendant breached a contract between Plaintiff and the Republican Executive Committee of Volusia County, and not

the DeLand Republican Club. Notwithstanding that objection; I have not ever been a member to my knowledge.

4. Objection not reasonably calculated to lead to evidence admissible in trial of this cause. Notwithstanding that objection, not to my present recollection.

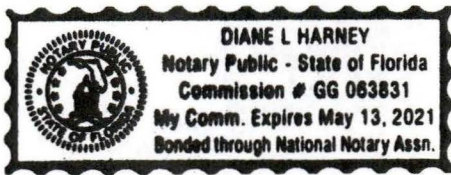
VERIFICATION



Signature of Respondent
Printed Name: Ben F. Johnson
Address: P.O. Box 220169
City, State, Zip Glenwood, Fla. 32722
Telephone Number: 386-527-0901

STATE OF FLORIDA
COUNTY OF VOLUSIA

Sworn to or affirmed and signed before me on March 20, 2019 by BEN F. JOHNSON.



Notary Public

DIANE L. HARNEY

Print, type, or stamp commissioned name of notary or clerk

Personally Known
 Produced identification _____ Type of identification produced

not asked since Police did not believe Fake condom story). (Plaintiff claims False story and Defamation by omitting Facts).

4- Proof that condom was Plaintiff's. (fake story)
Pg 3 of Article

5- Proof that Plaintiff is "agitator" in his neighborhood (false statements)

6- Proof of "harassment incidents" Plaintiff caused in neighborhood (false)

7- Proof that Sheriff Chitwood, David Lee DAVIS were backing Plaintiff for council RACE (FAKE)
Pg 4 of Article

8- List False accusations about Johnson.

9- Proof of a "Long Contentious" History with Plaintiff and V.C.R.E.C. (Plaintiff has been Republican Activist since 1980 with awards & results).
(False statement)

10- Proof that Republican Party shut the door on Plaintiff (False; still an "elected committeeman")
Pg 5 of Article

11- Full tape recording Interview/meetings by reporter on Racial Comments (1988) (defamation by omitting facts)

- 12- Proof that Plaintiff was charged officially with patronizing a prostitute (omitting facts) (Charge was agreement to a solicitation)
- 13- Proof that lawsuit was "thrown out" (N.Y.C. Giuliani) (Plaintiff won an appeal see complaint). At trial a Federal Judge said the city of N.Y. wronged Plaintiff at least 12 times (omitting facts)
Pg 6- of Article
- 14- Proof that Plaintiff "Filed frivolous" lawsuits with a grocery chain, roofer, Volusia + V.C.S.O.
(False)
- 15- Proof of False information about a Sex offender charge in Orange City (omitting facts)
- 16- Proof that Plaintiff has not attended most V.C.R.E.C. meetings Last 20 years and I am not always informed there about local issues (false statement)
- 17- Provide List of People who ALlege Plaintiff is a "Liar, have no credibility or Background to hold office. (with address + phone no.'s)
- 18- Provide copy of Deland Republican Club nametag. (of Johnson's).

I HEREBY CERTIFY that a copy hereof has been furnished by il 3-29, 2019 by (H)
regular mail () certified mail () hand delivered () served to:

Name and address of other party
Ben F. Johnson
2791 Grand ave.
Deland, FL 32724

and to: Attorney's name and address (if any)
Ford, ESQ - 145
E. Rich Ave.
Deland, FL 32724

John Casaburro
Sign your name John Casaburro
Address 111 Kendra ave
Deland, FL 32724
Telephone 386-215-7327

IF A NON-LAWYER HELPED YOU FILL OUT THIS FORM THEY MUST FILL IN THE BLANKS
BELOW: I, (name) n/a, a non-lawyer, located at:
(street) _____ (city) _____ (state) _____
(phone) _____ helped (name) _____, who is the
(check one) Petitioner Respondent, fill out this form.

PLEASE ATTACH TWO SELF ADDRESSED STAMPED ENVELOPES

Jan 10, 2019 | UPDATED 5:54 pm

f (https://www.facebook.com/HeadlineSurfer/) t (https://twitter.com/headlinesurfer) g+ ()

YouTube (https://www.youtube.com/channel/UCp4QatBYAKdgQYUOnuGAE2g) @ () in () v () s ()

t () v () i () r ()



(https://headlinesurfer.com)

HEADLINE SURFER



(http://www.flydaytonafirst.com/)

Award-winning 24/7 Internet news from Daytona Beach, Florida, home of the World's Most Famous Beach & the Daytona 500



HOME (/) > COUNTY COUNCIL WRITE-IN CANDIDATE EPITOME OF MIKE CHITWOOD VITRIOLIC CRUD ENGAGED IN GUTTER CAMPAIGN AGAINST FRONTRUNNER BEN JOHNSON

County Council write-in candidate epitome of Mike Chitwood vitriolic crud engaged in gutter campaign against frontrunner Ben Johnson

SHARE ON:

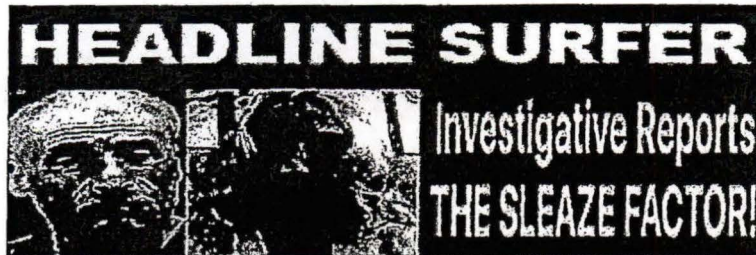
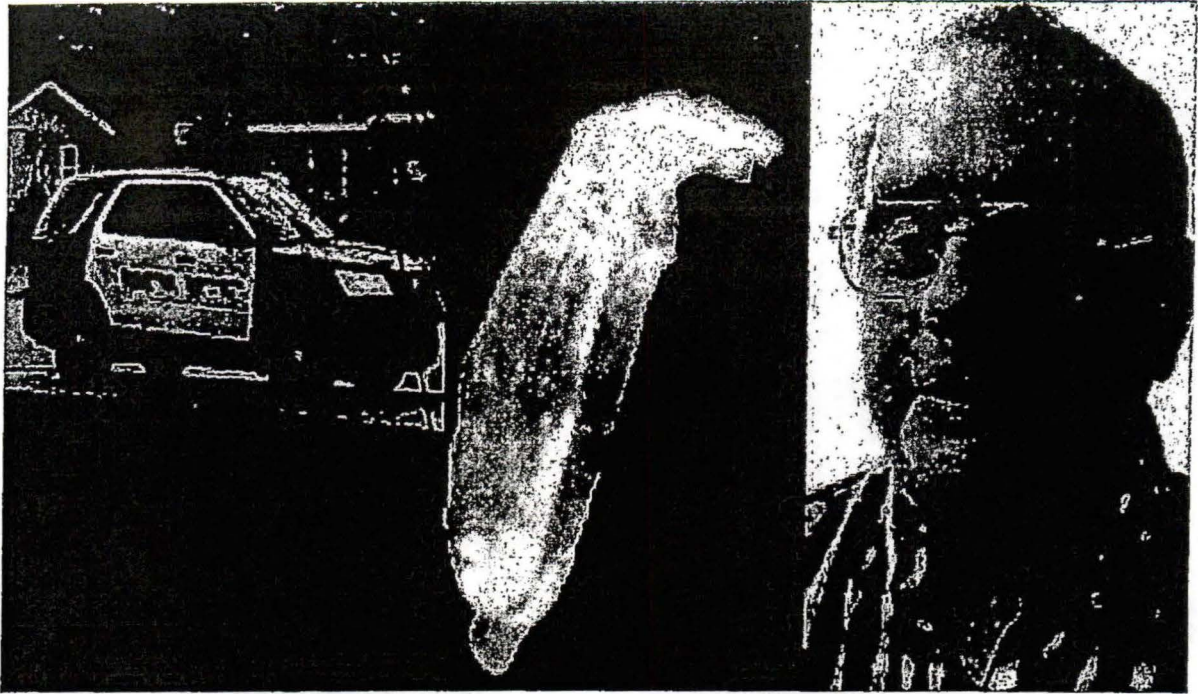
f Facebook (http://www.facebook.com/sharer.php?u=https://headlinesurfer.com/content/county-council-write-candidate-epitome-mike-chitwood-vitriolic-crud-engaged-gutter-campaign)

t Twitter (https://twitter.com/intent/tweet?text=County Council write-in candidate epitome of Mike Chitwood vitriolic crud engaged in gutter campaign against frontrunner Ben Johnson&url=https://headlinesurfer.com/content/county-council-write-candidate-epitome-mike-chitwood-vitriolic-crud-engaged-gutter-campaign&via=%23)

g+ Google + (http://plus.google.com/share?url=https://headlinesurfer.com/content/county-council-write-candidate-epitome-mike-chitwood-vitriolic-crud-engaged-gutter-campaign)

Post Date: July 31, 2018

EX-A-



Headline Surfer multimedia presentation / Shown above is John Casaburro, an ogre to his DeLand-area neighbors for years and an enigma over the years in insider politics is now a write-in candidate for countywide elected

office taking his cues from vitriolic Volusia Sheriff Mike Chitwood in trying to derail the former sheriff, Ben Johnson, considered an overwhelming favorite to outright win the Aug. 28 primary and succeed retiring At-Large County Councilwoman Joyce Cusack on the dais in DeLand. Not only is Chitwood threatened by the prospect of Johnson's return to elected office, but so too is first-term Councilwoman Heather Post, a former deputy, whose veracity is easily called into question as to the prior illicit use of cocaine as indicated in her personnel file.

By HENRY FREDERICK
Headline Surfer

DAYTONA BEACH, Fla. — He was once suspected by a neighboring DeLand family of four of leaving a dripping used condom with blood on it on the welcoming mat of their front porch door as a perverse act of intimidation.

The wife and mom of two little kids discovered it upon returning from an errand — snagging a pair of sterile gloves to pick it up before it could lead to disaster.

Several Volusia County Sheriff's deputies responded and one of them in turn put on a pair of sterile gloves to pick up the nasty find crumpled within the moms discarded and bunched-up gloves subsequently scooped into an evidence bag to be brought back to headquarters for storage.

And though the husband and others in the quiet neighborhood suspected this was the handiwork of one John Casaburro, for years seen as an agitator, deputies closed the case because there was nothing linking the used bloodied condom to any known crime. A VCSO incident report (<https://headlinesurfer.com/content/2009-vcso-bloody-condom-incident-report>) was taken with a statement provided by the wife who saw the used-bloody condom.



Perhaps this Aug. 25, 2009 incident was just a twisted prank like something Norman Bates might have conjured up to please his dead mother early on in the movie "Psycho." This was the most egregious of a series of harassment-like incidents requiring law enforcement to intervene.

That same year, the same neighbors who dealt with the used bloody condom were upset that Casaburro was overt in taking photographs of their vehicles and other outdoor items, as described in another VCSO incident report (<https://headlinesurfer.com/content/vcso-incident-report-photographing-neighbors-cars>), but because he remained on his own property, no criminal charges could be filed against him, responding deputies told the husband and wife who were seeking an arrest.

the ultimate political dilemma -- a loner with minimal name recognition, no money to finance a legitimate campaign and no chance of winning. So what's the lowest common denominator move of 66-year-old John Casaburro?

The answer is as obvious as it is dishonest and unethical: Slime the front-runner with phony rumors and fake allegations.

In other words, manufacture lies about the opponent.

But in his oh so pathetic and disgraceful scheme to shake up the At-Large Volusia County Council race, Casaburro could not escape his past, which besides leaving the bloody used condom on the neighbors' porch, includes patently disturbing racial remarks and an arrest for soliciting a prostitute.

For more than two months, the contest to fill a soon-to-be-vacant seat on the County Council appeared to be a two-candidate race headed for a Nov. 6 showdown. Conventional wisdom had Ben Johnson, the popular, former four-term sheriff cruising to victory in the countywide race against Deltona resident Ronald Durham.

But then, two days before the ballot was set, Casaburro lobbed a curveball by jumping into the race as a write-in candidate.

And just like that, the contest to replace term-limited Council Member Joyce Cusack became a three-way sprint that in all likelihood will be settled during the Aug. 28 primary anyway. So who really is backing this backdoor sleazy move? Political insiders point to Chitwood himself and one of his newfound allies, a political consultant and previously-failed candidate for public office in David Lee Davis, one of the louder anti-Volusia County status quo antagonists.

As a write-in candidate, Casaburro's name won't even appear on the ballot. The electorate will have to write it in if they want to cast a vote for Casaburro -- assuming they even know he's running and can spell his name correctly. It's an all but impossibility for Casaburro. What was he thinking? Well, it didn't take long to find out. His apparent motivation for getting into the race was to try to play spoiler by spreading false accusations about Johnson.



After all, Durham is an ordained minister who is highly respected in the black community and not known for popping off. And in Casaburro's case, it's not just about spreading the poison but making up the stuff, to begin with.

Johnson was emphatic in telling Headline Surfer he had no intention no intention of dignifying the allegations and assisting Casaburro with his gutter politics by repeating the accusations here for this story, but the former lawman did not mince words in stating what comes out of Casaburro's mouth is "disgusting and despicable and completely lacking in any factual basis."

Casaburro first tried to spread his verbal poison throughout the ranks of the Volusia County Republican Party, with which he has had a long and contentious history. At one time, Casaburro held a leadership position on the GOP executive committee, but the relationship soured and ended in a lawsuit.

While County Council elections are non-partisan, the local political parties nonetheless have long gotten involved in the races by throwing their weight behind their preferred candidates. Casaburro's sleazy gambit, however, did not pay off.

"I campaigned for the endorsement, but I didn't get it," an obviously bitter Casaburro lamented during a radio interview on July 12 with WNDB 1150 AM talk show host Marc Bernier, a key Chitwood supporter. And in case there was any doubt where the Volusia County Republican Party stands with respect to Casaburro, it was made crystal clear when the GOP executive committee chaired by Tony Ledbetter recently shared a post on its Facebook page with the following message: "Vote for Ben Johnson -- Republican Executive Committee Endorsed Candidate for County Council At-Large."

But even as the Republicans have long since slammed the door shut on Casaburro -- clearly on the outside and with absolutely no shot at ever being allowed to re-enter -- he continues to distribute fliers, repeat his phony allegations at campaign appearances and push them out to e-mail recipients.

"I am attaching two very important communications for your consideration," Casaburro wrote in one of his email smears. "Please consider them both with great urgency."

In yet another poison email, Casaburro, in all his arrogant regalness, boldly predicted that as a result of his allegations, "Johnson will have to quit the race."

In yet another poison email, John Casaburro, the 66-year-old write-in candidate in all his arrogant regalness in taking on one of the most popular elected leaders in Volusia County's history, boldly predicted that as a result of his allegations, "Johnson will have to quit the race."

One voter who attended a recent political event where Casaburro was distributing his phony sleaze piece reported that the candidate got downright ugly and intimidating when he was challenged to provide proof of the allegations. Naturally, Casaburro was unable to back up his allegations – for the very reason that they have no basis in fact. They aren't true, period.

Instead, Casaburro tried to bully the person demanding to see proof.



"He got so angry at me that he hovered over me in a very threatening manner," said the vote of his encounter with Cassaburro. His name is being withheld by Headline Surfer to spare him further harassment from Casaburro and others like him that are stirring the pot behind the scenes.

For his part, Ben Johnson reports being flooded with phone calls and social media messages from outraged voters. So far, Johnson has taken the high road and purposely keeping his public comments to a minimum.

Certainly, plenty of people are hopping mad about Casaburro's gutter tactics.

"I hate trashy campaigns!" one Johnson supporter wrote in an e-mail to him. "But it really makes me angry when they trash honorable people!"

Another said of the slime piece: "I think it is slander and libel against you." Yet another was even more blunt in a post on Johnson's Facebook campaign page: "Time to crucify this clown."

In a recent story published in the West Volusia Beacon profiling the at-large council race, Casaburro evidently told the bylined writer that this was his first time running for political office. That, as it turns out, also isn't true. But it's certainly understandable why Casaburro would want to run away from his past.

In 1989, while living in New York and running for Mayor of Yonkers, Casaburro made headlines in the New York city newspapers for highly inflammatory and degrading comments suggesting that most African-Americans had it good during this country's slavery era. "Ninety percent of all Blacks lived well and had it good" under slavery, Casaburro was quoted as saying.

The article went on to report that Casaburro degraded the African-American culture by saying: "Most Blacks are encouraged not to marry a woman. They're encouraged to impregnate, not marry her because it's almost an irresponsibility to get married since welfare will take care of her."

Casaburro's racist remarks, outed by Johnson in an NAACP candidate forum ????????????????????

In 1994, the New York Times reported that following a failed Congressional bid in New York, Casaburro was arrested during a prostitution sweep in Manhattan after he struck up a conversation about oral sex and money with a woman who turned out to be an undercover officer.

When he was arrested, Casaburro was reported to be carrying a flier identifying himself as a candidate in the 18th Congressional District race. He was charged with patronizing a prostitute. Casaburro sued then-New York Mayor Rudy Giuliani and the City of New York over the arrest, seeking \$10 million in damages. It didn't take long for the suit to be thrown out.

(EX-A-Pg. 2)
FROM Complaint.

Giuliani, the City of New York and The Volusia County Republican Executive Committee aren't the only ones to be on the receiving end of Casaburro's frivolous lawsuits. In the past, he also has sued, among others, a New York grocery chain, a roofer, the County of Volusia, the Volusia County Council and the Volusia County Sheriff's Office.

In his 2007 suit against the County of Volusia, Casaburro challenged the constitutionality of the county's local non-partisan elections. He claimed that non-partisan races violated his First Amendment right to know the party affiliation of candidates running for local office. Oddly, in light of his blatantly racist remarks in New York, Casaburro and a co-plaintiff argued in their suit that non-partisan elections are also "perpetrated on black voters," in violation of the 15th Amendment and of the Voting Rights Act. The case was dismissed.

Casaburro's troubles didn't end there.

In 2014, the Orange City Police Department charged Casaburro with distributing false information about a sex offender. And his frequent squabbles with neighbors have resulted in law enforcement being called on numerous occasions. During interviews with responding officers, Casaburro claimed to be the head of a homeowners association. But even that claim seemed questionable to deputies.

A responding deputy wrote in an August 2009 incident report: "Casaburro also told Deputy King he is the president of the homeowner's association which to Deputy King's knowledge does not exist."

A month later, another deputy responding to an incident involving Casaburro documented the following in his report: "Casaburro claimed to be the president of a Homeowners Association, but then admitted that he merely initiates action to remove undesirable residents from the neighborhood."

Then, after about a decade of perceived slights and wrongs, Casaburro decided to jump into politics once again.

During his recent radio interview with Bernier, Casaburro was asked a series of question about his County Council candidacy:

- Had he looked at the County budget? "No, not directly," Casaburro responded. "If elected, I promise to do that."
- Had Casaburro appeared before the County Council on any issue? No, he responded, and then added the following explainer: "I'm not the type of guy that goes to meetings."
- Had Casaburo been on the County Council at the time, would he have opposed some of the economic stimulus incentives that the county gave to several businesses? "I don't know that issue for sure and I rely on other people to inform me. So I can't speak to that right now."

Other sample quotes by Casaburro from that disastrous radio interview include, but are not limited to the following:

- "I'm not totally familiar with that issue."
- "I really have to look more into the details of that before I say yes or no."

When asked about his qualifications for office, Casaburro insisted: "I have the credibility and the background."

And that, by any objective measure, would seem to be just another one of Casaburro's countless lies, say those who have dealt with him and his kind. END

Part 2: Heather Post, Druggie on the Dais?



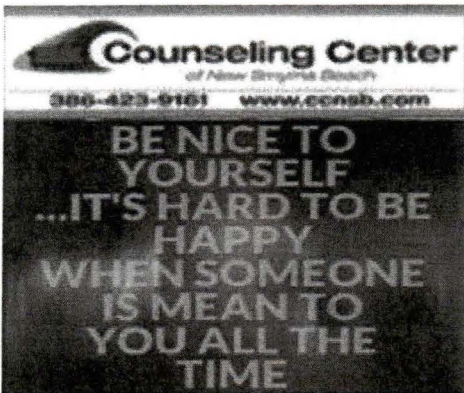
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Short Bio

Henry Frederick is publisher of Headline Surfer®, the award-winning 24/7 internet news outlet covering the Daytona Beach-Sanford-Orlando metro area via HeadlineSurfer.com for a decade now. A longtime cops & courts reporter focused on breaking news & investigative reporting, Frederick is among the Sunshine State's most prolific daily news reporters, having amassed dozens of journalism-industry awards in print and digital platforms. Frederick is enrolled at Full Sail University in Winter Garden, FL, where he's three-fourths through the online Master of Arts program in New Media Journalism. His graduation is in August.

View full user profile (/users/henry-frederick)

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ADVERTISING

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Mr. John E. Casaburro
111 Kendra Ave.
Deland, FL 32724

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS; FOLD AT DOTTED LINE

CERTIFIED MAIL



7019 0140 0000 1152 5114



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Tim Vaccaro, Executive
Director, FL. election's commission
107 W. Gaines St. suite 224
Tallahassee, FL. 32399-1050

File



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STATE OF FLORIDA
ELECTIONS COMMISSION

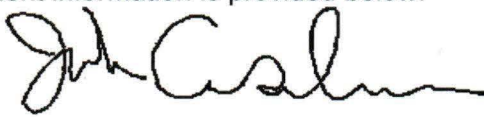


Date Produced: 04/01/2019

Florida Elections Commission:

The following is the delivery information for Certified Mail™/RRE item number 9214 8969 0099 9790 1626 6416 67. Our records indicate that this item was delivered on 03/26/2019 at 12:00 p.m. in DELAND, FL 32724. The scanned image of the recipient information is provided below.

Signature of Recipient :


John Casabarro

Address of Recipient :

161 Keodra
DeLand.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 19-105 EXP 1st LI



FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com**

March 14, 2019

CERTIFIED MAIL 9214 8969 0099 9790 1626 6416 67

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

RE: Case No.: FEC 19-105; Respondent: Ben F. Johnson

Dear Mr. Casaburro:

The Florida Elections Commission has received your complaint alleging violations of Florida's election laws.

Complainant essentially alleged that Respondent made false, malicious statements against Complainant. Section 104.271(2), F.S., prohibits a candidate from making or causing to be made any statement about an opposing candidate which is false. Such statements must be made with actual malice.

Complainant alleged that Respondent hired Henry Frederick, an internet reporter/publisher, to make false statements against Complainant during the campaign for the Volusia County Council At Large seat. Complainant pointed to an expenditure item on one of Respondent's campaign treasurer's report disclosing a \$1,000 expenditure to "Headline Surfer" for "Advertising" on July 23, 2018. Complainant claimed no advertising was provided. Rather, the article at issue was written by Mr. Frederick on a news website called *Headline Surfer* in which false statements were made against Complainant.

However, Complainant provided no evidence to support his allegation that Respondent paid Mr. Frederick to make the statements in his news article. Complainant claimed that someone telephoned Mr. Frederick, who allegedly admitted that no ads were posted for Respondent, and Complainant claimed that an individual named Robert Moni searched the internet and was not able to find such ads.

Complainant provided a copy of his civil complaint for slander and defamation filed against Henry Frederick and Respondent in the 7th Judicial Circuit Court in and for Volusia County. The complaint referenced the article at issue. In response to the complaint, Respondent's attorney provided copies of answers filed by Respondent and Mr. Frederick to Complainant's civil complaint. A review of the answers reveals that neither party admitted that Respondent paid Mr. Frederick to write the article at issue or was somehow responsible for authoring its

content. Respondent denied such allegations, and both Respondent and Mr. Frederick asserted that the \$1,000 paid to Mr. Frederick by Respondent was for advertising.

Section 106.25(2), Florida Statutes, provides that sworn complaints filed with the Florida Elections Commission must be based upon personal information or information other than hearsay. It appears the complaint is not based upon personal information or information other than hearsay.

Further, Section 104.271(2), Florida Statutes, prohibits a candidate from making or causing to be made with actual malice any statement about an opposing candidate which is false. Complainant has provided no information, other than speculation, to indicate that the Respondent was responsible for authoring the content of Mr. Frederick's article.

For these reasons, I find the complaint to be Legally Insufficient.

If you have additional information to correct the stated ground(s) of insufficiency, please submit it within 14 days of the date of this letter. If we do not receive additional information that corrects the stated grounds of insufficiency, this case will be closed. For your convenience, enclosed is a form for your use in submitting additional information. If you submit an additional statement containing facts, you must sign the statement and have your signature notarized. In addition, any additional facts you submit to the Commission must be based on either personal information or information other than hearsay.

Until this case is closed, section 106.25(7), Florida Statutes, provides that the Respondent may not disclose this letter, the complaint, or any document related to this case, unless he or she waives confidentiality in writing. To waive confidentiality, the Respondent must mail or fax a written waiver of confidentiality to Donna Ann Malphurs at the address or fax number listed above.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,

Tim Vaccaro
Executive Director

TV/enr

Enclosure: Additional Information Form

cc: F.A. "Alex" Ford, Jr., Attorney for Respondent w/out Enclosure

FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224,
Tallahassee, FL 32399-1050

ADDITIONAL COMPLAINT INFORMATION

Case Number: FEC 19-105

Pursuant to Rule 2B-1.0025, Florida Administrative Code, if you have additional information to correct the ground(s) of legal insufficiency stated in the attached letter, please explain in a concise narrative statement. Attach the statement and any relevant documentation to this form:

STATE OF FLORIDA

COUNTY OF _____

I swear or affirm that the information in the attached statement is true and correct to the best of my knowledge.

Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this _____ day of _____, 20_____.

Signature of Officer Authorized to Administer
Oaths or Notary Public

(Print, Type, or Stamp Commissioned Name of
Notary Public)

Personally Known _____ Or Produced Identification _____

Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

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Certified Mail Fee	\$	\$0.500
Extra Services & Fees (check box, add fees as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	\$3.50
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	\$1.60
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	

Postage
 \$ \$0.00

Total Postage and Fees
 \$ \$5.600

Electronic Return Receipt Requested

Postmark
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Code: 19-105 EXP: 1st LI

Sent To John Casaburro
 111 Kendra Avenue
 DeLand, FL 32724
 Street, Apt. No.,
 or PO Box No.
 City, State, Zip+4

3/14/2019 1:45:51PM

PS Form 3800, April 2015 See Reverse for Instructions



FEC Case No.: 19-105; Respondent: Ben F. Johnson

Diane Harney

to:

fec@myfloridalegal.com

03/08/2019 05:24 PM

Cc:

"Alex Ford", "Diane Harney"

Hide Details

From: "Diane Harney" <dharney@landispa.com>

To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>

Cc: "Alex Ford" <aford@landispa.com>, "Diane Harney" <dharney@landispa.com>

1 Attachment



2019.03.08 Motion to Dismiss Complaint for Insufficiency.pdf

Attention Erin Riley:

As per the instructions listed on the complaint received, attached please find our Motion to Dismiss complaint for Insufficiency. I understand we will be notified by letter whether the complaint is determined to be legally sufficient. Please advise if you need additional information.

Thank you,

Diane Harney, Legal Secretary
to F.A. (Alex) Ford, Jr., Esquire
Landis Graham French, P.A.
145 E. Rich Avenue, Suite C
DeLand, Florida 32724
Phone: 386-734-3451
Fax: 386-736-1350
dharney@landispa.com



FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

Case No.: FEC 19-105

BEN F. JOHNSON,

Respondent.

MOTION TO DISMISS COMPLAINT FOR INSUFFICIENCY

1. This case involves alleged violations of Section 104.271(2), FS and is authorized for an expedited hearing process under Rule 2B-1.0041, F.A.C.
2. The Executive Director of the Florida Elections Commission is required to make a determination as the legal sufficiency of the Complaint.
3. Respondent, Johnson, maintains that the complaint is legally insufficient for reasons including, without limitation, as follows:
 - I. Requirements of Rule 2B-1.0025(2) F.A.C.
4. Pursuant to Rule 2B-1.0025(2) F.A.C.: Upon receipt of a complaint from Commission staff after the completion of the technical and clerical review required by subsection (1), of this rule, the executive director shall determine whether the complaint is legally sufficient. A complaint is legally sufficient if it meets the following criteria:
 - a. **The complaint alleges a violation of Chapter 104 or 106, F.S.;**
 - b. The complaint contains specific facts upon which the complainant bases the allegation of a violation of law;
 - c. The complaint alleges a violation that occurred within two years of the date the complaint is filed with the Commission;
 - d. **The complaint is based on personal information or information other than hearsay;** and,
 - e. The complaint otherwise complies with the requirements of paragraph (1)(a), of this rule. (Emphasis added)
5. While Respondent denies the allegations of the Complaint and will have a subsequent opportunity to provide evidence in support of his position, Respondent maintains the Complaint fails to meet standards for sufficiency as

outlined in the above-cited rule and therefore moves to dismiss for lack of sufficiency.

II. Failure to Allege a Violation of Chapter 104 or 106

A. No Sufficient Allegation of a Violation of the Statute; Lack of Actual Malice

6. Complainant asserts Respondent has violated FS Section 104.271(2), but has not made a sufficient allegation thereof.

7. Section 104.271(2) provides, in pertinent part:

Any candidate who, in a primary election or other election, with actual malice makes or causes to be made any statement about an opposing candidate which is false is guilty of a violation of this code. (Emphasis added)

8. The Complaint fails to allege Johnson made or caused to be made the supposedly false statements with actual malice. Because actual malice is a necessary element to allege a violation of Section 104.271(2), FS, and the allegation of this element is missing, the Complaint is insufficient.

9. At best, Complainant has alleged in certain instances Headline Surfer failed to investigate certain facts which were reported by police reports and/or other news sources. While Headline Surfer is not a party hereto, Complainant attributes its actions to Respondent. Even if Headline Surfer failed to fully investigate the charges it reported, failure to investigate is insufficient to rise to the level of actual malice as required to support a determination of Section 104.271(2). See, Shiver v. Apalachee Pub. Co., 425 So. 2d 1173, 1983 Fla. App. LEXIS 18481 (Fla. 1st DCA 1983).

B. No Sufficient Allegation of a Violation of the Statute; Internal Inconsistency/Lack of Falsity

10. As previously mentioned, a violation of Section 104.271(2) requires the alleged statement(s) to be false. The Complaint fails to allege a false statement in several respects.

11. The text of the Complaint alleges several supposed false statements made about the Complainant.

12. Attached to and incorporated by the Complaint is a copy of the complaint filed by Complainant in a circuit court case.

13. The circuit court case was brought by Complainant against the Respondent and another defendant, an Internet news source known as Headline Surfer ("Headline Surfer").

14. That circuit court case complaint has an article attached as Exhibit A thereto, also attached hereto as Exhibit A, which contains the supposedly false statements.
15. The false statements as alleged in the text of Complainant's Complaint are inconsistent with what is stated in the actual publication or are demonstrably not false. (See Exhibit A, the "article").
16. For example, in Paragraph VI of the article, Complainant alleged he was called a "monster" in his neighborhood. The article shows the reporter/opinion writer actually did not call Complainant a "monster" but merely gave his personal opinion that Complainant is an "ogre" to his neighbors. Further, the source document for this opinion is available, showing it was a matter of public record Complainant had issues with his neighbors. See Exhibit B, police report.
17. In Paragraph VI, Complainant alleges he was accused of being in "some sort of conspiracy" with two other public figures. However, the article did not say that. It simply gave the writer's opinion that the Complainant took "his cues" from one public official. The other public official was mentioned but the article made no reference to further relationship, if any, with Complainant. Again, the statement made in the article is inconsistent with Complainant's representation of it.
18. In Paragraph VI, Complainant also alleges the article accused him of leaving a bloodied condom on a neighbor's doorstep. In actuality, the article says Complainant was suspected of leaving the condom on a neighbor's front porch. See attached Exhibit C, police report, demonstrating Complainant's neighbor suspected him.
19. In Paragraph VII, Complainant alleges the article referred to him as a "psycho, dishonest and unethical person." The article simply does not do this. Although it does refer to him distributing a "phony sleaze piece," apparently referring to allegations Complainant was himself making against Respondent. See attached Exhibit D, ("campaign literature" distributed by Complainant attacking Respondent and, presumably, the phony sleaze piece referred to in the article).
20. In Paragraph VII, Complainant alleges statements were made that he "had no good standing with the Republican Party." The article makes no mention of Complainant's standing with the Republican Party. Interestingly, Complainant did attach a copy of the settlement agreement in a lawsuit he had against the Republican Executive Committee, which would seem to justify Headline Surfer's opinion commentary on Complainant's relationship with the Republican Party.
21. In Paragraph IX, Complainant complains of the article quoting "out of context" remarks by a "biased reporter" from another news organization and claiming that he is a racist. The Complaint does not allege the Headline Surfer article falsely

reported anything, nor does the article claim Complainant is a racist, even though the quoted comments were clearly racist. There is no allegation Complainant was misquoted by the original New York Times article, or that Headline Surfer misquoted the New York Times article or that Respondent knew the original reporter's comments were false.

22. In Paragraph X, Complainant does not allege the statements about his arrest for solicitation of prostitution were false, as required by the statute, but that the article omitted certain facts. Apparently, Complainant is not arguing falsehood but omission of facts favorable to him which he feels should have been presented alongside the discussion of his arrest during a prostitution sweep. See attached Exhibit E (the reported decision from the court in New York).
23. Accordingly, the Complainant has failed to show that the statements he complains of were even made, much less that they were false or made with actual malice and, so the Complaint is insufficient.

C. Failure of Complaint to be Based on Personal Information/Information Other Than Hearsay

24. Complainant fails to sufficiently allege that his allegations are based on personal information or information other than hearsay, as set forth in Rule 2B-1.0025(2) F.A.C.
25. Specifically, Complainant failed to allege he had personal knowledge (or information other than hearsay) that Johnson hired Headline Surfer to make false statements against him.
26. Instead, he relies upon the double hearsay statement of Robert Money that he had searched Headline Surfer for Johnson's campaign ads and found none for three (3) months prior to the court filing. Apparently, this alleged failure to advertise was intended to support a leap to the conclusion that Johnson's payment for advertising was, instead, payment for Headline Surfer publishing false statements against Complainant. The danger of relying upon such hearsay is demonstrated by visiting the following link, where some of Johnson's paid advertising appears: <https://headlinesurfer.com/content/our-endorsement-school-board-dis-1-jamie-haynes-can-parlay-valuable-classroom-experience>.
27. Besides being hearsay, this amounts to mere speculation that the one thousand dollars (\$1,000.00) paid by the Johnson's campaign to Headline Surfer for advertising was in fact payment for writing a false article. Thus, speculation is piled on top of hearsay, which is not sufficient under the statute.¹

¹ Complainant correctly states respondent paid Headline Surfer \$1,000 in July 2018. That payment was for advertising.

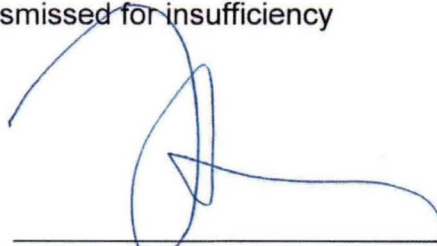
III. Protected Speech

28. Opinion statements such as those regarding whether Complainant is a good neighbor, whether other public officials have aligned with Complainant, his standing with Republican Party, and whether he is dishonest and unethical are constitutionally protected speech. Even if Respondent did cause the statements to be made or even if those statements were made, they would constitute protected speech under the Constitution of the United States of America and the State of Florida.

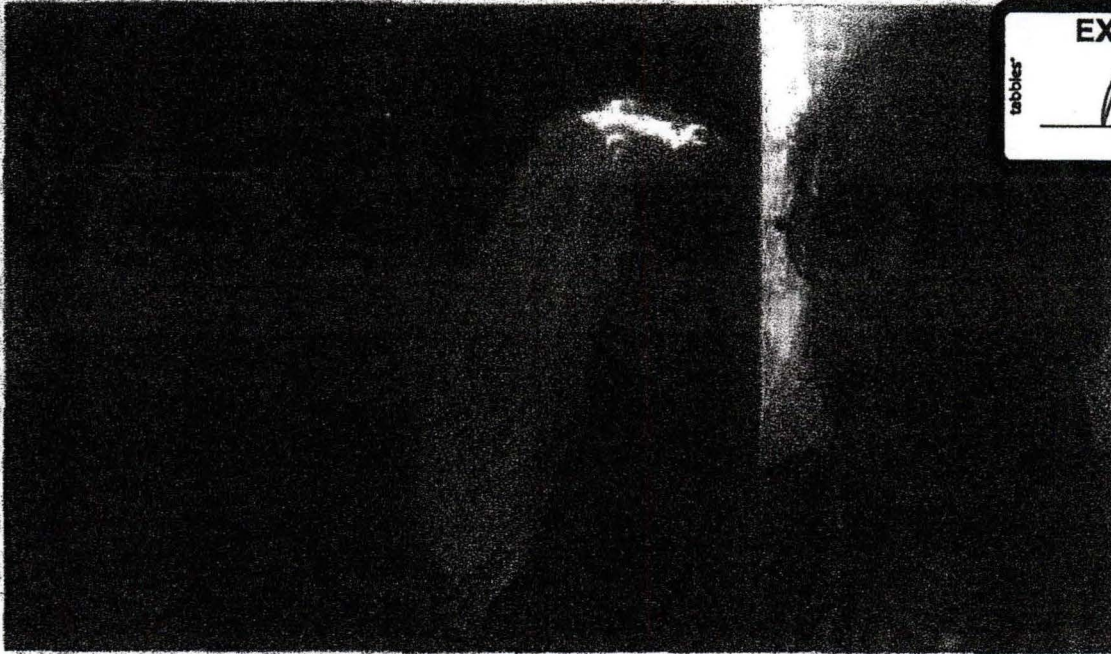
IV. Conclusion

Accordingly, the Complaint should be dismissed for insufficiency

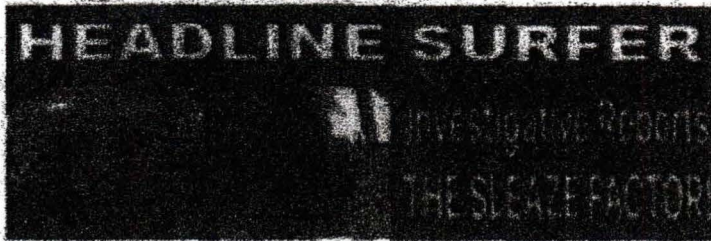
Dated this 9th day of March 2019.



F. A. (Alex) Ford, Jr., Esquire
Florida Bar No. 0381845
Landis Graham French, P.A.
Post Office Box 48
DeLand, FL 32721-0048
Tel: (386) 734-3451
Fax: (386) 736-1350
primary email: aford@landispa.com
secondary email: dharney@landispa.com
Attorney for Respondent, BEN F. JOHNSON



tabbles
EXHIBIT
A



Headline Surfer multimedia presentation / Shown above is John Casaburro, an ogre to his DeLand-area neighbors for years and an enigma over the years in insider politics is now a write-in candidate for countywide elected

office taking his cues from vitriolic Volusia Sheriff Mike Chitwood in trying to derail the former sheriff, Ben Johnson, considered an overwhelming favorite to outright win the Aug. 28 primary and succeed retiring At-Large County Councilwoman Joyce Cusack on the dais in DeLand. Not only is Chitwood threatened by the prospect of Johnson's return to elected office, but so too is first-term Councilwoman Heather Post, a former deputy, whose veracity is easily called into question as to the prior illicit use of cocaine as indicated in her personnel file.

By HENRY FREDERICK
Headline Surfer

DAYTONA BEACH, Fla. -- He was once suspected by a neighboring DeLand family of four of leaving a dripping used condom with blood on it on the welcoming mat of their front porch door as a perverse act of intimidation.

The wife and mom of two little kids discovered it upon returning from an errand -- snagging a pair of sterile gloves to pick it up before it could lead to disaster.

Several Volusia County Sheriff's deputies responded and one of them in turn put on a pair of sterile gloves to pick up the nasty find crumpled within the moms discarded and bunched-up gloves subsequently scooped into an evidence bag to be brought back to headquarters for storage.

One voter who attended a recent political event where Casaburro was distributing his phony sleaze piece reported that the candidate got downright ugly and intimidating when he was challenged to provide proof of the allegations. Naturally, Casaburro was unable to back up his allegations – for the very reason that they have no basis in fact. They aren't true, period.

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Certainly, plenty of people are hopping mad about Casaburro's gutter tactics.

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In a recent story published in the West Volusia Beacon profiling the at-large council race, Casaburro evidently told the bylined writer that this was his first time running for political office. That, as it turns out, also isn't true. But it's certainly understandable why Casaburro would want to run away from his past.

In 1989, while living in New York and running for Mayor of Yonkers, Casaburro made headlines in the New York city newspapers for highly inflammatory and degrading comments suggesting that most African-Americans had it good during this country's slavery era. "Ninety percent of all Blacks lived well and had it good" under slavery, Casaburro was quoted as saying.

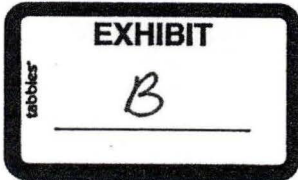
The article went on to report that Casaburro degraded the African-American culture by saying: "Most Blacks are encouraged not to marry a woman. They're encouraged to impregnate, not marry her because it's almost an irresponsibility to get married since welfare will take care of her."

Casaburro's racist remarks, outed by Johnson in an NAACP candidate forum ????????????????????

In 1994, the New York Times reported that following a failed Congressional bid in New York, Casaburro was arrested during a prostitution sweep in Manhattan after he struck up a conversation about oral sex and money with a woman who turned out to be an undercover officer.

When he was arrested, Casaburro was reported to be carrying a flier identifying himself as a candidate in the 18th Congressional District race. He was charged with patronizing a prostitute. Casaburro sued then-New York Mayor Rudy Giuliani and the City of New York over the arrest, seeking \$10 million in damages. It didn't take long for the suit to be thrown out.

EX-A-Pg. 2



VOLUSIA COUNTY SHERIFF'S OFFICE

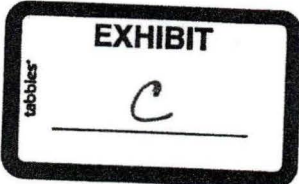
INCIDENT REPORT

Page 1 of 3 Pages

<input type="checkbox"/> Juvenile <input type="checkbox"/> Gang <input type="checkbox"/> Domestic Violence <input type="checkbox"/> Endangered / Other		<input type="checkbox"/> Hate Crime <input type="checkbox"/> Elderly Abuse / Exploitation VOR _____		Agency Report Number 090030503			
Agency ORI Number FL0640000		Zone # 25		Telephone Handled Call? (T.H.C.) 1. Yes 2. No 2			
Reported: Day Friday	Date 09-25-2009	Time (mil.) 1132	Time Dispatched (mil.) 1148	Time Arrived (mil.) 1342	Time Completed (mil.) 1412		
Nature of Call (Report Type) 42 Civil Complaint					Occurred During: D - Day U - Unknown N - Night D		
Incident Type: 1. Felony 2. Traffic Felony	3. Misdemeanor 4. Traffic Misdemeanor	5. Ordinance 9. Other	Incident: Day Friday	Date 09-25-2009	Time (mil.) 0930		
Offense #1 9	Type 9	Statute Violation Number 7777777777	Description INFORMATION ONLY		A - Attempted C - Committed		
Offense #2	Type	Statute Violation Number	Description		A - Attempted C - Committed		
Incident Location (Street, Apt. Number) 113 KENDRA AV		City DELAND		Zip 32724			
Business Name / Area Identifier		# Prem. Entered	Drug Related 0. N/A 1. Yes 2. No 2	Alcohol Related 0. N/A 1. Yes 2. No 2	Forced Entry 1. Yes 3. Attempted 2. No		
Arson-Inhabited 1. Occupied 3. Abandoned 2. Unoccupied		Arson-Attempted 1. Yes 2. No					
Location Type 01	Location Type Codes 01. Residence-Single 05. Convenience Store 09. Supermarket 13. Bank/Financial Inst. 17. Gov't/Public Bldg. 21. Airport 25. Parking Lot/Garage 29. Motor Vehicle 02. Apartment/Condo 06. Gas Station 10. Dept/Discount Store 14. Commercial/Office Bldg. 18. School/University 22. Bus/Rail Terminal 26. Highway/Roadway 30. Other Mobile 03. Residence/Other 07. Liquor Sales 11. Specialty Store 15. Industrial/Mfg. 19. Jail/Prison 23. Construction Site 27. Park/Woodlands/Field 88. Unknown 04. Hotel/Motel 08. Bar/Nightclub 12. Drug Store/Hospital 16. Storage 20. Religious Bldg. 24. Other Structure 28. Lake/Waterway 99. Other						
V/W Code V-Victim N-Next of Kin W-Witness O-Other R-Reporting Person	Victim/Subject Type 0. N/A 4. Business 1. Juvenile 5. Government 2. L.E. Officer 6. Church 3. Adult 9. Other	Address/Phone Type B. Business/Work M. Message P. Pager C. Cell N. Next of Kin S. School H. Home O. Other V. Vacation		Race W-White O-Oriental/Asian B-Black U-Unknown I-American Indian	Sex M-Male F-Female U-Unknown	Residence Type 0. NA 3. Florida 1. City 4. Out-of-State 2. County	Residence Status 0. N/A 1. Full Year 2. Par. Year 3. Non-Resident
Means of Attack F-Firearm O-Other Dangerous K-Knife/Cutting Inst. H-Hands, Fists, Feet, Etc.		Extent of Injury 00. N/A 03. Laceration 06. Poss. Internal Injury 09. Abrasions/Bruises 01. Gunshot 04. Unconscious 07. Loss of Teeth 10. No Visible Injury 02. Stabbed 05. Poss. Broken Bones 08. Burns 99. Other Serious Injury		Domestic Violence 1. Yes 2. No		Victim Relationship to Offender S-Spouse B-Sibling Z-Other P-Parent O-Other Family C-Child H-Co-Habitant	
Offense Indicator 1. #1 3. Both 2. #2	V/W Code 1 R	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident) 42 Civil Complaint		Name (Last/Business) (First) (Middle) SHEA RICHARD MATHEW	
Address (Street, Apt. Number) 113 KENDRA AVE.		City DELAND		State FL		Zip 32724	
Business/School/Other Address (Street, Apt. Number) TIRE KINGDOM		City DELAND		State FL		Zip 32724	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement NEIGHBOR OF O1					
If Victim Type 1, 2, or 3	Race W	Sex M	Date of Birth	Age 22	Ethnicity N	Res. Type 2	Res. Status 1
Means of Attack		Extent of Injury		Domestic Violence		Relationship	
Offense Indicator 1. #1 3. Both 2. #2	V/W Code 1 O	# 1	V. Type 3	Nature of Call (for Victim, if different from Incident) 42 Civil Complaint		Name (Last/Business) (First) (Middle) CASABURRO JOHN E	
Address (Street, Apt. Number) 111 KENDRA AVE.		City DELAND		State FL		Zip 32724	
Business/School/Other Address (Street, Apt. Number) RETIRED		City DELAND		State FL		Zip 32724	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement NEIGHBOR OF R1					
If Victim Type 1, 2, or 3	Race W	Sex M	Date of Birth	Age 57	Ethnicity N	Res. Type 1	Res. Status 1
Means of Attack		Extent of Injury		Domestic Violence		Relationship	
Offense Indicator 1. #1 3. Both 2. #2	V/W Code	#	V. Type	Nature of Call (for Victim, if different from Incident)		Name (Last/Business) (First) (Middle)	
Address (Street, Apt. Number)		City		State		Zip	
Business/School/Other Address (Street, Apt. Number)		City		State		Zip	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement					
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity	Res. Type	Res. Status
Means of Attack		Extent of Injury		Domestic Violence		Relationship	
Offense Indicator 1. #1 3. Both 2. #2	V/W Code	#	V. Type	Nature of Call (for Victim, if different from Incident)		Name (Last/Business) (First) (Middle)	
Address (Street, Apt. Number)		City		State		Zip	
Business/School/Other Address (Street, Apt. Number)		City		State		Zip	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement					
If Victim Type 1, 2, or 3	Race	Sex	Date of Birth	Age	Ethnicity	Res. Type	Res. Status
Means of Attack		Extent of Injury		Domestic Violence		Relationship	
Offense Indicator 1. #1 3. Both 2. #2	V/W Code	#	V. Type	Nature of Call (for Victim, if different from Incident)		Name (Last/Business) (First) (Middle)	
Address (Street, Apt. Number)		City		State		Zip	
Business/School/Other Address (Street, Apt. Number)		City		State		Zip	
Other Contact Info (Time Available, Interpreter, etc.)		Synopsis of Involvement					

INCIDENT REPORT (CONT.)

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2	Subject Code S-Suspect V-Victim D-Defendant (Missing Person)	Code	#	Subj. Type	Name (Last)	(First)	(Middle)	Race	Sex	Ethnicity		
	Date of Birth	Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name			
	Nickname / Street Name			Place of Birth - City		County	State	Employer/Other/School		Occupation			
	Last Known Address (Street, Apt. Number)				City	State	Zip	Address Type	Phone	Phone Type			
	Other Address (Street, Apt. Number)				City	State	Zip	Address Type	Phone	Phone Type			
	Driver's License State/Number			Social Security Number			Other ID Number			ID Type			
	Clothing (Describe)					Scars/Marks/Tattoos (Type/Describe)				Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity		Glasses			
	# Subject:	Demeanor	Mask	Weapon Type		If Arrested:	Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency				
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason		Personal Habits (Drugs / Alcohol)					
May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:					
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No		Photo Available? 1. Yes 2. No		Dental Record Available? 1. Yes 2. No	
I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.													
SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2	Subject Code S-Suspect V-Victim D-Defendant (Missing Person)	Code	#	Subj. Type	Name (Last)	(First)	(Middle)	Race	Sex	Ethnicity		
	Date of Birth	Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name			
	Nickname / Street Name			Place of Birth - City		County	State	Employer/Other/School		Occupation			
	Last Known Address (Street, Apt. Number)				City	State	Zip	Address Type	Phone	Phone Type			
	Other Address (Street, Apt. Number)				City	State	Zip	Address Type	Phone	Phone Type			
	Driver's License State/Number			Social Security Number			Other ID Number			ID Type			
	Clothing (Describe)					Scars/Marks/Tattoos (Type/Describe)				Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity		Glasses			
	# Subject:	Demeanor	Mask	Weapon Type		If Arrested:	Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency				
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason		Personal Habits (Drugs / Alcohol)					
May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:					
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No		Photo Available? 1. Yes 2. No		Dental Record Available? 1. Yes 2. No	
I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.													
NARRATIVE	1 On 09/25/2009, at approximately 1148 hours, Deputy Passerrello responded to a telephone handled call regarding a civil complaint. Deputy												
	2 Passerrello contacted Shea, John(R1), who reported that he observed his neighbor, Casaburro, John(O1), taking photographs of Shea's house												
	3 and cars.												
	4												
	5 Shea stated that Casaburro consistently makes complaints against Shea by calling the Sheriff's Office. Deputy Passerrello asked Shea how												
	6 often this happens. Shea stated that the last incident was "a couple weeks ago." Deputy Passerrello advised Shea that there is no crime in taking												
	7 photographs, but if Casaburro would come onto Shea's property without permission, Shea should call V.C.S.O. to dispatch a Deputy to trespass												
	8 Casaburro.												
	9												
	10 Deputy Passerrello was later advised to follow up on the incident. Deputy Passerrello responded to 113 Kendra Ave., where he met with Shea.												
Final Case Final Case													



VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

Page 1 of 4 Pages

Form containing incident details: Agency Report Number 090028523, Agency ORI Number FL0640000, Zone # 25, Telephone Handled 1. Yes, Call? (T.H.C.) 2. No. Reported: Tuesday 09-08-2009 0257, Time Arrived 0308, Time Completed 0331, Nature of Call Suspicious Incident. Incident Type: 2. Traffic Felony, 3. Misdemeanor, 4. Traffic Misdemeanor, 5. Ordinance Other. Incident: Monday 09-07-2009 2100 TO Tuesday 09-08-2009 0220. Occurred During: U - Unknown, N. Offense #1: 9, Statute Violation Number 7777777, Description Suspicious Incident. Incident Location: 113 Kendra Av, DELAND, FL 32725. Business Name / Area Identifier, # Prem. Entered, Drug Related, Alcohol Related, Forced Entry, Arson-Inhabited, Arson-Attempted. Location Type Codes, V/W Code, Victim/Subject Type, Address/Phone Type, Race, Sex, Residence Type, Residence Status, Means of Attack, Extent of Injury, Domestic Violence, Victim Relationship to Offender. Offense Indicator, V/W Code, #, V. Type, Nature of Call, Name (Last/Business), Address, City, State, Zip, Residence Phone, Business/School/Other Address, City, State, Zip, Address Type, Business/School/Other Phone, Phone Type, Other Contact Info, Synopsis of Involvement, If Victim Type, Race, Sex, Date of Birth, Age, Ethnicity, Res. Type, Res. Status, Means of Attack, Extent of Injury, Domestic Violence, Relationship.

INCIDENT REPORT (CONT.)

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2		Subject Code S-Suspect V-Victim D-Defendant (Missing Person)		Code #	Subj. Type	Name (Last) (First) (Middle)			Race	Sex	Ethnicity	
	Date of Birth		Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name		
	Nickname / Street Name				Place of Birth - City		County	State	Employer/Other/School		Occupation		
	Last Known Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Other Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Driver's License State/Number				Social Security Number			Other ID Number			ID Type		
	Clothing (Describe)						Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity		Glasses			
	If Subject:	Demeanor	Mask	Weapon Type			If Arrested:	Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency			
	IF MISSING	Date of Last Contact		Date of Emancipation		Caution	Caution Reason		Personal Habits (Drugs / Alcohol)				
May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:					
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No		Photo Available? 1. Yes 2. No		Dental Record Available? 1. Yes 2. No	
I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.													
Offense Indicator 1. #1 3. Both 2. #2		Subject Code S-Suspect V-Victim D-Defendant (Missing Person)		Code #	Subj. Type	Name (Last) (First) (Middle)			Race	Sex	Ethnicity		
Date of Birth		Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name			
Nickname / Street Name				Place of Birth - City		County	State	Employer/Other/School		Occupation			
Last Known Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type		
Other Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type		
Driver's License State/Number				Social Security Number			Other ID Number			ID Type			
Clothing (Describe)						Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)				
Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity		Glasses				
If Subject:	Demeanor	Mask	Weapon Type			If Arrested:	Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency				
IF MISSING	Date of Last Contact		Date of Emancipation		Caution	Caution Reason		Personal Habits (Drugs / Alcohol)					
	May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:				
	Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No		Photo Available? 1. Yes 2. No		Dental Record Available? 1. Yes 2. No
	I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.												
	NARRATIVE	<p>1 On 09-08-2009 at approximately 0302 hours Deputy King responded to 113 Kendra Av in Deland in reference to a suspicious incident. Upon</p> <p>2 arrival Deputy King contacted Shea, Amber R1 who advised the following. Shea returned home around 0220 on 09-08-2009 after taking her child</p> <p>3 to Deland Hospital. Shea found what appeared to be a bloody, used condom on her front porch. She used a pair of blue nitrile gloves to pick up</p> <p>4 said condom. Shea had no information as to why a condom would be on her doorstep and immediately checked on her two children who were</p> <p>5 both in good health. Shea said her husband has no information about this either. Shea told Deputy King several residents have had problems</p> <p>6 with Casaburro, John O1 at 111 Kendra Av, Deland. Shea said her husband suspects this condom was left by Casaburo. She provided a sworn</p> <p>7 statement.</p> <p>8</p> <p>9 Deputy King used a pair of latex gloves to secure the condom and both blue nitrile gloves into a brown paper evidence bag. Deputy King later</p> <p>10 secured the evidence into the VCSO Evidence System via the Evidence Refrigerator at District II.</p>											
		Final Case		Final Case									

VOLUSIA COUNTY SHERIFF'S OFFICE

NARRATIVE / SUPPLEMENT

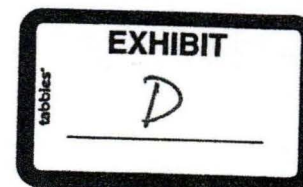
Report Date	Report Time	Orig. Reported Date	Nature of Call (for Incident)	Agency Report Number	1.Original	2.Supplement
09-08-2009	0257	09-08-2009	13A	090028523		1
<p>11</p> <p>12 As of this writing, there is no information linking the condom to a crime. This report is for documentation purposes in the event new information</p> <p>13 regarding this incident is developed in the future. A copy of this report was faxed VCSO Sex Crimes for their review.</p> <p>14</p> <p>15 The case status is: Closed.</p>						

NARRATIVE / CONTINUATION

VOLUSIA COUNTY SHERIFF'S OFFICE

PROPERTY REPORT

THEFT EVNT	Report Date	Report Time	Original Incident Date	Nature of Call (for Incident)	Agency Report Number	1. Original	2. Supplement	1			
	09-08-2009	0257	09-08-2009	13A	090028523						
THIEF EVNT	Type Theft	Type Theft Codes									
	00. N/A 01. Burglary	02. Robbery 03. Shoplifting	04. Pocket Picking 05. Purse Snatching	06. Embezzlement 07. From Coin Oper. Machine	08. From Public Access Bldg.	09. From Vehicle 10. Extortion	11. By Computer 12. Fraud	13. Bicycle 14. Motor Vehicle Parts	99. Other		
CODES	Person Code	N-Next of Kin O-Other R-Reporting Party	Person Involvement Code	Status Code:		Category					
	V-Victim S-Suspect D-Defendant W-Witness		1. Finder 2. Owner 3. Suspect 4. Other	1. Evidence 2. Damaged Prop. 3. Arson/Burned 4. Photo & Release	5. Lost 6. Recovered 7. Recovered (Outside Agency Recovered)	8. Found 9. Found/Contraband 10. Prisoner's Pers. Prop. 11. Stolen	12. Stolen And Recovered 13. Disposal 14. Prop. Of Deceased 15. Return to Owner	16. Vehicle Inventory Prop. 17. Baker Act 18. Seized/Confiscated 19. Abandoned			
DRUG CODES	Category Code	E-Equipment/Measuring Devices/Tools F-Furniture and Furnishings G-Games and Gambling Apparatus H-Household Appliance/Housewares	I-Items of Identification J-Special Docs/Food Stamps/Tickets K-Keepsakes and Collectibles L. Livestock	M. Musical Instrument O. Office Equipment P. Personal Accessories	R-Radio/TV/Sound Devices S-Sports/Camping/Rec. Equip. T-Toxic Chemicals	V.Viewing Equip (Binoculars) W.Well-drilling Equipment Y-All Other Items and Equipment (GUNS,DRUGS,JWLRY, Etc.)					
	Activity P. Possess S. Sell B. Buy T. Traffic R. Smuggle	D. Deliver E. Use K. Dispense/Distribute M. Manufacture/Produce/ Cultivate	Z. Other	Type A. Amphetamine B. Barbiturates C. Cocaine E. Heroin H. Hallucinogen	M. Marijuana O. Opium/Derivative P. Paraphernalia/ Equipment S. Synthetic	U. Unknown Z. Other	Unit 1. Gram 2. Milligram 3. Kilogram 4. Ounce 5. Pound	6. Ton 7. Liter 8. Milliliter 9. Dose Unit/Term 99. Other			
PROPERTY	Leave Blank:	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description		
	Serial Number	Owner Applied Number				Value Recovered:	Date Recovered:	Forfeiture Y / N:	F.W.T.C. (Y/N)	Value \$	
	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value \$
	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type		
PROPERTY	Leave Blank:	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description		
	Serial Number	Owner Applied Number				Value Recovered:	Date Recovered:	Forfeiture Y / N:	F.W.T.C. (Y/N)	Value \$	
	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value \$
	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type		
PROPERTY	Leave Blank:	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description		
	Serial Number	Owner Applied Number				Value Recovered:	Date Recovered:	Forfeiture Y / N:	F.W.T.C. (Y/N)	Value \$	
	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value \$
	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type		
PROPERTY	Leave Blank:	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description		
	Serial Number	Owner Applied Number				Value Recovered:	Date Recovered:	Forfeiture Y / N:	F.W.T.C. (Y/N)	Value \$	
	If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity	Unit	Estimated Street Value \$
	If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type		
CHAIN OF CUSTODY	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
	1	09-08-2009	0400	C.D. King		D2 Evidence Locker					
	Leave Blank:	Reason for Change:									
	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
	Leave Blank:	Reason for Change:									
	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
	Leave Blank:	Reason for Change:									
	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				
	Leave Blank:	Reason for Change:									
	Item #	Date:	Time:	Released by (Printed):	Released by (Signature):	Received by (Printed):	Received by (Signature):				



John Casaburro

Candidate for Volusia County Council, At Large.

111 Kendra Avenue
Deland, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July 4, 2018

In Re: An important message to voting members of the VCREC, and club presidents.

The following are very important reasons why the VCREC should not vote to endorse Ben Johnson at the special meeting scheduled to occur on July 10, 2018. Nor should Ben Johnson's name appear on any issued voter guides. If this man is endorsed there is no doubt that the Dem's will use this as an issue to attack him and the party.

- (1.) According to Sheriff Mike Chitwood, and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
- (2.) Florida Highway Patrol Lt. Kevin Vaughn (R.) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a televised broadcast that he has a drinking problem, and that while serving in the capacity of Sheriff he drove under the influence.
- (3.) Ben Johnson caused several federal law suits to be filed against himself, and the county due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK, and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas.

Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017 that Ben Johnson, as Sheriff, refused to investigate and clean up; Why?

Lastly, Ben Johnson will vote like a R.I.N.O., and appears to be ready, willing, and able to serve special interests.

John Casaburro, on the other hand, is a reliable conservative that has worked for the party over 20 years, as Vice Chair (received award), district coordinator (received award), local club volunteer (award), and campaign strategy chair.

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)

John Casaburro

Candidate for Volusia County Council, at Large

111 Kendra Avenue

DeLand, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July, 2018

The following are very important reasons why you should not vote for Ben Johnson.

1. According to Sheriff Mike Chitwood and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
2. Florida Highway Patrol Lt. Kevin Vaughn (R) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a television broadcast that he has a drinking problem, and while serving in the capacity of Sheriff, he drove under the influence.
3. Ben Johnson caused several federal law suits to be filed against himself, and the county, due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas. Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017, that Ben Johnson, as Sheriff, refused to investigate and clean up. Why?
4. Ben Johnson will vote like an aristocrat on the county council, and appears to be ready, willing, and able to serve special interests.
5. Ben Johnson is under investigation for corruption and sexual misconduct. He will eventually have to quit the race or leave office.

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)



Ben Johnson <benforcountycouncil@gmail.com>

Fwd: To REC voting members. Update concerning 2018 Volusia County Council at large race.

2 messages

Fred Costello <costello.fred@gmail.com>
To: benforcountycouncil@gmail.com

Wed, Jul 11, 2018 at 4:44 PM

I am SO VERY SORRY you have to put up with this nonsense!!!

As you likely recall, I had false allegations made against me (by my own daughter after we cut her off due to her drug issues) that were front page news. Fortunately, those who conspired with her (Jeff Boyle and those who supported him as he tried to become mayor of Ormond Beach) did not make sure she only accused me. She accused not only me of sexually abusing her, but she also accused Linda, her brother and an uncle. And fortunately she also said I abused my two granddaughters who were able to testify that no such nonsense had ever happened. But it was still a mess.

Obviously you will win the election and "everybody" will know the allegations are false. But you still have to go through it.

Holler if you ever want to commiserate and I'll fill you in on the back story of the accusations. Although it took the judge about 30 seconds to rule "not guilty" after a half day in court ... we still had to endure the accusations in open court.

Stay strong!
Good Luck my friend!

Fred Costello
1 Tomoka Cove Way
Ormond Beach, FL 32174
Dental Office: 386.673.1611
Cell: 386.451.1558

Begin forwarded message:

From: John Casaburro <johncasaburro@yahoo.com>
Date: July 11, 2018 at 2:33:16 PM EDT
To: John Casaburro <johncasaburro@yahoo.com>
Subject: To REC voting members. Update concerning 2018 Volusia County Council at large race.
Reply-To: John Casaburro <johncasaburro@yahoo.com>

Dear Friends:

Pleased bead advised about Tuesday night's REC vote for Volusia County Council at large. Reliable sources have advised that several area young women are hiring the law firm of Gloria Allred (the attorney for the 'me too' movement) to sue Ben Johnson for questionable activities during his term of office as sheriff under the federal civil rights code and for personal injury.

Allegedly Johnson, as sheriff, would have sex with young girls addicted to drugs in return for a "get out of jail free pass." Rather than directing or encouraging these girls to rehab; he would keep them in this pitiful downward cycle. Shame on him; this is sexual abuse!

The party name will be damaged by this for years and Johnson will have to quit the race.
Do everyone a favor and i
insist he step aside now so the party can endorse one of its own who is reliable and can win the seat.

Please vote for John Casaburro. John will be on the Marc Bernier show (WNDB) to discuss the issues on Thursday July 12, 2018 at 5:00 p.m. Please tune in.

7/21/2018

Gmail: To REC voting members. Update concerning 2018 a County Council at large race.

Regards,

John

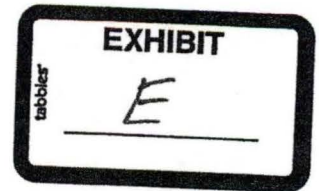
P.S. Pictures of Johnson will follow.

Ben Johnson <benforcountycouncil@gmail.com>
To: Ben Johnson <benfj1950@gmail.com>, Linda White <whitel@cfl.rr.com>

Wed, Jul 11, 2018 at 4:53 PM

[Quoted text hidden]

<https://law.justia.com/cases/federal/district-courts/FSupp/986/176/1459315/>



Casaburro v. Giuliani, 986 F. Supp. 176 (S.D.N.Y. 1997)

US District Court for the Southern District of New York - 986 F. Supp. 176
(S.D.N.Y. 1997)
September 29, 1997

986 F. Supp. 176 (1997)

John E. CASABURRO, Plaintiff,

v.

Mayor Rudolph GIULIANI; The City of New York; The NYC Police Dept./Officer (#
13318) Edward Steinmacher; The Command of the 10th Precinct NY; The Criminal
Court of the City of NY; And Midtown Community Court/Clerk D. Vasti, et al., and
other Defendants (Names Unknown), Defendants.

No. 95 Civ. 492(SAS).

United States District Court, S.D. New York.

September 29, 1997.

*177 John E. Casaburro, Deland, FL, for Plaintiff.

Michael Kennedy, Asst. Atty. Gen., New York City, Stephen Kitzinger, Asst. Corp.
Counsel, New York City, for Defendants.

OPINION AND ORDER

SCHEINDLIN, District Judge.

Pro se plaintiff John Casaburro ("Plaintiff") filed this action pursuant to 42 U.S.C. § 1983 seeking damages of \$10,000,000 for alleged violations of his civil rights at the time of his arrest. Plaintiff was arrested on October 12, 1994, for solicitation of a prostitute. He pled guilty to a lesser charge of disorderly conduct, for which he was sentenced to a single day of community service, attendance at a health education/prostitution class, and a fine of \$45. In addition, his truck and the tools contained therein were confiscated. On January 24, 1995, plaintiff initiated an action against the above-named defendants

alleging multiple violations of his constitutional rights. His Complaint was dismissed *sua sponte* (Griesa, Ch. J.) based on Plaintiff's guilty plea and subsequent conviction. Plaintiff appealed. On June 7, 1995, the Court of Appeals vacated the judgment and reinstated Plaintiff's Eighth Amendment claims.

The Complaint alleges that Plaintiff's constitutional rights were violated by the defendants' imposition of excessive punishment, cruel treatment, and excessive fines prohibited by the Eighth Amendment. See Complaint ("Compl.") at ¶ 4. Plaintiff argues (1) that his treatment by defendants constituted cruel and unusual punishment proscribed by the Eighth Amendment; and (2) that defendants' failure to return his truck and tools amounted to an excessive fine.

The named defendants have divided themselves into two groups according to their affiliation with the City or State of New York. Defendants identifying themselves as New York City defendants consist of Mayor Rudolph Giuliani, the City of New York, the New York City Police Department, Police Officer Edward Steinmacher and the Command of the 10th Precinct (the "City defendants"). The New York State defendants are composed of the Criminal Court of the City of New York, Midtown Community *178 Court and Court Clerk Don Vasti (the "State defendants"). Both groups of defendants move separately to dismiss the Complaint pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted. For the reasons stated below, the Complaint is dismissed as to the State defendants on 11th Amendment grounds. It is also dismissed against defendant Mayor Rudolph Giuliani for lack of personal involvement. The Complaint is not dismissed as to the remaining City defendants against whom Plaintiff has cognizable Eighth Amendment claims.

I. The Facts

Before the incident in issue, Plaintiff was a politician, house painter and contractor. See Compl. at ¶¶ 10, 11. On the night of October 12, 1994, Plaintiff drove his leased truck, in which he stored the equipment used in his house painting business, to 11th Avenue and 24th Street in Manhattan. *Id.* at ¶¶ 6, 10. There, he encountered a woman with whom he discussed "oral sex and money." *Id.* Plaintiff was subsequently "surrounded by police" and learned that the woman with whom he had been conversing was an undercover police officer. *Id.* at ¶ 6. Plaintiff was arrested for solicitation of a prostitute, his truck and tools were seized, and he was brought to the 10th Precinct. *Id.* at ¶¶ 7, 8, 10.

Plaintiff and six others were placed in a holding cage "that had no seats, no water, poor ventilation." *Id.* at ¶ 9. Plaintiff notified the arresting officers that he was under a chiropractor's care for back problems and complained that being tightly handcuffed behind his back was inhumane. *Id.* at ¶¶ 8, 9. He was then re-handcuffed to a hook

approximately 12 inches above the floor. *Id.* at ¶ 9. On complaining that this was worse, Plaintiff was cuffed to the front of the cell in a standing position. *Id.* He still complained that the handcuffs were too tight. *Id.* Plaintiff asserts that he was forced to stand upright, without sleep or water, tightly "handcuffed for over seven hours." *Id.*

The following morning, Plaintiff was transported to the Midtown Community Court, where he was kept waiting in a van for over half an hour with his hands cuffed behind his back. *Id.* at ¶ 13. Plaintiff reportedly begged Officer Steinmacher to loosen the cuffs, put them in front of Plaintiff or cuff him to the van. *Id.* Plaintiff informed Office Steinmacher of his back/neck condition. *Id.* Plaintiff also requested water which was denied until "the tail end of this ordeal," when Plaintiff was given some water by Steinmacher's partner. *Id.*

Plaintiff pled guilty to the lesser charge of disorderly conduct. *Id.* at ¶ 14. Plaintiff was sentenced to one day of community service, attendance at a health education/prostitution class, and a fine of \$45. *Id.* Plaintiff's attempts to retrieve the truck he leased were impeded by the "threat of an additional fine of \$1,200 to \$2,400," presumably to be paid prior to the release of the truck. *Id.* at ¶¶ 14, 16. Plaintiff concedes that the truck was eventually returned to its owner, the Ford Motor Company. See Plaintiff's Reply to New York City Motion to Dismiss at ¶ 5. Plaintiff asserts further that he was held a second time by Clerk Vasti, who refused to acknowledge Plaintiff's completion of his community service obligation until he received computer confirmation. Compl. at ¶ 18.

II. Discussion

A. Legal Standard Applicable to a Motion to Dismiss

A motion to dismiss must be decided based on the allegations contained on the face of the complaint. *Kramer v. Time Warner, Inc.*, 937 F.2d 767, 773 (2d Cir. 1991). However, the complaint must be construed liberally where the plaintiff is proceeding pro se. *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S. Ct. 594, 595-96, 30 L. Ed. 2d 652 (1972) (*per curiam*). In deciding such a motion, a district court must accept as true all of plaintiff's factual allegations, *Papasan v. Allain*, 478 U.S. 265, 283, 106 S. Ct. 2932, 2943, 92 L. Ed. 2d 209 (1986), and the allegations must be "construed favorably to the plaintiff." *LaBounty v. Adler*, 933 F.2d 121, 123 (2d Cir.1991). Such a motion cannot be granted simply because recovery appears remote or *179 unlikely; "the issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims." *Scheuer v. Rhodes*, 416 U.S. 232, 236, 94 S. Ct. 1683, 1686, 40 L. Ed. 2d 90 (1974). Rather, dismissal is warranted "only if it is clear that no

relief could be granted under any set of facts that could be proved consistent with the allegations." *Hishon v. King & Spalding*, 467 U.S. 69, 73, 104 S. Ct. 2229, 2232, 81 L. Ed. 2d 59 (1984) (citing *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S. Ct. 99, 101-02, 2 L. Ed. 2d 80 (1957)). Furthermore, a motion to dismiss "need not be granted in part nor denied in toto but may be granted as to part of the complaint and denied as to the remainder." *Decker v. Massey-Ferguson, Ltd.*, 681 F.2d 111, 115 (2d Cir.1982). "This standard is applied with even greater force where the plaintiff alleges civil rights violations...." *Hernandez v. Coughlin*, 18 F.3d 133, 136 (2d Cir.1994).

B. Section 1983

Section 1983 provides a civil action for the deprivation of constitutional rights by stating:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. ...

42 U.S.C. § 1983. "To state a valid claim under § 1983, a plaintiff must allege (1) that the challenged conduct was attributable at least in part to a person acting under color of state law, and (2) that such conduct deprived the plaintiff of a right, privilege, or immunity secured by the Constitution or laws of the United States."¹⁰ *Morris v. Dann*, 95 Civ. 975, 1996 WL 732559 at *3 (N.D.N.Y. Dec. 11, 1996) (quoting *Eagleston v. Guido*, 41 F.3d 865, 876 (2d Cir.1994) (internal quotation omitted)).

C. The Eighth Amendment

The Eighth Amendment to the United States Constitution provides that "[e]xcessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. Amend. VIII. Here, Plaintiff invokes the Cruel and Unusual Punishments Clause (for the way he was treated handcuffed, denied water) and the Excessive Fines Clause (for the forfeiture of his truck and tools).

1. Cruel and Unusual Punishments

As a preliminary matter, it must be noted that Plaintiff relied upon the wrong constitutional provision in seeking redress for his claim of inhumane treatment. As the Supreme Court noted:

Eighth Amendment scrutiny is appropriate only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions....

[T]he State does not acquire the power to punish with which the Eighth Amendment is concerned until after it has secured a formal adjudication of guilt in accordance with due process of law. *Where the State seeks to impose punishment without such an adjudication, the pertinent constitutional guarantee is the Due Process Clause of the Fourteenth Amendment.*

Ingraham v. Wright, 430 U.S. 651, 671 n. 40, 97 S. Ct. 1401 n. 40, 1412, 51 L. Ed. 2d 711 (1977) (emphasis added); see also *Whitley v. Albers*, 475 U.S. 312, 318, 106 S. Ct. 1078, 1083-84 (1986); *Bell v. Wolfish*, 441 U.S. 520, 535 n. 16, 99 S. Ct. 1861, 1872 n. 16, 60 L. Ed. 2d 447 (1979).^[2]

"Notwithstanding its prior holdings, the Supreme Court has recognized that conduct imposed on a non-convicted person *180 may warrant Eighth Amendment scrutiny if such conduct constitutes `punishment.'" *Mann v. Meachem*, 929 F. Supp. 622, 633 (N.D.N.Y.1996) (citing *Bell*, 441 U.S. at 538, 99 S.Ct. at 1873-74). The question thus arises whether the conduct that Plaintiff was subjected to can be considered punishment. The Supreme Court has developed the following two-pronged test in determining if conduct is punishment: (1) was there a legitimate purpose for engaging in the conduct complained of; and (2) was the conduct excessive in relation to the legitimate purpose. *Bell*, 441 U.S. at 538, 99 S. Ct. at 1873-74. Within the context of pretrial detention, the Supreme Court has noted:

Restraints that are reasonably related to the institution's interest in maintaining jail security do not, without more, constitute unconstitutional punishment even if they are discomforting.... It is enough simply to recognize that in addition to ensuring the detainee's presence at trial, the effective management of the detention facility once the individual is confined is a valid objective that may justify imposition of conditions and restrictions of pretrial detention and dispel any inference that such restrictions are intended as punishment.

Id. at 540, 99 S. Ct. at 1875. The Court then cautioned courts to defer to the expert judgment of corrections officials "unless the officials have exaggerated their response to these considerations." *Id.* (quoting *Pell v. Procunier*, 417 U.S. 817, 827, 94 S. Ct. 2800, 2806-07, 41 L. Ed. 2d 495 (1974)). That is precisely what may have occurred here. Plaintiff alleges that he was handcuffed for over seven hours *while inside a holding cell*. Although there may be a legitimate reason for doing so, it is not apparent at this stage of the litigation. As there is a fact question surrounding the conduct in issue, it

will be deemed punishment for purposes of Eighth Amendment analysis and this motion to dismiss.

In determining whether an Eighth Amendment violation has occurred, the Supreme Court applies a two-prong test consisting of an objective component and a subjective component. *Farmer v. Brennan*, 511 U.S. 825, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994). First, the plaintiff must demonstrate that the conditions of his confinement resulted "in unquestioned and serious deprivations of basic human needs." *Jolly v. Coughlin*, 76 F.3d 468 (2d Cir.1996) (quoting *Anderson v. Coughlin*, 757 F.2d 33, 35 (2d Cir.1985)). See also *Farmer*, 511 U.S. at 834, 114 S. Ct. at 1977 (prison official's acts must deprive inmate of the "the minimal civilized measure of life's necessities") (quoting *Rhodes v. Chapman*, 452 U.S. 337, 347, 101 S. Ct. 2392, 2399-2400, 69 L. Ed. 2d 59 (1981)). Second, the plaintiff must demonstrate that the defendants imposed those conditions with "deliberate indifference." *Id.* (citing *Wilson v. Seiter*, 501 U.S. 294, 297, 111 S. Ct. 2321, 2323, 115 L. Ed. 2d 271 (1991)). See also *Farmer*, 511 U.S. at 834, 114 S. Ct. at 1977 (prison official must have a "sufficiently culpable state of mind") (quoting *Wilson*, 501 U.S. at 297, 111 S.Ct. at 2323).

Regarding the subjective component, where prison officials stand accused of using excessive physical force, the Supreme Court has held that the "core judicial inquiry is ... whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Hudson v. McMillian*, 503 U.S. 1, 7, 112 S. Ct. 995, 999, 117 L. Ed. 2d 156 (1992) (citing *Whitley v. Albers*, 475 U.S. 312, 320-21, 106 S. Ct. 1078, 1084-85, 89 L. Ed. 2d 251 (1986)). As the *Hudson* Court stated:

In determining whether the use of force was wanton and unnecessary, it may also be proper to evaluate the need for application of force, the relationship between that need and the amount of force used, the threat "reasonably perceived by the responsible officials," and "any efforts made to temper the severity of a forceful response."

Hudson, 503 U.S. at 7, 112 S. Ct. at 999 (quoting *Whitley*, 475 U.S. at 321, 106 S.Ct. at 1085), Where wantonness is established, a plaintiff may recover even though he did not suffer serious injury. *Id.* at 9, 112 S. Ct. at 1000 ("When prison officials maliciously and sadistically use force to cause harm, contemporary standards of decency are always violated.").

Here, Plaintiff has alleged a cognizable claim against the City defendants under the *181 Eighth Amendment.^[3] As stated earlier, the need to handcuff Plaintiff while he was in a holding cell is not yet apparent, much less the need to handcuff him tightly for over seven hours. The Second Circuit has recognized Eighth Amendment claims in the context of tight handcuffs. See, e.g., *Davidson v. Flynn*, 32 F.3d 27 (2d Cir.1994) (claim not based on use of handcuffs but on their "deliberate and improperly motivated application so tightly as to injure"); *Reid v. Coughlin*, No. 86 Civ. 1351, 1994 WL 23152 at * 4 (S.D.N.Y. Jan. 26, 1994) (officers' actions in causing handcuffs to become painfully tight, for the sole purpose of causing plaintiff harm, would not amount to a *de*

minimis use of force but would be actionable under *Hudson*). Accordingly, Plaintiff may maintain his claim of cruel and unusual punishment against the City defendants.

2. Excessive Fine

Plaintiff alleges that he faced a fine of 10% to 20% of the truck's value, amounting to \$1,200 to \$2,400, before he could retrieve his truck and tools or risk forfeiture thereof.¹⁴ The monetary payment aspect can be analyzed as a traditional fine as can the related forfeiture which represents an *in personam* criminal forfeiture that is "clearly a form of monetary punishment no different, for Eighth Amendment purposes, from a traditional 'fine'."¹⁵ *Alexander v. United States*, 509 U.S. 544, 558, 113 S. Ct. 2766, 2775, 125 L. Ed. 2d 441 (1993). Both can be analyzed under the Excessive Fines Clause which "limits the government's power to extract payments, whether in cash or in kind, 'as punishment for some offense.'" *Austin*, 509 U.S. at 609-10, 113 S. Ct. at 2805 (1993) (quoting *Browning-Ferris Industries of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 265, 109 S. Ct. 2909, 2915, 106 L. Ed. 2d 219 (1989)).

With respect to punishments other than *in rem* civil forfeitures, the Supreme Court has indicated that "a monetary penalty will be considered excessive within the meaning of the Eighth Amendment when there is a lack of proportion between the gravity of the offense and the harshness of the penalty." *United States v. Milbrand*, 58 F.3d 841, 845 (2d Cir.1995) (citing *Alexander*, 509 U.S. at 558-59, 113 S.Ct. at 2775-76). Whether a forfeiture is "grossly disproportionate" and thus violates the Eighth Amendment is a fact-bound issue that must be analyzed on a case-by-case basis. *United States v. Alexander*, 32 F.3d 1231, 1236-37 (8th Cir.1994). Two relevant factors include the extent of the criminal activity and the quantum of property forfeited. *Id.* at 1236. Other factors include: the seriousness of the offense, an assessment of the personal benefit reaped by the defendant, the defendant's motive and culpability, and the "extent that the defendant's interest and the enterprise itself are tainted by criminal conduct." *Id.* at 1236-37 (quoting *United States v. Sarbello*, 985 F.2d 716, 724 (3d Cir.1993)). See also *United States v. Bieri*, 68 F.3d 232, 236 (8th Cir. 1995) (district court must consider multiple factors including "the extent and duration of the criminal conduct, the gravity of the offense weighed against the severity of the criminal sanction, and the value of the property forfeited").

Here, the minimum fine faced by Plaintiff was 10% of the truck's value (\$1,200). Even this minimum fine can be seen as grossly disproportionate to a charge of disorderly *182 conduct for which Plaintiff was fined a mere \$45. However, the question of excessiveness "requires factual analysis, so that a mere allegation of excessiveness suffices to survive a 12(b) (6) motion." *Grove v. Kadlic*, 968 F. Supp. 510, 516 (D.Nev.1997) (citing *United States v. One 1978 Piper Cherokee Aircraft*, 91 F.3d 1204, 1210 (9th Cir.1996)). Accordingly, Plaintiff may maintain his excessive fine claim against the City defendants.

D. The Eleventh Amendment

The Eleventh Amendment provides:

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or subjects of any Foreign State.

U.S. Const. Amend. XI.⁽⁶⁾ Hence, a "state, its agencies and state officials sued in their official capacities are all immune from suit in federal court brought by a citizen of that state ..." *Richards v. State of New York*, 597 F. Supp. 692 (E.D.N.Y.1984) (citing, *inter alia*, *Alabama v. Pugh*, 438 U.S. 781, 98 S. Ct. 3057, 57 L. Ed. 2d 1114 (1978)), *aff'd*, 767 F.2d 908 (2d Cir.1985). Section 1983 was not intended to override a state's Eleventh Amendment immunity. *Quern v. Jordan*, 440 U.S. 332, 343, 99 S. Ct. 1139, 1146, 59 L. Ed. 2d 358 (1979). Moreover, there is no subject matter jurisdiction over Plaintiff's claims for monetary relief against the State defendants as the Supreme Court has stated that "neither a State nor its officials acting in their official capacities are 'persons' under § 1983." *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71, 109 S. Ct. 2304, 2312, 105 L. Ed. 2d 45 (1989).

Here, the Criminal Court of the City of New York and the Midtown Community Court are state agencies. *Zuckerman v. Appellate Division, Second Dep't*, 421 F.2d 625, 626 (2d Cir.1970) (courts are "the judicial arm of the State of New York"). Accordingly, they are immune from Plaintiff's action for money damages. *Mathis v. Clerk of the First Dep't, Appellate Division*, 631 F. Supp. 232, 235 (S.D.N.Y.1986) ("a state court is not amenable to suit under 42 U.S.C. § 1983 ... on the grounds that it is immune from suit by virtue of the Eleventh Amendment ..."). Defendant Vasti is being sued in his official capacity as County Clerk for the Midtown Community Court. Official capacity suits "generally represent only another way of pleading an action against an entity of which an officer is an agent." *Kentucky v. Graham*, 473 U.S. 159, 165, 105 S. Ct. 3099, 3104-05, 87 L. Ed. 2d 114 (1985) (quoting *Monell v. New York City Dep't of Social Servs.*, 436 U.S. 658, 690, 98 S. Ct. 2018, 2035, 56 L. Ed. 2d 611 (1978)). Moreover, the "immunities available to the defendant in an official-capacity action are those that the governmental entity possesses." *Hafer v. Melo*, 502 U.S. 21, 25, 112 S. Ct. 358, 361-62, 116 L. Ed. 2d 301 (1991). Accordingly, Plaintiff's complaint against defendant Vasti is also barred on Eleventh Amendment grounds.

E. Lack of Personal Involvement

It is well settled in this Circuit that in a Section 1983 action a plaintiff must allege direct and personal involvement on the part of a defendant in the alleged constitutional deprivation. *Moffitt v. Town of Brookfield*, 950 F.2d 880, 886 (2d Cir.1991); *McKinnon v. Patterson*, 568 F.2d 930, 934 (2d Cir.1977) (citations omitted). As the doctrine of *respondeat superior* does not apply in Section 1983 actions, a showing of defendant's personal responsibility is required. *Wright v. Smith*, 21 F.3d 496, 501 (2d Cir. 1994) (citing *Johnson v. Glick*, 481 F.2d 1028, 1034 (2d Cir.1973)). Moreover, "[f]ailure to set forth facts pertaining to such personal involvement results in a 'fatally defective' complaint." *Murphy v. Neuberger*, No. 94 Civ. 7421, 1996 WL 442797, at * 3 (S.D.N.Y. Aug.6, 1996) (citing *Alfaro Motors, Inc. v. Ward*, 814 F.2d 883, 886 (2d Cir.1987)).

Plaintiff's only allegations relating to defendant Mayor Giuliani consist of a complaint to a Legal Aid attorney that "this administration *183 (Mayor Giuliani's) has gone too far with entrapments, excessive fines ..., excessive punishment ..." Compl. ¶ 14. Because Plaintiff fails to allege any personal involvement on the part of this defendant, his claims against Mayor Giuliani are dismissed.

III. Conclusion

For the reasons stated above, Plaintiff's claims against the State defendants and defendant Mayor Giuliani are dismissed. Plaintiff's claims against the remaining City defendants survive. Plaintiff shall amend his complaint within 30 days of receipt of this Opinion. A conference has been scheduled for November 7, 1997.

So Ordered.

NOTES

[1] Because the Court of Appeals has explicitly directed that only Plaintiff's Eighth Amendment claims be considered, the second prong of § 1983 will be limited to violations of the Eighth Amendment.

[2] Given Plaintiff's *pro se* status, he will be granted leave to amend his complaint in order to add a claim under the Due Process Clause. However, for purposes of this motion to dismiss, Plaintiff's claims will be analyzed under the Eighth Amendment.

[3] From this point on, the "City defendants" shall not include defendant Mayor Giuliani who is dismissed from this action. See discussion *infra* at pp. 182-183.

[4] No one has identified the statutory basis underlying this fine/forfeiture scheme.

[5] "An *in personam* criminal forfeiture is an action against the person as distinguished from an *in rem* forfeiture which is an action against the property itself." *United States v.*

Wild, 47 F.3d 669, 674 (4th Cir.1995). The "defendant in a criminal forfeiture proceeding is the person, and the defendant in a civil forfeiture proceeding is the particular property." *United States v. \$814,254.76 in U.S. Currency*, 51 F.3d 207 (9th Cir. 1995). The "theory of in rem forfeiture is said to be that the lawful property has committed an offense." *Austin v. United States*, 509 U.S. 602, 624, 113 S. Ct. 2801, 2813, 125 L. Ed. 2d 488 (1993) (Scalia J., concurring). The forfeiture in issue here is clearly an *in personam* criminal forfeiture as the Supreme Court has noted: "There is nothing even remotely criminal in possessing an automobile." *One 1958 Plymouth Sedan v. Pennsylvania*, 380 U.S. 693, 699, 85 S. Ct. 1246, 1250, 14 L. Ed. 2d 170 (1965).

[6] While the Eleventh Amendment does not expressly bar suits against a state by its own citizens, the Supreme Court has consistently held that "an unconsenting State is immune from suits brought in federal courts by her own citizens as well as by citizens of another state." *Edelman v. Jordan*, 415 U.S. 651, 662-63, 94 S. Ct. 1347, 1355-56, 39 L. Ed. 2d 662 (1974).



Re: FEC Case no. 19-105 
Florida Elections Commission to: Alex Ford
Sent by: Donna Malphurs

03/05/2019 12:03 PM

From: Florida Elections Commission/OAG
To: "Alex Ford" <aford@landispa.com>

Thank you. I returned your call and left a message with Diane. Please return my call at your convenience.

Sincerely,

Donna Ann Malphurs
Agency Clerk
850-922-4539 x 103

"Alex Ford"

To whom it may concern: I represent Ben F. Joh...

03/05/2019 11:56:44 AM

From: "Alex Ford" <aford@landispa.com>
To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>
Cc: "Diane Harney" <dharney@landispa.com>
Date: 03/05/2019 11:56 AM
Subject: FEC Case no. 19-105

To whom it may concern:

I represent Ben F. Johnson, the respondent in the above referenced matter. I will be filing a notice of appearance in this matter, and I also have a few questions regarding procedural issues. I have placed a call to Erin Riley, but if she is not the proper person to answer procedural questions I would appreciate you having the proper person call.

In the meantime, since the Complaint refers by reference to the Complainant's civil complaint filed in the Circuit Court here in Volusia County, I have taken the liberty of attaching Mr. Johnson's Answer and Affirmative Defenses to that civil complaint, as well as his co-defendant's Answer.

Also, I have attached a copy of Mr. Johnson's Request for Admissions. The Complainant has not yet responded to the Request for Admissions, but please note that it has several attachments consisting of items of public record (police reports) as well as some newspaper articles. I understand these items provide the basis for the unflattering statements made about the Complainant in the online news source "Headline Surfer" which are the subject of this Complaint.

Thank you for your consideration.

F. A. (Alex) Ford, Jr.
Landis Graham French, P.A.
145 E. Rich Avenue, Suite C
DeLand, FL 32724
(386) 734 3451

[attachment "2019.02.13 Defendant Johnson Answer and Affirmative Defenses.pdf" deleted by Donna Malphurs/OAG] [attachment "2019.02.26 Answer (Frederick).pdf" deleted by Donna Malphurs/OAG]
[attachment "2019.02.26 Request for Admissions.pdf" deleted by Donna Malphurs/OAG]



FEC Case no. 19-105

Alex Ford

to:

fec@myfloridalegal.com

03/05/2019 11:56 AM

Cc:

"Diane Harney"

Hide Details

From: "Alex Ford" <aford@landispa.com>

To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>

Cc: "Diane Harney" <dharney@landispa.com>

3 Attachments



2019.02.13 Defendant Johnson Answer and Affirmative Defenses.pdf 2019.02.26 Answer (Frederick).pdf 2019.02.26 Request for Admissions.pdf

To whom it may concern:

I represent Ben F. Johnson, the respondent in the above referenced matter. I will be filing a notice of appearance in this matter, and I also have a few questions regarding procedural issues. I have placed a call to Erin Riley, but if she is not the proper person to answer procedural questions I would appreciate you having the proper person call.

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Thank you for your consideration.

F. A. (Alex) Ford, Jr.
Landis Graham French, P.A.
145 E. Rich Avenue, Suite C
DeLand, FL 32724
(386) 734 3451

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR VOLUSIA
COUNTY, FLORIDA

JOHN E. CASABURRO

Plaintiff,
vs.

CASE NO: 2019-10091-CIDL
DIVISION: 01

HENRY FREDERICK
AKA HEADLINE SURFER (D.B.A),
AND BEN F. JOHNSON,

Defendants.

DEFENDANT, JOHNSON'S ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW, Defendant, BEN F. JOHNSON (hereinafter "JOHNSON"), by and through his undersigned counsel and replies the Complaint herein as follows:

ANSWER

- I. Admitted for jurisdictional purposes only.
- II. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.
- III. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.
- IV. Admitted.
- V. Admitted that venue is in Volusia County and that JOHNSON resides in Volusia County; denied as to the remainder of the paragraph.
- VI. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.
- VII. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.

VIII. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.

IX. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.

X. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.

XI. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.

XII.

- a. This allegation appears to be nothing more than an improper attempt by Plaintiff to recite a purported rule of law rather than a statement of fact. Accordingly, and because this allegation is nonsensical, Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.
- b. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.
- c. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.
- d. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.

- e. Defendant admits that, while a candidate for political office, his campaign purchased advertising from Defendant, FREDERICK's on-line news publication known as "Headline Surfer." Otherwise, Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.
- f. Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.
- g. Denied.
- h. Denied.
- i. Denied.

XIII. Admitted.

XIV. Admitted that Defendant, FREDERICK and/or Defendant, Headline Surfer, reported that in the recent political campaigns Plaintiff distributed the false "information" about Defendant and engaged in tactics alluded to in Exhibit A. Defendant is otherwise without sufficient information upon which to admit or deny the allegations in this paragraph; therefore, Defendant denies and demands strict proof thereof.

XV. Plaintiff apparently failed to serve Defendant with a complete copy of the Complaint. The copy served on Defendant cuts off in mid-sentence at the end of page 2 and picks up again at the Plaintiff's signature page. Accordingly, Defendant is without sufficient information upon which to admit or deny the allegations in this paragraph and all subsequent allegations in the Complaint, if any; therefore, Defendant denies and demands strict proof thereof.

XVI. Denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. As his first Affirmative Defense the Defendant asserts a failure to State a Cause of Action, as the Plaintiff has failed to sufficiently plead a basis upon which relief can be granted.

Second Affirmative Defense

2. As his Second Affirmative Defense, the Defendant states that the Plaintiff has failed to comply with the pleading requirements of the Florida Rules of Civil Procedure.

3. Under Fla. R. Civ. P. 1.110(b) "a complaint is required to contain a short and plain statement of ground upon which the court's jurisdiction depends, and must also contain a short and plain statement of ultimate facts showing that the pleader is entitled to relief. See *Dewitt v. Rossi*, 559 So. 2d 659 (Fla. 5th DCA 1990).

4. Fla. R. Civ. P. 1.110(f) provides as follows:

Separate Statements. All averments of claim or defense shall be made in consecutively numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all subsequent pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense when a separation facilitates the clear presentation of the matter set forth.

5. Any party may move for dismissal based upon a party's failure to comply with the Rules. See Fla. R. Civ. P. 1.420(b).

6. The misjoinder of two causes of action under one cause of action is insufficient to state a cause of action. See *Karnegis v. Lazzo*, 243 So. 2d 642 (Fla. 3d DCA 1971) (ruling that the lower court improperly denied a motion to dismiss where two separate causes of action were joined as one); see also *Mountein v. King*, 75 Fla. 12 (Fla. 1918) (holding two or

more causes of action cannot be joined in one count of the complaint); see also *Williams v. Ricou*, 143 Fla. 360 (Fla. 1940) (finding "one cannot join together unrelated causes of action which are separate and distinct in themselves.").

7. In the instant action, the Complaint is purportedly for Libel, Slander, Defamation, and Breach of Contract, and contains many disjointed statements that are nonsensical and nearly impossible for the Defendant to answer. The one count complaint seems to attempt to, although not clear; make claims for breach of contract, defamation, slander and libel. Florida pleading requirements are clear that separate causes of action must be designated as such. The Complaint is disjointed and fails to clearly and concisely set forth averments of each claim as required by Florida Rules of Civil Procedure. To add to the confusion, the Complaint pleads independent legal conclusions regarding the Defendants' behavior that are completely independent and separate from factual allegations contained within the Complaint. Accordingly, the Complaint must be dismissed as a matter of law for failing to comply with pleadings requirements.

Third Affirmative Defense

8. As his Third Affirmative Defense, the Defendant alleges Unclean Hands. By information and belief, Plaintiff has solicited JOHNSON's co-Defendant(s), HENRY FREDERICK, AKA HEADLINE SURFER (D.B.A.), (hereinafter "FREDERICK" and "SURFER," respectively), to perjure themselves, offering to dismiss the Complaint with against them if they would offer false evidence against JOHNSON.

Fourth Affirmative Defense

9. As his Fourth Affirmative Defense, Defendant alleges that all statements made by Defendants FREDERICK and SURFER as referred to in the Complaint were true.

Fifth Affirmative Defense

10. As his Fifth Affirmative Defense, the Defendant, JOHNSON, states that at all pertinent times Plaintiff was a candidate for public office; his actions, credibility and character were matters of great public concern or importance; and all purportedly defamatory statements alleged by the Plaintiff to have been made by Defendants, FREDERICK and SURFER, are true and/or republished in good faith from a reliable source and were privileged and protected.

Sixth Affirmative Defense

11. As his Sixth Affirmative Defense, Defendant, JOHNSON, alleges that at all pertinent times Plaintiff was a candidate for public office and his actions, credibility and character were public issues, and the discussion of them was protected by the First Amendment to the United States Constitution and S.5, Art. I of the Constitution of the State of Florida.

12. Further, the alleged defamatory statements were made in connection with an internet news article.

13. The protected statements made by Defendants, FREDERICK and SURFER, are the primary reason for this action.

14. As provided in F.S. §768.295, this action is inconsistent with the right of the Defendants to exercise their right of free speech in connection with a public issue and, therefore, without merit.

15. Defendant is entitled to an award of attorney's fees pursuant to F.S. §768.295(4).

16. Defendant, JOHNSON, has employed the law firm of Landis Graham French, P.A. to defend him in this action and is obligated to pay the said firm for its services.

Seventh Affirmative Defense

17. As his Seventh Affirmative Defense, the Defendant states that Plaintiff has failed to comply with all conditions precedent to this action.

WHEREFORE, Defendant, JOHNSON, prays this Court to dismiss this case, with prejudice, and award his attorney's fees and costs including, without limitation, pursuant to F.S. §57.105 and F.S. §768.295(4).

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by U.S. Mail to JOHN CASABURRO, Plaintiff, at 111 Kendra Ave., DeLand, FL 32724, this 13th day of February, 2019.



F. A. (Alex) Ford, Jr., Esquire
Florida Bar No. 0381845
Kathrine E. Conroy, Esquire
Florida Bar No. 0115939
Landis Graham French, P.A.
Post Office Box 48
DeLand, FL 32721-0048
Tel: (386) 734-3451
Fax: (386) 736-1350
primary email: aford@landispa.com
primary email: kconroy@landispa.com
secondary email: dharney@landispa.com
Attorneys for Defendant, BEN F. JOHNSON

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NO: 2019-10091-CIDL DIVISION: 01

JOHN E. CASABURRO, Plaintiff

Vs

HENRY FREDERICK AKA HEADLINE SURFER (D.B.A), AND BEN F. JOHNSON, Defendants.

DEFENDANT, FREDERICK'S ANSWER AND AFFIRMATIVE DEFENSES COMES NOW, Defendant, HENRY FREDERICK (hereinafter "Frederick"), by and through his pro se representation replies to the Complaint herein as follows:

ANSWER

I. Acknowledged.

II. Acknowledged.

III. I, Henry Frederick, legally reside at 500 Airport Blvd. West, Unit 1307, Sanford FL 32773. My phone number 386-689-2830. The plaintiff was informed in a telephone call that the Dorchester address in Lake Mary is that of a family member who my wife and I stayed with for a few weeks after our previous apartment lease expired and we were waiting to move to our current address. Plaintiff continues sending legal mail to the Lake Mary address knowing full well it is upsetting to our family and he has NOT sent legal mail to my legal address.

IV. Acknowledged.

V. Defendant Acknowledges first part of Plaintiff's claim: "Venue is in Volusia County where Plaintiff and Johnson live." But defendant vehemently reject and disputes plaintiff's latter claim: "and where Johnson paid Frederick to trash/slander Plaintiff."

FACT: Johnson paid Frederick \$1,000.00 to provide display advertising on Headline Surfer as a banner ad at the top and/or as a side ad in the weeks leading up to the Aug. 27, 2018 primary, and if necessary, the runoff election that November.) ... Furthermore, plaintiff's latter statement, "and where Johnson paid Frederick to trash/slander Plaintiff," is not supported by facts, and as a matter of fact, plaintiff's statement is libelous on its face. Plaintiff's written statement in the public court filing in his own handwriting is libelous to both Frederick and Johnson and injurious to their good reputations. Plaintiff's choice of the word "trash" is libelous and his use of the term "slander" is not appropriate since it implies Johnson and Frederick spoke ill will of the plaintiff, which did not occur.

VI. Defendant, Frederick challenges the veracity of the 10 sentences in this section as follows, using letters A-G for each sentence(s):

2019 FEB 26 PM 4:30
CLERK OF THE CIRCUIT
JUDICIAL CIRCUIT VOLUSIA COUNTY
FLORIDA

FILED

A. Plaintiff states: "On or about July 31, 2018, -- Defendant Frederick wrote a false and trash article on his newsletter site about Plaintiff, such as, I am a monster in my neighbourhood [Sic]."

FACT: Plaintiff's use of term "trash article" is disingenuous, inaccurate and inflammatory.

FACT: Defendant wrote and published a story based on factual allegations supported by public records, on-the-record sources and outside news stories. Headline Surfer is an online news site and NOT a newsletter. Again, Plaintiff uses key negative terms such as "newsletter" in an attempt to minimize Frederick's online news site and to damage his professional standing as a member of the working press.

Plaintiff's statement, "Frederick claims I am a monster in my own neighbourhood [Sic]," is grossly inaccurate and untrue. There is NOT a single word referring to "monster" in the published story. In fact, the only reference to Plaintiff in his own neighborhood is narrative in the story backed up by the use of law enforcement incident reports included in hyperlinks in the story. In the cut-line above the story, the Plaintiff is described in part as "an ogre to his DeLand-area neighbors for years and an enigma over the years in insider politics." The online version of the Collins Dictionary (<https://www.collinsdictionary.com/us/dictionary/english/ogre>) describes an Ogre as follows: "If you refer to someone as an ogre, you are saying in a humorous way that they are very frightening."

B. Plaintiff states, "The only neighbours [Sic] that hated me are the drug dealers and their friends that got evicted."

FACT: That is the Plaintiff's opinion - a generalization - not supported by facts. Law enforcement incident reports speak to the contrary as to why Plaintiff's neighbors may not have looked fondly upon him. More on the law enforcement incident reports later.

C. Plaintiff states, "See Exhibit B, Letter from good neighbour Mike Densmore and Exhibit C, most recent HOA/neighbourhood petition with 39 good neighbours signing."

FACT: Frederick checked with the Florida Division of Records, which states an HOA must be registered with the State. His is not a Volusia County Sheriff's incident report also challenges Plaintiff's veracity with respect to the existence of such an HOA. Plaintiff's so-called HOA petition is not certified as a legitimate petition.

D. Plaintiff states, "Frederick claims that plaintiff is in some sort conspiracy with Mike Chitwood, Sheriff and Councilwoman Heather Post. Truth is, I met Post briefly at a GOP event and represented Mike Chitwood as a good cop, not a politician."

FACT: Chitwood and Post are political rivals of Ben Johnson (and that continued throughout 2018), and my on-the-record sourcing for Chitwood/Post with regard to Casburro is privileged under the First Amendment. By seeking the elected office of Sheriff of Volusia County, Chitwood is by definition, a politician. Casaburro represented statements from Chitwood that disparaged Johnson.

E. Plaintiff states, "Frederick accuses Plaintiff of a gross and perverted act of leaving a bloody condom on someone's doorstep."

FACT: It is in fact, a neighbor who accuses Casaburro of such a vile act as described in the story narrative and backed up by a hyperlink in the story, which Casaburro conveniently ignored, and by doing so, grossly and deliberately misrepresented the story contents to the Court.

F. Plaintiff states, " Truth is, picture is bogus.

FACT: The picture does NOT state the condom is the same as that left at the neighbor's doorstep. The picture of the condom is an "illustration," a visual lead into the story and nothing

more. To be clear, nowhere in the published story is there any claim that this was the actual used bloody condom as cited in the hyperlink with the story.

G. Plaintiff states, "Houses in background do not match the modest homes on my street and the Police car is a City PD. My area is County DeLand, where only Sheriff Deputies cars respond to calls. Picture is clearly a fake."

FACT: Like the condom, the pictures of the cop cars and homes are a collective "illustration" or visuals to lead the reader into the story. While Casaburo's street is in unincorporated Volusia County serviced by the VCSO, the DeLand Police respond as a back on mutual aid calls and can respond to crimes in progress while passing through.

VII. Plaintiff states, "Frederick goes on in his article and calls me a "psycho", dishonest and an unethical person because I was a write in [Sic] candidature [Sic] for Council at Large."

FACT: The story does NOT call the Plaintiff a "psycho." Again, the Plaintiff misrepresents the story by omitting the third, fourth and fifth paragraphs of the story. See story link: County Council write-in candidate epitome of Mike Chitwood vitriolic crud engaged in gutter campaign against frontrunner Ben Johnson. Here is the link to the Headline Surfer story posted on July 31, 2018:

[County Council write-in candidate epitome of Mike Chitwood vitriolic crud engaged in gutter campaign against frontrunner Ben Johnson](#)

In reference to use of the word "Psycho," the 5th paragraph of the published story stated:

Perhaps this Aug. 25, 2009 incident was just a twisted prank like something Norman Bates might have conjured up to please his dead mother early on in the movie 'Psycho.' This was the most egregious of a series of harassment-like incidents requiring law enforcement to intervene.

Frederick asserts the Plaintiff deliberately misleads the Court by excluding paragraphs 4, 5, and 6 because of the definition and clarity these paragraphs provide in showing the true context of the word "psycho as used in the published story. Additionally, the 4th and 6th paragraphs each contain highlighted hyperlinks to two VCSO incident reports provided in their entirety to give the reader factual allegations as to the blood condom and Casaburro's alleged role. The Plaintiff's exclusion of these three consecutive paragraphs demonstrates his gross, deliberate, willful and wanton acts of deception, through which he mocks the Court and His or Her Honor, and further demonstrates the Plaintiff's defamatory actions against Frederick and Johnson.

VIII Plaintiff claims, "Frederick claims that I had no good standing with the Republican Party. Truth is I have won four - good service awards, one that is attached as exhibit D."

FACT: The reporter is NOT a public relations flak, but an award-winning reporter who relied on public records -- litigation between the Plaintiff and the Executive Committee of the Republican Party of Volusia County.

IX. Plaintiff claims, "[Sic] Fredericks takes out of context remarks from a biased reporter from 1989 NY, claiming that Plaintiff is a racist. Jews were enslaved as workhorses for 400 years; my people from Naples Italy were fed to lions, hung on a cross and fought to fight in public venues. This was compared to black take care of your work horse mindset of the 1800's USA at a meeting with black civic leaders. Also, as one of the Founders of Fathers Rights in 1980's and as a nationwide leader, I was talking about low employment, family splits, and crime as a leading reason young black men avoided fatherhood and do not marry."

FACT: Prior published news reports from the New York Times, The Associated Press (wire

service) and others, reported on Casaburro's alleged patently racist views, based on his own quotes, campaign literature, speeches, etc. Casaburo refuses to accept responsibility for his own behavior and retaliates with frivolous lawsuits.

X. Plaintiff claims, "Finally (and there are many other false statements by Frederick) in 1994 Plaintiff was falsely arrested, held overnight at a police station. Charge amounted to a \$45.00 desk appearance fine for disorderly conduct that was paid in court the next morning. I sent Frederick ticket receipt/appeal win that cleared my name of a [Sic] made up charge with no backing... Frederick omits facts and findings by Federal Judges to harm Plaintiff with malice." **FACT:** The published story referenced news accounts based on law enforcement sources and public records. PLEASE SEE EXHIBITS A, B, and C.

XI. Plaintiff states he has "been a political activist since 1978 and a businessman with many achievements. Frederick misquotes me to harm and injure like Plaintiff is some kind of mental case."

FACT: When running for public office, this plaintiff is no different than any other candidate in that he or she becomes a "public figure." There is NOTHING in the published story misquoting the Plaintiff. Each and every element of the story is supported by public records, on-the-record sourcing, past news articles in the New York Times and the Associated Press. The Plaintiff did not respond to a voice mail message to his phone seeking comment. Plaintiff fails to cite a single misquote from the fact-based story that relies heavily on public records, credible on-the-record sourcing and historical events as cited from prior news accounts in the New York by the Times and the AP wire service's published stories. PLEASE SEE EXHIBITS A, B, and C.

XII. This section will be answered by sentence or sentences alleged by the Plaintiff via letters A to f....

A. Plaintiff claims. " "Defamation by Implication"; omitting facts are considered to be falsely and Liable, while recklessly disregarding their falsity."

FACT: Nothing in that claim bby Plaintiff is supported by facts.

B. Plaintiff further claims "Notice was sent by regular US Mail on January 7, 2019 and by email to correct liability and slander... Frederick had 10 days to correct, provide apology and retract his statements of slander and Defendant failed to do so..."

FACT: Plaintiff sent an "email" seeking such concessions, but the Plaintiff fails to include the fact that this defendant responded with an email asking the Plaintiff to cite specific factual errors in the story, but he did not and misrepresented this chain of events to the Court - again demonstrating a lack of respect to the Court and wanton and willful disregard for the defendant(s).

C. Plaintiff claims, "Frederick has injured Plaintiff in his reputation, office, business, any future employment... Plaintiff is entitled to relief, damages, and costs. e. Section 550 of Libel/Defamation has Frederick libel for gross negligence due to faulty and biased research since Johnson paid him at least \$1000.000 out of his campaign funds..."

FACT: There is nothing factually-asserted by the Plaintiff who uses a broad defamatory brush to harm the reputation of the defendant(s).

D. Plaintiff claims "Frederick exposed plaintiff with false reports that caused distrust, hatred, ridicule to the public and Plaintiffs daughter is very upset about my grandchildren being exposed to such lewd and awful falsehoods..."

FACT: Plaintiff is delusional as the story is fact-based and the Plaintiff citing the public and his own family being harmed is "PATENTLY DISGUSTING." Not to editorialize, but Plaintiff need only look in the mirror at his own deeds while seeking public office.

E. The entire claim by Plaintiff has to his role with the Volusia GOP and Ben Johnson's relationship are irrelevant as to this published story.

the GOP is irrelevant to the story.

F. Plaintiff asserts, "Johnson knew or should have known that Frederick was known to be a sleazy reporter with a reputation of [Sic] mud raking.

FACT: The proper term is muck-raking and it is here where the Plaintiff grossly cross the line of decency in stating ass fact, "Frederick was known to be a sleazy reporter with a reputation of [Sic] mud raking." So please allow this reporter (defendant) to set the record straight. There is NO single reporter in Volusia County in the past 2 1/2 decades who has amassed as many journalism-industry awards. All told, this reporter has earned close to a hundred award-winning stories in his career. This reporter just graduated with academic honors in early February from Full Sail University with a Master of Arts in New Media Journalism. This reporter has held more than two dozen public candidate debates and started a Hall of Fame section on Headline Surfer, which is now in its 11th year of publication.

XVI. Plaintiff asserts Johnson is culpable and is severally and individually liable with both Defendants with Fraudulent and Conspiratorial conduct in concert with each other inflicting harmful slander, defamation with ill will and malice against Plaintiff. [Sic] Where as in conclusion, Plaintiff asks court for a jury trial for all of the foregoing wrongs and damages in excess of \$500,000.00 (one half million), plus attorneys fees and costs..."

FACT: This repeated assertion by Casaborro is disgraceful, pathetic and has no factual basis in reality.

SUMMARY OF FACTS: Truth an absolute defense to plaintiff's false libel claims

As cited in NY Times v Sullivan, , 376 U.S. 254, the plaintiff has to demonstrate actual malice. Cassaburro, the Plaintiff in this lawsuit, fails to recognize, is whether or not someone is a public figure is a key factor in slander and libel cases. Unlike private citizens, who when libeled need only prove the statements untrue; public figures need to also prove the comments were made with the purpose of malice. Casaburro has failed to demonstrate proof showing reckless disregard for falsity alleged.

Not all courts have not specifically defined "public figure," but they do identify candidates for public office and people who have achieved pervasive fame or notoriety as fitting this description, Curtis Pub. Co. v. Butts, 388 U.S. 130, 87 S.Ct. 1975, 18 L.Ed.2d 1094 (1967). Courts have upheld this rule based on the U.S. belief that the public should be able to freely discuss national issues without fear of repercussions. If a public official or public figure believes that he or she has been defamed, he or she must prove with convincing evidence that the statement is false and that it was with malicious intent.

And finally, the best defense against John Cassaburro is our reporting "the truth" supported by public records, credible on-the-record sourcing and factual historical such as Casaburro's attempts at gaining political office in New York and the seedy reputation he built, according to stories published in the New York Times and the Associated Press.

As cited by the Freedom Forum Institute, "Truth is an absolute defense to libel claims, because one of the elements that must be proven in a defamation suit is falsity of the statement. If a statement is true, it cannot be false, and therefore, there is no prima facie case of defamation. There are numerous jurisdictions (including Florida) that have adopted the substantial-truth doctrine, which offers protection to a defendant of a defamation claim, as long as the "gist" of the story is true. In the above-mentioned 1964 ruling New York Times v. Sullivan, the U.S. Supreme Court held that the First Amendment protects the publication of all statements regarding public officials unless the statement was made with actual malice. The Court set a new standard by requiring that a public-official defamation plaintiff show evidence of actual malice by clear and convincing evidence."

Henry Frederick

Feb 26, 2019

Legal Address:

500 W Airport Blvd.
Apt 1307

Sanford, FL 32773

Email: henryfrederickonline@gmail.com

Phone: 386-689-2830 Mobile.

Hy Fred.

Catherine P. Gatti



CATHERINE P. GATTI
MY COMMISSION # GG 020184
EXPIRES: October 21, 2020
Bonded Thru Budget Notary Services

I hereby certify a copy has been provided
to the pltf def atty by
 hand mail fax email
this 26 day of Feb, 2019.

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR
VOLUSIA COUNTY, FLORIDA

JOHN E. CASABURRO

Plaintiff,

CASE NO: 2019-10091-CIDL

vs.

DIVISION: 01

HENRY FREDERICK
AKA HEADLINE SURFER (D.B.A),
AND BEN F. JOHNSON,

Defendants.

REQUEST FOR ADMISSIONS

COMES NOW, the Defendant, BEN F. JOHNSON, ("Johnson") by and through his undersigned attorney and pursuant to Fla. R. Civ. P. 1.370, and requests that JOHN E. CASABURRO, ("Casaburro") admit the truth of the matters of fact hereinafter set forth and the genuineness of the documents attached hereto, within thirty (30) days of the service hereof, by answer, in writing, by Casaburro.

1. Admit that your neighbors called the police on you for photographing their property.
2. Admit that Exhibit 1, attached hereto, is a true and correct copy of the Incident Report taken by the Volusia County Sheriff's Office in regard to the photography incident described above.
3. Admit that the article attached as Exhibit A to the Complaint, herein ("Article"), correctly reports that when a bloody condom was found on their doorstep, the neighbors mentioned in Paragraph 1 suspected you had placed it there.

4. Admit that Exhibit 2, attached hereto, is a true and correct copy of the Incident Report taken by the Volusia County Sheriff's Office in regard to the bloody condom incident.

5. Admit that during your campaign for public office, running for the At Large seat on the Volusia County Council, you distributed the materials attached hereto as Exhibit 3.

6. Admit that a story published in the West Volusia Beacon quoted you as saying that your campaign for public office, running for the At Large seat on the Volusia County Council, was your first time running for political office.

7. Admit that your campaign for the At Large seat on the Volusia County Council, was not your first time running for political office.

8. Admit that the quotes regarding African-Americans/Blacks, attributed to you in the Article, were direct quotes of words spoken by you.

9. Admit that the Article correctly reports the content of the New York Times article(s) concerning quotes attributed to you in regard to African-Americans/Blacks.

10. Admit that Exhibit 4, attached hereto, is a true and correct copy of the New York Times article(s) concerning quotes attributed to you in regard to African-Americans/Blacks.

11. Admit that you were arrested in New York in 1994 during a prostitution sweep.

12. Admit that you were the Plaintiff in *Casaburro v. Giuliani*, 986 F. Supp. 176 (S.D.N.Y. 1997), a copy of which is attached as Exhibit 5.

13. Admit that the charge at the time of your arrest was solicitation of a prostitute.

14. Admit that you pled guilty to the lesser charge of disorderly conduct.

15. Admit that your sentence for the disorderly conduct charge included attendance at a health education/prostitution class.

16. Admit that the Article correctly reports the content of the New York Times article(s) concerning your solicitation of prostitution charge and related events.

17. Admit that Exhibit 6, attached hereto, is a true and correct copy of the New York Times article(s) concerning your solicitation of prostitution charge and related events.

18. Admit that Defendant, Frederick, offered to take down the Article from Headline Surfer if you would drop your claims against all parties hereto.

19. Admit that you responded to Defendant, Frederick, in a January 26, 2019 text message sent at or around 3:37pm that, "We can a do a contract will you sign that Ben paid for hit job."

20. Admit that, at the time the Article was posted you were opposing Defendant, Johnson, both of you being candidates for public office, i.e. the At Large seat on the Volusia County Council.

21. Admit that, at all times pertinent to this action, you are and have been a public figure.

[CERTIFICATE OF SERVICE FOLLOWS ON NEXT PAGE]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to JOHN CASABURRO, Plaintiff, at 111 Kendra Ave., DeLand, FL 32724, this 16th day of February, 2019.



F. A. (Alex) Ford, Jr., Esquire
Florida Bar No. 0381845
Kathrine E. Conroy, Esquire
Florida Bar No. 0115939
Landis Graham French, P.A.
Post Office Box 48
DeLand, FL 32721-0048
Tel: (386) 734-3451
Fax: (386) 736-1350
primary email: aford@landispa.com
primary email: kconroy@landispa.com
secondary email: dharney@landispa.com
Attorneys for Defendant, BEN F. JOHNSON



VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

Form with sections: EVENT DATA, CODES, VICTIM/WITNESS (repeated 5 times). Includes fields for Agency ORI Number (FL0640000), Zone # (25), Telephone Handled (1. Yes, 2. No), Reported Date (09-25-2009), Time (1132), Time Dispatched (1148), Time Arrived (1342), Time Completed (1412), Nature of Call (42 Civil Complaint), Incident Type (1. Felony, 2. Traffic Felony, 3. Misdemeanor, 4. Traffic Misdemeanor, 5. Ordinance, 9. Other), Offense #1 (9, 7777777777), Description (INFORMATION ONLY), Incident Location (113 KENDRA AV, DELAND, FL 32724), Business Name (TIRE KINGDOM), Location Type (01), V/W Code (1, R), V. Type (3), Nature of Call (42 Civil Complaint), Name (SHEA RICHARD MATHEW), Address (113 KENDRA AVE, DELAND, FL 32724), Business/School/Other Address (TIRE KINGDOM, DELAND, FL 32724), Other Contact Info, Synopsis of Involvement (NEIGHBOR OF O1), Victim Type (1, 2, or 3), Race (W), Sex (M), Date of Birth, Age (22), Ethnicity (N), Res. Type (2), Res. Status (1), Means of Attack, Extent of Injury, Domestic Violence, Relationship.

INCIDENT REPORT (CONT.)

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2	Subject Code S-Suspect V-Victim D-Defendant (Missing Person)	Code #	Subj. Type	Name (Last) (First) (Middle)	Race	Sex	Ethnicity		
	Date of Birth	Age To Age	Height To Height	Weight To Weight	Eye Color	Hair Color	Maiden Name			
	Nickname / Street Name			Place of Birth - City		County	State	Employer/Other/School	Occupation	
	Last Known Address (Street, Apt. Number)					City	State	Zip	Address Type Phone Phone Type	
	Other Address (Street, Apt. Number)					City	State	Zip	Address Type Phone Phone Type	
	Driver's License State/Number			Social Security Number		Other ID Number		ID Type		
	Clothing (Describe)				Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)		
	Hair Length /Style		Skin	Build	Facial Features		Speech/Voice	Deformity	Glasses	
	If Subject:	Demeanor	Mask	Weapon Type		If Arrested:	Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency	
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason		Personal Habits (Drugs / Alcohol)		
May Be With:		Physical Condition:		Mental Condition:		Doctor Name:		Dentist Name:		
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No	Photo Available? 1. Yes 2. No	Dental Record Available? 1. Yes 2. No
I, _____ (Printed)					_____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.					

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2	Subject Code S-Suspect V-Victim D-Defendant (Missing Person)	Code #	Subj. Type	Name (Last) (First) (Middle)	Race	Sex	Ethnicity		
	Date of Birth	Age To Age	Height To Height	Weight To Weight	Eye Color	Hair Color	Maiden Name			
	Nickname / Street Name			Place of Birth - City		County	State	Employer/Other/School	Occupation	
	Last Known Address (Street, Apt. Number)					City	State	Zip	Address Type Phone Phone Type	
	Other Address (Street, Apt. Number)					City	State	Zip	Address Type Phone Phone Type	
	Driver's License State/Number			Social Security Number		Other ID Number		ID Type		
	Clothing (Describe)				Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)		
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	If Subject:	Demeanor	Mask	Weapon Type		If Arrested:	Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency	
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason		Personal Habits (Drugs / Alcohol)		
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I, _____ (Printed)					_____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.					

NARRATIVE	1	On 09/25/2009, at approximately 1148 hours, Deputy Passerrello responded to a telephone handled call regarding a civil complaint. Deputy Passerrello contacted Shea, John(R1), who reported that he observed his neighbor, Casaburro, John(O1), taking photographs of Shea's house and cars.
	2	
	3	
	4	
	5	Shea stated that Casaburro consistently makes complaints against Shea by calling the Sheriff's Office. Deputy Passerrello asked Shea how often this happens. Shea stated that the last incident was "a couple weeks ago." Deputy Passerrello advised Shea that there is no crime in taking photographs, but if Casaburro would come onto Shea's property without permission, Shea should call V.C.S.O. to dispatch a Deputy to trespass Casaburro.
	6	
	7	
	8	
	9	
	10	Deputy Passerrello was later advised to follow up on the incident. Deputy Passerrello responded to 113 Kendra Ave., where he met with Shea.

ADMINISTRATIVE	Final Case Status: <u>5</u>	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded	<input type="checkbox"/> Victim Advocate	<input type="checkbox"/> Triad	<input type="checkbox"/> SA Referral	
	<input type="checkbox"/> DCF Hotline <input type="checkbox"/> CAC	Spoke With: _____ Date: _____ Time: _____	<input type="checkbox"/> FCIC / NCIC Entry <input type="checkbox"/> FCIC / NCIC Cancel	<input type="checkbox"/> T.T. BOLO	Date: _____ By: _____	
	Connecting Report Number _____ Agency _____	Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____				
	Officer Reporting - Printed Passerrello, Paul	Officer Reporting - Signature <i>DIS Passerrello</i>	ID. Number 7630	Unit 1A22	Date 09-25-2009	
Officer Reviewing - Printed (If Applicable)	Officer Reviewing - Signature (If Applicable)	ID. Number	Unit	Date		

VOLUSIA COUNTY SHERIFF'S OFFICE

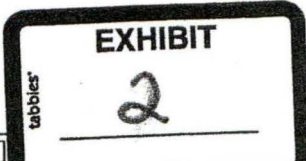
NARRATIVE / SUPPLEMENT

Report Date	Report Time	Orig. Reported Date	Nature of Call (for Incident)	Agency Report Number	1. Original 2. Supplement
09-25-2009	1132	09-25-2009	42	090030503	

11 Shea informed Deputy Passerrello that at 0930 hours, Casaburro had actually taken photographs from Shea's driveway. Deputy Passerrello
 12 observed the two automobiles in Shea's driveway. The automobiles were in poor condition and missing major parts. Deputy Passerrello obtained a
 13 sworn, written statement from Shea.
 14
 15 Deputy Passerrello then met with Casaburro, who advised the following in a sworn, written statement. Casaburro stated that he had taken
 16 photographs of Shea's cars, but had done so from Casaburro's own property. Deputy Passerrello advised Casaburro to not go onto Shea's
 17 property without Shea's permission. Casaburro indicated that he understood and would comply. Deputy Passerrello gave Casaburro a business
 18 card with the case number. Casaburro claimed to be the president of a Homeowners Association, but then admitted that he merely initiates action
 19 to remove undesirable residents from the neighborhood. Casaburro stated that he has initiated petitions in the past to remove tenants from houses
 20 in the area, and showed Deputy Passerrello copies of those petitions. Deputy Passerrello advised Casaburro that in the future, Casaburro should
 21 contact V.C.S.O. to handle similar issues, and not to initiate his own actions.
 22
 23 Deputy Passerrello met with Shea again and informed Shea that there was no evidence of any crime occurring, but to call if Casaburro
 24 trespasses on Shea's property. Deputy Passerrello gave Shea a business card with the case number.
 25
 26 Case status: Closed.

NARRATIVE / CONTINUATION

Final Case Status: 5	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded	<input type="checkbox"/> Victim Advocate <input type="checkbox"/> Triad <input type="checkbox"/> SA Referral
<input type="checkbox"/> DCF Hotline <input type="checkbox"/> CAC	Date: _____ Time: _____	<input type="checkbox"/> FCIC / NCIC Entry <input type="checkbox"/> T.T. BOLO <input type="checkbox"/> FCIC / NCIC Cancel
Connecting Report Number _____ Agency _____	Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____	
Officer Reporting - Printed Passerrello, Paul	Officer Reporting - Signature <i>DISK</i>	ID. Number 7630
Officer Reporting - Printed (If Applicable)	Officer Reporting - Signature (If Applicable)	Unit 1A22
		Date 09-25-2009

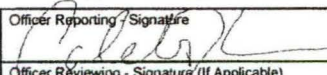


VOLUSIA COUNTY SHERIFF'S OFFICE

INCIDENT REPORT

Form containing incident details: Agency Report Number 090028523, Zone # 25, Telephone Handled 1. Yes 2. No 2, Reported: Tuesday 09-08-2009 0257, Incident Type: Suspicious Incident, Incident Location: 113 Kendra Av, DELAND, FL 32725, Business Name: 113 Kendra Av, Means of Attack: F-Firearm, Extent of Injury: 00.N/A, Domestic Violence: 1. Yes 2. No, Victim Relationship to Offender: S-Spouse, B-Sibling, Z-Other.

INCIDENT REPORT (CONT.)

SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2		Subject Code S-Suspect V-Victim D-Defendant (Missing Person)		Code #	Subj. Type	Name (Last) (First) (Middle)			Race	Sex	Ethnicity	
	Date of Birth		Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name		
	Nickname / Street Name				Place of Birth - City		County	State	Employer/Other/School		Occupation		
	Last Known Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Other Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Driver's License State/Number				Social Security Number			Other ID Number			ID Type		
	Clothing (Describe)						Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features			Speech/Voice	Deformity	Glasses			
	If Subject:	Demeanor	Mask	Weapon Type			If Arrested:	Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency			
	Date of Last Contact		Date of Emancipation		Caution	Caution Reason			Personal Habits (Drugs / Alcohol)				
May Be With:		Physical Condition:			Mental Condition:			Doctor Name:		Dentist Name:			
Incident Type 1. Runaway 2. Parents 3. Involuntary 4. Disabled 5. Endangered		6. Disaster Victim 7. Voluntary Adult 8. Unknown		Foul Play Suspected? 1. Yes 2. No 8. Unknown		Missing Before? 1. Yes 2. No 8. Unknown		Fingerprints Available? 1. Yes 2. No		Photo Available? 1. Yes 2. No		Dental Record Available? 1. Yes 2. No	
I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.													
SUBJECT / MISSING SECTION	Offense Indicator 1. #1 3. Both 2. #2		Subject Code S-Suspect V-Victim D-Defendant (Missing Person)		Code #	Subj. Type	Name (Last) (First) (Middle)			Race	Sex	Ethnicity	
	Date of Birth		Age	To Age	Height	To Height	Weight	To Weight	Eye Color	Hair Color	Maiden Name		
	Nickname / Street Name				Place of Birth - City		County	State	Employer/Other/School		Occupation		
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	Other Address (Street, Apt. Number)						City	State	Zip	Address Type	Phone	Phone Type	
	Driver's License State/Number				Social Security Number			Other ID Number			ID Type		
	Clothing (Describe)						Scars/Marks/Tattoos (Type/Describe)			Scars/Marks/Tattoos (Type/Describe)			
	Hair Length /Style		Skin	Build	Facial Features			Speech/Voice	Deformity	Glasses			
	If Subject:	Demeanor	Mask	Weapon Type			If Arrested:	Subject Was Already in Custody? 1. Yes 2. No		Warrant From: 1. This Agency 2. Other Agency			
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I, _____ (Printed) _____ (Signature) certify that I have reported the above person as a missing person; and this agency has my permission to enter this person in a statewide alert.													
NARRATIVE	<p>1 On 09-08-2009 at approximately 0302 hours Deputy King responded to 113 Kendra Av in Deland in reference to a suspicious incident. Upon</p> <p>2 arrival Deputy King contacted Shea, Amber R1 who advised the following. Shea returned home around 0220 on 09-08-2009 after taking her child</p> <p>3 to Deland Hospital. Shea found what appeared to be a bloody, used condom on her front porch. She used a pair of blue nitrile gloves to pick up</p> <p>4 said condom. Shea had no information as to why a condom would be on her doorstep and immediately checked on her two children who were</p> <p>5 both in good health. Shea said her husband has no information about this either. Shea told Deputy King several residents have had problems</p> <p>6 with Casaburro, John O1 at 111 Kendra Av, Deland. Shea said her husband suspects this condom was left by Casaburro. She provided a sworn</p> <p>7 statement.</p> <p>8</p> <p>9 Deputy King used a pair of latex gloves to secure the condom and both blue nitrile gloves into a brown paper evidence bag. Deputy King later</p> <p>10 secured the evidence into the VCISO Evidence System via the Evidence Refrigerator at District II.</p>												
	ADMINISTRATIVE	Final Case Status: <u>5</u>		Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded						<input type="checkbox"/> Victim Advocate <input type="checkbox"/> Triad <input type="checkbox"/> SA Referral			
		<input type="checkbox"/> DCF Hotline <input type="checkbox"/> CAC		Date: _____ Time: _____		<input type="checkbox"/> FCIC / NCIC Entry <input type="checkbox"/> T.T. BOLO		Date: _____ By: _____		<input type="checkbox"/> FCIC / NCIC Cancel			
		Connecting Report Number: 090024812		Agency: VCISO		Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____							
		Officer Reporting - Printed: King, Caleb		Officer Reporting - Signature: 				ID. Number: 6919		Unit: 1B25		Date: 09-08-2009	
	Officer Reviewing - Printed (If Applicable):		Officer Reviewing - Signature (If Applicable):				ID. Number:		Unit:		Date:		

VOLUSIA COUNTY SHERIFF'S OFFICE

NARRATIVE / SUPPLEMENT

Report Date	Report Time	Orig. Reported Date	Nature of Call (for Incident)	Agency Report Number	1. Original	2. Supplement
09-08-2009	0257	09-08-2009	13A	090028523		1

11
 12 As of this writing, there is no information linking the condom to a crime. This report is for documentation purposes in the event new information
 13 regarding this incident is developed in the future. A copy of this report was faxed VCSO Sex Crimes for their review.
 14
 15 The case status is: Closed.

NARRATIVE / CONTINUATION

Final Case Status: 5	Final Case Status Codes: 1.Arrest/Adult 2.Arrest/Juv. 3.Exceptional/Adult 4.Exceptional/Juv. 5.Closed 6.Unfounded	<input type="checkbox"/> Victim Advocate <input type="checkbox"/> Triad <input type="checkbox"/> SA Referral
<input type="checkbox"/> DCF Hotline <input type="checkbox"/> CAC	Date: _____ Time: _____	<input type="checkbox"/> FCIC / NCIC Entry <input type="checkbox"/> T.T. BOLO <input type="checkbox"/> FCIC / NCIC Cancel
Connecting Report Number: 090024812	Agency: VCSO	Additional Forms Attached: <input type="checkbox"/> Narrative <input type="checkbox"/> SA 707 <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Veh./Tow Sheet <input type="checkbox"/> Other Describe: _____
Officer Reporting - Printed King, Caleb	Officer Reporting - Signature 	ID. Number: 6919 Unit: 1B25 Date: 09-08-2009
Officer Reviewing - Printed (If Applicable)	Officer Reviewing - Signature (If Applicable)	ID. Number: _____ Unit: _____ Date: _____

ADMINISTRATIVE

VOLUSIA COUNTY SHERIFF'S OFFICE

PROPERTY REPORT

Report Date	Report Time	Original Incident Date	Nature of Call (for Incident)	Agency Report Number	1. Original	2. Supplement																						
09-08-2009	0257	09-08-2009	13A	090028523	1	1																						
THEFT EVNT	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Type Theft</td> <td>Type Theft Codes</td> <td>00. N/A</td> <td>02. Robbery</td> <td>04. Pocket Picking</td> <td>06. Embezzlement</td> <td>08. From Public</td> <td>09. From Vehicle</td> <td>11. By Computer</td> <td>13. Bicycle</td> <td>99. Other</td> </tr> <tr> <td></td> <td></td> <td>01. Burglary</td> <td>03. Shoplifting</td> <td>05. Purse Snatching</td> <td>07. From Coin Oper. Machine</td> <td>Access Bldg.</td> <td>10. Extortion</td> <td>12. Fraud</td> <td>14. Motor Vehicle Parts</td> <td></td> </tr> </table>						Type Theft	Type Theft Codes	00. N/A	02. Robbery	04. Pocket Picking	06. Embezzlement	08. From Public	09. From Vehicle	11. By Computer	13. Bicycle	99. Other			01. Burglary	03. Shoplifting	05. Purse Snatching	07. From Coin Oper. Machine	Access Bldg.	10. Extortion	12. Fraud	14. Motor Vehicle Parts	
Type Theft	Type Theft Codes	00. N/A	02. Robbery	04. Pocket Picking	06. Embezzlement	08. From Public	09. From Vehicle	11. By Computer	13. Bicycle	99. Other																		
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PERSON CODE	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>V-Victim</td> <td>N-Next of Kin</td> <td>1. Finder</td> </tr> <tr> <td>S-Suspect</td> <td>O-Other</td> <td>2. Owner</td> </tr> <tr> <td>D-Defendant</td> <td>R-Reporting Party</td> <td>3. Suspect</td> </tr> <tr> <td>W-Witness</td> <td></td> <td>4. Other</td> </tr> </table>		V-Victim	N-Next of Kin	1. Finder	S-Suspect	O-Other	2. Owner	D-Defendant	R-Reporting Party	3. Suspect	W-Witness		4. Other	PERSON INVOLVEMENT CODE		STATUS CODE:											
V-Victim	N-Next of Kin	1. Finder																										
S-Suspect	O-Other	2. Owner																										
D-Defendant	R-Reporting Party	3. Suspect																										
W-Witness		4. Other																										
				1. Evidence		5. Lost		8. Found		12. Stolen And Recovered																		
				2. Damaged Prop.		6. Recovered		9. Found/Contraband		13. Disposal																		
				3. Arson/Burned		7. Recovered (Outside Agency Recovered)		10. Prisoner's Pers. Prop.		14. Prop. Of Deceased																		
				4. Photo & Release				11. Stolen		15. Return to Owner																		
								16. Vehicle Inventory Prop.		17. Baker Act																		
								18. Seized/Confiscated		19. Abandoned																		

CODES									-----------------------------	-------------------------------------	------------------------------------	-------------------------	------------------------------	--		Category Code	E-Equipment/Measuring Devices/Tools	I-Items of Identification	M. Musical Instrument	R-Radio/TV/Sound Devices	V. Viewing Equip (Binoculars)		B. Bicycle	F-Furniture and Furnishings	J-Special Docs/Food Stamps/Tickets	O. Office Equipment	S-Sports/Camping/Rec. Equip.	W.Well-drilling Equipment		C. Camera/Photo Equipment	G-Games and Gambling Apparatus	K-Keepsakes and Collectibles	P. Personal Accessories	T-Toxic Chemicals	Y-All Other Items and Equipment (GUNS, DRUGS, JWLRY, Etc.)		D-Data Processing Equipment	H-Household Appliance/Housewares	L. Livestock																																																																																																																																															
DRUG CODES										------------	----------------------------------	----------	-----------------	----------------------------	------------	-------------------		Activity	D. Deliver	Z. Other	Type	M. Marijuana	U. Unknown	Unit		P. Possess	E. Use		A. Amphetamine	O. Opium/Derivative	Z. Other	1. Gram		S. Sell	K. Dispense/Distribute		B. Barbiturates	P. Paraphernalia/Equipment		2. Milligram		B. Buy	M. Manufacture/Produce/Cultivate		C. Cocaine	S. Synthetic		3. Kiloqram		T. Traffic			E. Heroin			4. Ounce		R. Smuggle			H. Hallucinogen			5. Pound								6. Ton								7. Liter								8. Milliliter								9. Dose Unit/Term								99. Other																																																																														
PROPERTY												---------------	----------------------	-------	------------------	--------------	-----------------	----------	-------------------	--		Leave Blank	Person Code	#	Pers. Invl.	Item #	Status	Category	Article	Description						1	1	Y	Condom	Used condom with 2 blue nitrile gloves		Serial Number	Owner Applied Number		Value Recovered:		Date Recovered:		Forfeiture Y / N:	F.W.T.C. (Y/N)					\$					Value \$		If Article	Qty.	Brand	Model	Jewelry Type	If Drug	Activity	Type	Quantity										Unit										Estimated Street Value \$		If Gun	Make	Model	Caliber	Type/Cat	Action	Finish	Barrel Length	Barrel Type																																																																																		
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VOTE!

WRITE IN ON AUG 28TH VOTER BALLOT
JOHN CASABURRO'S NAME FOR
VOLUSIA COUNTY COUNCIL AT LARGE

- DeLand resident homeowner 22yrs
- Retired owner-manager of two successful businesses
- President of area HOA since 2002
- Officer, Executive committeeman for a Volusia County Partisan Party since 2000
- Four Community Service Awards

John pledges to listen, be your voice, no new taxes, support Law Enforcement, not to bow down to special interests, better manage your tax dollars and respect his constitutional oaths.

Don't forget to write in John Casaburro on your ballot for Aug 28th. Tell your friends, relatives, and neighbours to write in John's name on their ballot. (email them this flyer)

Contact **John Casaburro** at:
386-215-7327 or JohnCasaburro@yahoo.com

Make checks payable to:
John Casaburro for Volusia County and mail to
111 Kendra Ave, DeLand FL 32724

Volunteers appreciated!

Political advertisement paid for & approved by John Casaburro
for Volusia County Council at Large

John Casaburro

Candidate for Volusia County Council, At Large.

111 Kendra Avenue

Deland, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July 4, 2018

In Re: An important message to voting members of the VCREC, and club presidents.

The following are very important reasons why the VCREC should not vote to endorse Ben Johnson at the special meeting scheduled to occur on July 10, 2018. Nor should Ben Johnson's name appear on any issued voter guides. If this man is endorsed there is no doubt that the Dem's will use this as an issue to attack him and the party.

- (1.) According to Sheriff Mike Chitwood, and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
- (2.) Florida Highway Patrol Lt. Kevin Vaughn (R.) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a televised broadcast that he has a drinking problem, and that while serving in the capacity of Sheriff he drove under the influence.
- (3.) Ben Johnson caused several federal law suits to be filed against himself, and the county due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK, and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas.

Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017 that Ben Johnson, as Sheriff, refused to investigate and clean up; Why?

Lastly, Ben Johnson will vote like a R.I.N.O., and appears to be ready, willing, and able to serve special interests.

John Casaburro, on the other hand, is a reliable conservative that has worked for the party over 20 years , as Vice Chair (received award), district coordinator (received award), local club volunteer (award), and campaign strategy chair.

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)

John Casaburro

Candidate for Volusia County Council, at Large

111 Kendra Avenue

DeLand, Florida 32724

Telephone: (386) 215-7327

Email: johncasaburro@yahoo.com

July, 2018

The following are very important reasons why you should not vote for Ben Johnson.

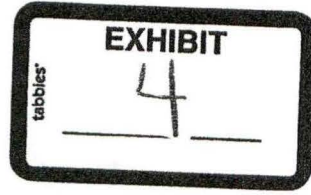
1. According to Sheriff Mike Chitwood and other law enforcement professionals, Ben Johnson shot an unarmed black youth in the back dead, showed no remorse, and tried to cover up the incident.
2. Florida Highway Patrol Lt. Kevin Vaughn (R) has advised, as a witness, during a previous campaign, that Ben Johnson confessed in a television broadcast that he has a drinking problem, and while serving in the capacity of Sheriff, he drove under the influence.
3. Ben Johnson caused several federal law suits to be filed against himself, and the county, due to lack of law enforcement concerning drug dealers, and trafficking. His men would intimidate victims, witnesses, and those petitioning for the eviction of drug dealers. See U.S. District Court (Middle District of Florida) Cases: CV-934-ORL-40GJK and VC-1899-ORL-22-DAB. Since taking office, the current Sheriff, Mike Chitwood has cleaned up these high crime drug areas. Ask yourself, there were at least five heavily affected high crime drug infested areas, between 2009 and 2017, that Ben Johnson, as Sheriff, refused to investigate and clean up. Why?
4. Ben Johnson will vote like an aristocrat on the county council, and appears to be ready, willing, and able to serve special interests.
5. Ben Johnson is under investigation for corruption and sexual misconduct. He will eventually have to quit the race or leave office.

PLEASE VOTE FOR JOHN CASABURRO!

(Political advertisement paid and approved by John Casaburro for Volusia County Council at Large)



MARLENE AIG January 12, 1989



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WHITE PLAINS, N.Y. (AP) — A man seeking to be mayor of racially divided Yonkers said nearly all blacks lived well under slavery and made other comments that brought denunciations from political leaders, who called the remarks ignorant and inflammatory.

John Casaburro, who is seeking the Republican and Conservative nominations for mayor of the city just north of New York City, made the remarks at a Yonkers City Council meeting Tuesday night.

Casaburro said "90 percent of all blacks lived well and had it good" under slavery.

"They're no longer in the back of the bus. Now they're slaves to the bus," he said later. "Now they're spending two hours a day just to go to school. Not a school of their choice, but a school based on racial quotas.

"Most black men are encouraged not to marry a woman," he added. "They're encouraged to impregnate, not marry her, because it's almost an irresponsibility to get married since welfare will take care of her."

Mayor Nicholas Wasicsko, a Democrat seeking a second term in the November election, on Wednesday called Casaburro's remarks "extremely unfortunate. He's not typical of the sentiment of the city."

Such comments "do absolutely no good," said Westchester County Executive Andrew O'Rourke. "They're inflammatory. There's no basis in fact."

Racial relations are already strained in Yonkers due to opposition to a court-ordered housing desegregation plan.

Faced with bankrupting fines imposed by a federal judge, the council reversed itself Sept. 10 and agreed to support the judge's order to affordable housing to remedy what the judge determined was deliberate segregation.

Casaburro has campaigned as a member of the Save Yonkers Federation, a citizen's group which has sued to stop the desegregation plan.

However, federation President Jack O'Toole said Casaburro was neither an official nor a committee member for the association.

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Casaburro v. Giuliani

United States District Court for the Southern District of New York

September 29, 1997, Decided ; September 30, 1997, Filed

95 Civ. 492 (SAS)

Reporter

986 F. Supp. 176 *; 1997 U.S. Dist. LEXIS 14822 **

JOHN E. CASABURRO, Plaintiff, -against- MAYOR RUDOLPH GIULIANI; THE CITY OF NEW YORK; THE NYC POLICE DEPT./OFFICER (# 13318) EDWARD STEINMACHER; THE COMMAND OF THE 10TH PRECINCT NY; THE CRIMINAL COURT OF THE CITY OF NY; AND MIDTOWN COMMUNITY COURT/CLERK D. VASTI, ET AL., AND OTHER DEFENDANTS (NAMES UNKNOWN), Defendants.

Disposition: [**1] Plaintiff's claims against State defendants and defendant Mayor Giuliani dismissed.

Core Terms

forfeiture, truck, fine, allegations, excessive fines, motion to dismiss, deprivation, handcuffs, immune, cruel and unusual punishment, personal involvement, violations, rights, tools

Case Summary

Procedural Posture

Plaintiff detainee filed a 42 U.S.C.S. § 1983 action against defendants, mayor, city, police department, precinct command, courts, and court clerk, arising out of his arrest. The court dismissed the detainee's complaint sua sponte based on his guilty plea and conviction. The appeals courts vacated the judgment and reinstated the detainee's *Eighth Amendment* claims. Defendants filed motions to dismiss pursuant to *Fed. R. Civ. P. 12(b)(6)*.

Overview

After the detainee was arrested for solicitation of prostitution, his truck and the tools contained therein were seized, and he was taken to a holding cell, where he remained until he was taken to court the next day. The detainee pled guilty to a lesser charge and was sentenced to community service and a small fine. His

truck and tools were also confiscated. The detainee filed a § 1983 suit based on his treatment while being held and defendants' failure to return his truck and tools. Defendants sought to dismiss the complaint. The court granted defendants' motion as to the courts and the court clerk on *Eleventh Amendment* grounds and as to the mayor for lack of personal involvement. However, the court denied defendants' motions with respect to the remaining city defendants because the detainee's allegation that he was tightly handcuffed for over seven hours while inside the holding cell stated a cognizable claim of cruel and unusual punishment under the *Eighth Amendment*. The court also found that the detainee's allegation that he faced a fine of 10 to 20 percent of the truck's value before he could retrieve it or risk forfeiture stated a claim under the Excessive Fines Clause.

Outcome

The court dismissed the detainee's complaint as to the courts, court clerk, and mayor, and denied defendants' motions to dismiss with respect to the remaining city defendants in the detainee's § 1983 action for violation of the *Eighth Amendment*.

LexisNexis® Headnotes

Civil Procedure > ... > Defenses, Demurrers & Objections > Motions to Dismiss > Failure to State Claim

Civil Procedure > Parties > Pro Se Litigants > General Overview

Civil Procedure > Parties > Pro Se Litigants > Pleading Standards

HN1 [↓] **Motions to Dismiss, Failure to State Claim**

A motion to dismiss must be decided based on the allegations contained on the face of the complaint. However, the complaint must be construed liberally where the plaintiff is proceeding pro se. In deciding such a motion, a district court must accept as true all of the plaintiff's factual allegations, and the allegations must be construed favorably to the plaintiff. Such a motion cannot be granted simply because recovery appears remote or unlikely; the issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims. Rather, dismissal is warranted only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. Furthermore, a motion to dismiss need not be granted in part nor denied in toto but may be granted as to part of the complaint and denied as to the remainder. This standard is applied with even greater force where the plaintiff alleges civil rights violations.

Civil Rights Law > ... > Elements > Color of State Law > General Overview

Civil Rights Law > General Overview

Civil Rights Law > Protection of Rights > Section 1983 Actions > General Overview

HN2 [↓] Elements, Color of State Law

42 U.S.C.S. § 1983 provides a civil action for the deprivation of constitutional rights by stating that every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. 42 U.S.C.S. § 1983. To state a valid claim under § 1983, a plaintiff must allege: (1) that the challenged conduct was attributable at least in part to a person acting under color of state law, and (2) that such conduct deprived the plaintiff of a right, privilege, or immunity secured by the Constitution or laws of the United States.

Constitutional Law > Bill of Rights > Fundamental Rights > Cruel & Unusual Punishment

Criminal Law & Procedure > Sentencing > Cruel & Unusual Punishment

HN3 [↓] Fundamental Rights, Cruel & Unusual Punishment

The *Eighth Amendment to the United States Constitution* provides that excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted. *U.S. Const. amend. VIII.*

Constitutional Law > Bill of Rights > Fundamental Rights > Cruel & Unusual Punishment

Criminal Law & Procedure > Sentencing > Cruel & Unusual Punishment

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > General Overview

HN4 [↓] Fundamental Rights, Cruel & Unusual Punishment

Eighth Amendment scrutiny is appropriate only after the state has complied with the constitutional guarantees traditionally associated with criminal prosecutions. The state does not acquire the power to punish with which the *Eighth Amendment* is concerned until after it has secured a formal adjudication of guilt in accordance with due process of law. Where the state seeks to impose punishment without such an adjudication, the pertinent constitutional guarantee is the *Due Process Clause of the Fourteenth Amendment*.

Constitutional Law > Bill of Rights > Fundamental Rights > Cruel & Unusual Punishment

Criminal Law & Procedure > Sentencing > Cruel & Unusual Punishment

HN5 [↓] Fundamental Rights, Cruel & Unusual Punishment

Conduct imposed on a non-convicted person may warrant *Eighth Amendment* scrutiny if such conduct constitutes "punishment." The Supreme Court has developed the following two-pronged test in determining if conduct is punishment: (1) was there a legitimate purpose for engaging in the conduct complained of; and

(2) was the conduct excessive in relation to the legitimate purpose. Within the context of pretrial detention, restraints that are reasonably related to the institution's interest in maintaining jail security do not, without more, constitute unconstitutional punishment even if they are discomforting. In addition to ensuring the detainee's presence at trial, the effective management of the detention facility once the individual is confined is a valid objective that may justify imposition of conditions and restrictions of pretrial detention and dispel any inference that such restrictions are intended as punishment. Courts should defer to the expert judgment of corrections officials unless the officials have exaggerated their response to these considerations.

Civil Rights Law > Protection of Rights > Prisoner Rights > Confinement Conditions

Constitutional Law > Bill of Rights > Fundamental Rights > Cruel & Unusual Punishment

HN6 [↓] Prisoner Rights, Confinement Conditions

In determining whether an *Eighth Amendment* violation has occurred, the Supreme Court applies a two-prong test consisting of an objective component and a subjective component. First, the plaintiff must demonstrate that the conditions of his confinement resulted in unquestioned and serious deprivations of basic human needs. Second, the plaintiff must demonstrate that the defendants imposed those conditions with "deliberate indifference."

Constitutional Law > Bill of Rights > Fundamental Rights > Cruel & Unusual Punishment

Criminal Law & Procedure > Postconviction Proceedings > Imprisonment

HN7 [↓] Fundamental Rights, Cruel & Unusual Punishment

Regarding the subjective component of the test for determining whether an *Eighth Amendment* violation has occurred, where prison officials stand accused of using excessive physical force, the core judicial inquiry is whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm. In determining whether the use of force was wanton and unnecessary, it may also

be proper to evaluate the need for application of force, the relationship between that need and the amount of force used, the threat reasonably perceived by the responsible officials, and any efforts made to temper the severity of a forceful response. Where wantonness is established, a plaintiff may recover even though he did not suffer serious injury.

Constitutional Law > Bill of Rights > Fundamental Rights > Cruel & Unusual Punishment

Criminal Law & Procedure > Sentencing > Cruel & Unusual Punishment

Criminal Law & Procedure > Sentencing > Forfeitures > General Overview

HN8 [↓] Fundamental Rights, Cruel & Unusual Punishment

An in personam criminal forfeiture is a form of monetary punishment no different, for *Eighth Amendment* purposes, from a traditional "fine." The Excessive Fines Clause limits the government's power to extract payments, whether in cash or in kind, as punishment for some offense.

Civil Procedure > ... > In Rem & Personal Jurisdiction > In Rem Actions > True In Rem Actions

Criminal Law & Procedure > Sentencing > Forfeitures > General Overview

Civil Procedure > ... > In Rem & Personal Jurisdiction > In Rem Actions > General Overview

HN9 [↓] In Rem Actions, True In Rem Actions

An in personam criminal forfeiture is an action against the person as distinguished from an in rem forfeiture which is an action against the property itself. The defendant in a criminal forfeiture proceeding is the person, and the defendant in a civil forfeiture proceeding is the particular property.

Constitutional Law > Bill of Rights > Fundamental Rights > Cruel & Unusual Punishment

Criminal Law & Procedure > Sentencing > Cruel & Unusual Punishment

Criminal Law & Procedure > Sentencing > Forfeitures > General Overview

HN10 [↓] Fundamental Rights, Cruel & Unusual Punishment

With respect to punishments other than in rem civil forfeitures, a monetary penalty will be considered excessive within the meaning of the *Eighth Amendment* when there is a lack of proportion between the gravity of the offense and the harshness of the penalty. Whether a forfeiture is "grossly disproportionate" and thus violates the *Eighth Amendment* is a fact-bound issue that must be analyzed on a case-by-case basis. Two relevant factors include the extent of the criminal activity and the quantum of property forfeited. Other factors include: the seriousness of the offense, an assessment of the personal benefit reaped by the defendant, the defendant's motive and culpability, and the extent that the defendant's interest and the enterprise itself are tainted by criminal conduct.

Civil Procedure > ... > Federal & State Interrelationships > State Sovereign Immunity > State Immunity

Civil Rights Law > General Overview

Governments > State & Territorial Governments > Claims By & Against

Civil Procedure > Preliminary Considerations > Federal & State Interrelationships > General Overview

Civil Procedure > ... > Federal & State Interrelationships > State Sovereign Immunity > General Overview

Civil Procedure > ... > Federal & State Interrelationships > State Sovereign Immunity > Federal Judicial Limitations

Constitutional Law > State Sovereign Immunity > General Overview

HN11 [↓] State Sovereign Immunity, State Immunity

The *Eleventh Amendment* provides that the judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state. *U.S. Const. amend. XI*. A state, its agencies and state officials sued in their official capacities are all immune from suit in federal court brought by a citizen of that state. *42 U.S.C.S. § 1983* was not intended to override a state's *Eleventh Amendment* immunity. Moreover, neither a state nor its officials acting in their official capacities are "persons" under *§ 1983*.

Constitutional Law > State Sovereign Immunity > General Overview

HN12 [↓] Constitutional Law, State Sovereign Immunity

An unconsenting state is immune from suits brought in federal courts by her own citizens as well as by citizens of another state.

Civil Procedure > Remedies > Damages > Monetary Damages

Civil Rights Law > General Overview

Civil Procedure > ... > Federal & State Interrelationships > State Sovereign Immunity > State Immunity

Constitutional Law > State Sovereign Immunity > General Overview

Governments > Courts > Clerks of Court

HN13 [↓] Damages, Monetary Damages

A state court is not amenable to suit under *42 U.S.C.S. § 1983* on the grounds that it is immune from suit by virtue of the *Eleventh Amendment*.

Constitutional Law > State Sovereign Immunity > General Overview

HN14 [↓] Constitutional Law, State Sovereign Immunity

Official capacity suits represent only another way of pleading an action against an entity of which an officer is an agent. The immunities available to the defendant in an official-capacity action are those that the governmental entity possesses.

Civil Rights Law > General Overview

HN15 [] Civil Rights Law

In a 42 U.S.C.S. § 1983 action, the plaintiff must allege direct and personal involvement on the part of a defendant in the alleged constitutional deprivation. As the doctrine of respondeat superior does not apply in § 1983 actions, a showing of the defendant's personal responsibility is required. Failure to set forth facts pertaining to such personal involvement results in a fatally defective complaint.

Counsel: For Plaintiff: John E. Casaburro, Deland, FL.

For Defendants: Michael Kennedy, Esq., Assistant Attorney General, New York, NY.

For Defendants: Stephen Kitzinger, Esq., Assistant Corporation Counsel, New York, NY.

Judges: Shira A. Scheindlin, U.S.D.J.

Opinion by: Shira A. Scheindlin

Opinion

[*177] OPINION AND ORDER

SHIRA A. SCHEINDLIN, U.S.D.J.:

Pro se plaintiff John Casaburro ("Plaintiff") filed this action pursuant to 42 U.S.C. § 1983 seeking damages of \$ 10,000,000 for alleged violations of his civil rights at the time of his arrest. Plaintiff was arrested on October 12, 1994, for solicitation of a prostitute. He pled guilty to a lesser charge of disorderly conduct, for which he was sentenced to a single day of community service, attendance at a health education/prostitution class, and a fine of \$ 45. In addition, his truck and the tools contained therein were confiscated. On January 24, 1995, plaintiff initiated an action against the above-named defendants alleging multiple violations of his constitutional rights. His Complaint was dismissed *sua sponte* (Griesa, Ch. J.) based on Plaintiff's [*2] guilty

plea and subsequent conviction. Plaintiff appealed. On June 7, 1995, the Court of Appeals vacated the judgment and reinstated Plaintiff's *Eighth Amendment* claims.

The Complaint alleges that Plaintiff's constitutional rights were violated by the defendants' imposition of excessive punishment, cruel treatment, and excessive fines prohibited by the *Eighth Amendment*. See Complaint ("Compl.") at P 4. Plaintiff argues (1) that his treatment by defendants constituted cruel and unusual punishment proscribed by the *Eighth Amendment*; and (2) that defendants' failure to return his truck and tools amounted to an excessive fine.

The named defendants have divided themselves into two groups according to their affiliation with the City or State of New York. Defendants identifying themselves as New York City defendants consist of Mayor Rudolph Giuliani, the City of New York, the New York City Police Department, Police Officer Edward Steinmacher and the Command of the 10th Precinct (the "City defendants"). The New York State defendants are composed of the Criminal Court of the City of New York, Midtown Community [*178] Court and Court Clerk Don Vasti (the "State defendants"). Both groups of defendants [*3] move separately to dismiss the Complaint pursuant to *Rule 12(b)(6) of the Federal Rules of Civil Procedure* for failure to state a claim upon which relief can be granted. For the reasons stated below, the Complaint is dismissed as to the State defendants on *11th Amendment* grounds. It is also dismissed against defendant Mayor Rudolph Giuliani for lack of personal involvement. The Complaint is not dismissed as to the remaining City defendants against whom Plaintiff has cognizable *Eighth Amendment* claims.

I. The Facts

Before the incident in issue, Plaintiff was a politician, house painter and contractor. See Compl. at PP 10, 11. On the night of October 12, 1994, Plaintiff drove his leased truck, in which he stored the equipment used in his house painting business, to 11th Avenue and 24th Street in Manhattan. *Id.* at PP 6, 10. There, he encountered a woman with whom he discussed "oral sex and money." *Id.* Plaintiff was subsequently "surrounded by police" and learned that the woman with whom he had been conversing was an undercover police officer. *Id.* at P 6. Plaintiff was arrested for solicitation of a prostitute, his truck and tools were seized, and he was brought to [*4] the 10th Precinct. *Id.* at PP 7, 8, 10.

Plaintiff and six others were placed in a holding cage "that had no seats, no water, poor ventilation." *Id.* at P 9. Plaintiff notified the arresting officers that he was under a chiropractor's care for back problems and complained that being tightly handcuffed behind his back was inhumane. *Id.* at PP 8, 9. He was then re-handcuffed to a hook approximately 12 inches above the floor. *Id.* at P 9. On complaining that this was worse, Plaintiff was cuffed to the front of the cell in a standing position. *Id.* He still complained that the handcuffs were too tight. *Id.* Plaintiff asserts that he was forced to stand upright, without sleep or water, tightly "handcuffed for over seven hours." *Id.*

The following morning, Plaintiff was transported to the Midtown Community Court, where he was kept waiting in a van for over half an hour with his hands cuffed behind his back. *Id.* at P 13. Plaintiff reportedly begged Officer Steinmacher to loosen the cuffs, put them in front of Plaintiff or cuff him to the van. *Id.* Plaintiff informed Office Steinmacher of his back/neck condition. *Id.* Plaintiff also requested water which was [**5] denied until "the tail end of this ordeal," when Plaintiff was given some water by Steinmacher's partner. *Id.*

Plaintiff pled guilty to the lesser charge of disorderly conduct. *Id.* at P 14. Plaintiff was sentenced to one day of community service, attendance at a health education/prostitution class, and a fine of \$ 45. *Id.* Plaintiff's attempts to retrieve the truck he leased were impeded by the "threat of an additional fine of \$ 1,200 to \$ 2,400," presumably to be paid prior to the release of the truck. *Id.* at PP 14, 16. Plaintiff concedes that the truck was eventually returned to its owner, the Ford Motor Company. See Plaintiff's Reply to New York City Motion to Dismiss at P 5. Plaintiff asserts further that he was held a second time by Clerk Vasti, who refused to acknowledge Plaintiff's completion of his community service obligation until he received computer confirmation. Compl. at P 18.

II. Discussion

A. Legal Standard Applicable to a Motion to Dismiss

HN1 [↑] A motion to dismiss must be decided based on the allegations contained on the face of the complaint. *Kramer v. Time Warner, Inc.*, 937 F.2d 767, 773 (2d Cir. 1991). However, the complaint must be construed [**6] liberally where the plaintiff is proceeding *pro se*. *Haines v. Kerner*, 404 U.S. 519, 520-21, 30 L. Ed. 2d 652, 92 S. Ct. 594 (1972) (*per curiam*). In deciding such a motion, a district court must accept as true all of plaintiff's factual allegations, *Papasan v. Allain*, 478 U.S. 265, 283, 92 L.

Ed. 2d 209, 106 S. Ct. 2932 (1986), and the allegations must be "construed favorably to the plaintiff." *LaBounty v. Adler*, 933 F.2d 121, 123 (2d Cir. 1991). Such a motion cannot be granted simply because recovery appears remote or [**179] unlikely; "the issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims." *Scheuer v. Rhodes*, 416 U.S. 232, 236, 40 L. Ed. 2d 90, 94 S. Ct. 1683 (1974). Rather, dismissal is warranted "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." *Hishon v. King & Spalding*, 467 U.S. 69, 73, 81 L. Ed. 2d 59, 104 S. Ct. 2229 (1984) (citing *Conley v. Gibson*, 355 U.S. 41, 45-46, 2 L. Ed. 2d 80, 78 S. Ct. 99 (1957)). Furthermore, a motion to dismiss "need not be granted in part nor denied in toto but [**7] may be granted as to part of the complaint and denied as to the remainder." *Decker v. Masey-Ferguson, Ltd.*, 681 F.2d 111, 115 (2d Cir. 1982). "This standard is applied with even greater force where the plaintiff alleges civil rights violations" *Hernandez v. Coughlin*, 18 F.3d 133, 136 (2d Cir. 1994).

B. Section 1983

HN2 [↑] Section 1983 provides a civil action for the deprivation of constitutional rights by stating:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . . .

42 U.S.C. § 1983. "To state a valid claim under § 1983, 'a plaintiff must allege (1) that the challenged conduct was attributable at least in part to a person acting under color of state law, and (2) that such conduct deprived the plaintiff of a right, privilege, or immunity [**8] secured by the Constitution or laws of the United States.'" ¹ *Morris v. Dann*, 1996 U.S. Dist. LEXIS 18878 at *7, 95 Civ. 975, 1996 WL 732559 at *3 (N.D.N.Y. Dec. 11, 1996) (quoting *Eagleston v. Guido*, 41 F.3d 865, 876 (2d Cir. 1994) (internal quotation omitted)).

¹ Because the Court of Appeals has explicitly directed that only Plaintiff's *Eighth Amendment* claims be considered, the second prong of § 1983 will be limited to violations of the *Eighth Amendment*.

C. The Eighth Amendment

HN3 [↑] The *Eighth Amendment to the United States Constitution* provides that "excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted." *U.S. Const. Amend. VIII*. Here, Plaintiff invokes the *Cruel and Unusual Punishments Clause* (for the way he was treated - handcuffed, denied water) and the *Excessive Fines Clause* (for the forfeiture of his truck and tools).

1. Cruel and Unusual Punishments

As a preliminary matter, it must be noted that Plaintiff relied upon the wrong constitutional provision in seeking redress ****9** for his claim of inhumane treatment. As the Supreme Court noted:

HN4 [↑] *Eighth Amendment* scrutiny is appropriate only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions. . . .

The State does not acquire the power to punish with which the *Eighth Amendment* is concerned until after it has secured a formal adjudication of guilt in accordance with due process of law. *Where the State seeks to impose punishment without such an adjudication, the pertinent constitutional guarantee is the Due Process Clause of the Fourteenth Amendment.*

Ingraham v. Wright, 430 U.S. 651, 671 n.40, 51 L. Ed. 2d 711, 97 S. Ct. 1401 (1977) (emphasis added); see also *Whitley v. Albers*, 475 U.S. 312, 318, 89 L. Ed. 2d 251, 106 S. Ct. 1078 (1986); *Bell v. Wolfish*, 441 U.S. 520, 535 n.16, 60 L. Ed. 2d 447, 99 S. Ct. 1861 (1979).

****10** "Notwithstanding its prior holdings, the Supreme Court has recognized that **HN5** [↑] conduct imposed on a non-convicted person ***180** may warrant *Eighth Amendment* scrutiny if such conduct constitutes 'punishment.'" *Mann v. Meachem*, 929 F. Supp. 622, 633 (N.D.N.Y. 1996) (citing *Bell*, 441 U.S. at 538). The question thus arises whether the conduct that Plaintiff

² Given Plaintiff's *pro se* status, he will be granted leave to amend his complaint in order to add a claim under the Due Process Clause. However, for purposes of this motion to dismiss, Plaintiff's claims will be analyzed under the *Eighth Amendment*.

was subjected to can be considered punishment. The Supreme Court has developed the following two-pronged test in determining if conduct is punishment: (1) was there a legitimate purpose for engaging in the conduct complained of; and (2) was the conduct excessive in relation to the legitimate purpose. *Bell*, 441 U.S. at 538. Within the context of pretrial detention, the Supreme Court has noted:

Restraints that are reasonably related to the institution's interest in maintaining jail security do not, without more, constitute unconstitutional punishment even if they are discomforting. . . . It is enough simply to recognize that in addition to ensuring the detainee's presence at trial, the effective management of the detention facility once the individual is confined is a valid objective that may justify imposition of conditions ****11** and restrictions of pretrial detention and dispel any inference that such restrictions are intended as punishment.

441 U.S. at 540. The Court then cautioned courts to defer to the expert judgment of corrections officials "unless the officials have exaggerated their response to these considerations." *Id.* (quoting *Pell v. Procunier*, 417 U.S. 817, 827, 41 L. Ed. 2d 495, 94 S. Ct. 2800 (1974)). That is precisely what may have occurred here. Plaintiff alleges that he was handcuffed for over seven hours while inside a holding cell. Although there may be a legitimate reason for doing so, it is not apparent at this stage of the litigation. As there is a fact question surrounding the conduct in issue, it will be deemed punishment for purposes of *Eighth Amendment* analysis and this motion to dismiss.

HN6 [↑] In determining whether an *Eighth Amendment* violation has occurred, the Supreme Court applies a two-prong test consisting of an objective component and a subjective component. *Farmer v. Brennan*, 511 U.S. 825, 128 L. Ed. 2d 811, 114 S. Ct. 1970 (1994). First, the plaintiff must demonstrate that the conditions of his confinement resulted "in unquestioned and serious deprivations ****12** of basic human needs." *Jolly v. Coughlin*, 76 F.3d 468 (2d Cir. 1996) (quoting *Anderson v. Coughlin*, 757 F.2d 33, 35 (2d Cir. 1985)). See also *Farmer*, 511 U.S. at 834 (prison official's acts must deprive inmate of the "the minimal civilized measure of life's necessities")(quoting *Rhodes v. Chapman*, 452 U.S. 337, 347, 69 L. Ed. 2d 59, 101 S. Ct. 2392 (1981)). Second, the plaintiff must demonstrate that the defendants imposed those conditions with "deliberate indifference." *Id.* (citing *Wilson v. Seiter*, 501 U.S. 294,

297, 115 L. Ed. 2d 271, 111 S. Ct. 2321 (1991)). See also *Farmer*, 511 U.S. at 834 (prison official must have a "sufficiently culpable state of mind") (quoting *Wilson*, 501 U.S. at 297).

HN7 [↑] Regarding the subjective component, where prison officials stand accused of using excessive physical force, the Supreme Court has held that the "core judicial inquiry is . . . whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Hudson v. McMillian*, 503 U.S. 1, 6, 117 L. Ed. 2d 156, 112 S. Ct. 995 (1992) (citing *Whitley v. Albers*, 475 U.S. 312, 320-21, 89 L. Ed. 2d 251, 106 [**13] S. Ct. 1078 (1986)). As the *Hudson* Court stated:

In determining whether the use of force was wanton and unnecessary, it may also be proper to evaluate the need for application of force, the relationship between that need and the amount of force used, the threat "reasonably perceived by the responsible officials," and "any efforts made to temper the severity of a forceful response."

Hudson, 503 U.S. at 7 (quoting *Whitley*, 475 U.S. 312 at 321). Where wantonness is established, a plaintiff may recover even though he did not suffer serious injury. 503 U.S. at 9 ("When prison officials maliciously and sadistically use force to cause harm, contemporary standards of decency are always violated.").

Here, Plaintiff has alleged a cognizable claim against the City defendants under the [*181] *Eighth Amendment*.³ As stated earlier, the need to handcuff Plaintiff while he was in a holding cell is not yet apparent, much less the need to handcuff him tightly for over seven hours. The Second Circuit has recognized *Eighth Amendment* claims in the context of tight handcuffs. See, e.g., *Davidson v. Flynn*, 32 F.3d 27 (2d Cir. 1994) (claim not based on use of handcuffs but on their [**14] "deliberate and improperly motivated application so tightly as to injure"); *Reid v. Coughlin*, 1994 U.S. Dist. LEXIS 529 at *11, No. 86 Civ. 1351, 1994 WL 23152 at *4 (S.D.N.Y. Jan. 24, 1994) (officers' actions in causing handcuffs to become painfully tight, for the sole purpose of causing plaintiff harm, would not amount to a *de minimis* use of force but would be actionable under *Hudson*). Accordingly, Plaintiff may maintain his claim of cruel and unusual punishment

³ From this point on, the "City defendants" shall not include defendant Mayor Giuliani who is dismissed from this action. See discussion *infra* at pp. 21.

against the City defendants.

2. Excessive Fine

Plaintiff alleges that he faced a fine of 10% to 20% of the truck's value, amounting to \$ 1,200 to \$ 2,400, before he could retrieve his truck and tools or risk forfeiture thereof.⁴ The monetary payment aspect can be analyzed as a traditional fine as can the related forfeiture which represents **HN8** [↑] an *in personam* criminal forfeiture that is "clearly a form of [**15] monetary punishment no different, for *Eighth Amendment* purposes, from a traditional 'fine'." ⁵ *Alexander v. United States*, 509 U.S. 544, 558, 125 L. Ed. 2d 441, 113 S. Ct. 2766 (1993). Both can be analyzed under the Excessive Fines Clause which "limits the government's power to extract payments, whether in cash or in kind, 'as punishment for some offense.'" *Austin*, 509 U.S. 602 at 609-10, 125 L. Ed. 2d 488, 113 S. Ct. 2801 (1993) (quoting *Browning-Ferris Industries of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 265, 106 L. Ed. 2d 219, 109 S. Ct. 2909 (1989)).

[**16] **HN10** [↑] With respect to punishments other than *in rem* civil forfeitures, the Supreme Court has indicated that "a monetary penalty will be considered excessive within the meaning of the *Eighth Amendment* when there is a lack of proportion between the gravity of the offense and the harshness of the penalty." *United States v. Milbrand*, 58 F.3d 841, 845 (2d Cir. 1995) (citing *Alexander*, 509 U.S. at 558-59). Whether a forfeiture is "grossly disproportionate" and thus violates the *Eighth Amendment* is a fact-bound issue that must be analyzed on a case-by-case basis. *United States v.*

⁴ No one has identified the statutory basis underlying this fine/forfeiture scheme.

⁵ **HN9** [↑] "An *in personam* criminal forfeiture is an action against the person as distinguished from an *in rem* forfeiture which is an action against the property itself." *United States v. Wild*, 47 F.3d 669, 674 (4th Cir. 1995). The "defendant in a criminal forfeiture proceeding is the person, and the defendant in a civil forfeiture proceeding is the particular property." *United States v. \$ 814,254.76 in U.S. Currency*, 51 F.3d 207 (9th Cir. 1995). The "theory of *in rem* forfeiture is said to be that the lawful property has committed an offense." *Austin v. United States*, 509 U.S. 602, 624, 125 L. Ed. 2d 488, 113 S. Ct. 2801 (1993) (Scalia J., concurring). The forfeiture in issue here is clearly an *in personam* criminal forfeiture as the Supreme Court has noted: "There is nothing even remotely criminal in possessing an automobile." *One 1958 Plymouth Sedan v. Pennsylvania*, 380 U.S. 693, 699, 14 L. Ed. 2d 170, 85 S. Ct. 1246 (1965).

Alexander, 32 F.3d 1231, 1236-37 (8th Cir. 1994). Two relevant factors include the extent of the criminal activity and the quantum of property forfeited. *Id.* at 1236. Other factors include: the seriousness of the offense, an assessment of the personal benefit reaped by the defendant, the defendant's motive and culpability, and the "extent that the defendant's interest and the enterprise itself are tainted by criminal conduct." *Id.* at 1236-37 (quoting *United States v. Sarbello*, 985 F.2d 716, 724 (3d Cir. 1993)). See also *United States v. Bieri*, 68 F.3d 232, 236 (8th Cir. 1995) (district court must consider multiple factors including "the extent and duration of the criminal conduct, the gravity of the offense weighed against the severity of the criminal sanction, and the value of the property forfeited").

Here, the minimum fine faced by Plaintiff was 10% of the truck's value (\$ 1,200). Even this minimum fine can be seen as grossly disproportionate to a charge of disorderly conduct for which Plaintiff was fined a mere \$ 45. However, the question of excessiveness "requires factual analysis, so that a mere allegation of excessiveness suffices to survive a 12(b)(6) motion." *Grove v. Kadlic*, 968 F. Supp. 510, 516 (D.Nev. 1997) (citing *United States v. One 1978 Piper Cherokee Aircraft*, 91 F.3d 1204, 1210 (9th Cir. 1996)). Accordingly, Plaintiff may maintain his excessive fine claim against the City defendants.

D. The *Eleventh Amendment*

HN11 The *Eleventh Amendment* provides:

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or subjects of any Foreign State.

U.S. Const. Amend. XI. ⁶ Hence, a "state, ****18** its agencies and state officials sued in their official capacities are all immune from suit in federal court brought by a citizen of that state. . . ." *Richards v. State of New York*, 597 F. Supp. 692 (E.D.N.Y. 1984) (citing, *inter alia*, *Alabama v. Pugh*, 438 U.S. 781, 57 L. Ed. 2d

⁶ While the *Eleventh Amendment* does not expressly bar suits against a state by its own citizens, the Supreme Court has consistently held that **HN12** "an unconsenting State is immune from suits brought in federal courts by her own citizens as well as by citizens of another state." *Edelman v. Jordan*, 415 U.S. 651, 662-63, 39 L. Ed. 2d 662, 94 S. Ct. 1347 (1974).

1114, 98 S. Ct. 3057 (1978)), *aff'd*, 767 F.2d 908 (2d Cir. 1985). Section 1983 was not intended to override a state's *Eleventh Amendment* immunity. *Quern v. Jordan*, 440 U.S. 332, 343, 59 L. Ed. 2d 358, 99 S. Ct. 1139 (1979). Moreover, there is no subject matter jurisdiction over Plaintiff's claims for monetary relief against the State defendants as the Supreme Court has stated that "neither a State nor its officials acting in their official capacities are 'persons' under § 1983." *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71, 105 L. Ed. 2d 45, 109 S. Ct. 2304 (1989).

****19** Here, the Criminal Court of the City of New York and the Midtown Community Court are state agencies. *Zuckerman v. Appellate Division, Second Dep't*, 421 F.2d 625, 626 (2d Cir. 1970) (courts are "the judicial arm of the State of New York"). Accordingly, they are immune from Plaintiff's action for money damages. *Mathis v. Clerk of the First Dep't, Appellate Division*, 631 F. Supp. 232, 235 (S.D.N.Y. 1986) **HN13** ("a state court is not amenable to suit under 42 U.S.C. § 1983 . . . on the grounds that it is immune from suit by virtue of the *Eleventh Amendment*..."). Defendant Vasti is being sued in his official capacity as County Clerk for the Midtown Community Court. **HN14** Official capacity suits "generally represent only another way of pleading an action against an entity of which an officer is an agent." *Kentucky v. Graham*, 473 U.S. 159, 165, 87 L. Ed. 2d 114, 105 S. Ct. 3099 (1985) (quoting *Monell v. New York City Dep't of Social Servs.*, 436 U.S. 658, 690, 56 L. Ed. 2d 611, 98 S. Ct. 2018 (1978)). Moreover, the "immunities available to the defendant in an official-capacity action are those that the governmental entity possesses." *Hafer v. Melo*, 502 U.S. 21, 25, 116 L. Ed. 2d ****20** 301, 112 S. Ct. 358 (1991). Accordingly, Plaintiff's complaint against defendant Vasti is also barred on *Eleventh Amendment* grounds.

E. Lack of Personal Involvement

It is well settled in this Circuit that **HN15** in a Section 1983 action a plaintiff must allege direct and personal involvement on the part of a defendant in the alleged constitutional deprivation. *Moffitt v. Town of Brookfield*, 950 F.2d 880, 886 (2d Cir. 1991); *McKinnon v. Patterson*, 568 F.2d 930, 934 (2d Cir. 1977) (citations omitted). As the doctrine of *respondeat superior* does not apply in Section 1983 actions, a showing of defendant's personal responsibility is required. *Wright v. Smith*, 21 F.3d 496, 501 (2d Cir. 1991) (citing *Johnson v. Glick*, 481 F.2d 1028, 1034 (2d Cir. 1973)). Moreover, "failure to set forth facts pertaining to such

personal involvement results in a 'fatally defective' complaint." *Murphy v. Neuberger*, 1996 U.S. Dist. LEXIS 11164, at *9, No. 94 Civ. 7421, 1996 WL 442797, at *3 (S.D.N.Y. Aug. 6, 1996) (citing *Alfaro Motors, Inc. v. Ward*, 814 F.2d 883, 886 (2d Cir. 1987)).

Plaintiff's only allegations relating to defendant Mayor Giuliani consist of a complaint to a Legal Aid attorney that "this administration [**21] [*183] (Mayor Giuliani's) has gone too far with entrapments, excessive fines. . . , excessive punishment..." Compl. P 14. Because Plaintiff fails to allege any personal involvement on the part of this defendant, his claims against Mayor Giuliani are dismissed.

IV. Conclusion

For the reasons stated above, Plaintiff's claims against the State defendants and defendant Mayor Giuliani are dismissed. Plaintiff's claims against the remaining City defendants survive. Plaintiff shall amend his complaint within 30 days of receipt of this Opinion. A conference has been scheduled for November 7, 1997.

So Ordered:

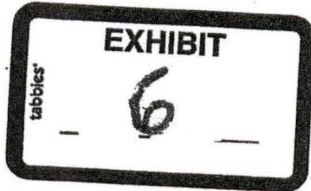
Shira A. Scheindlin

U.S.D.J.

Dated: New York, New York

September 29, 1997

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Region News Briefs

Candidate Arrested In Prostitution Sweep

Special to The New York Times

WHITE PLAINS, Oct. 13 — A Yonkers man who tried to run for Congress but failed to win a spot on the ballot was arrested in Manhattan on Wednesday and charged with patronizing a prostitute.

John Casaburro, 43, was carrying a flier that identified him as a candidate in the 18th Congressional District race when he was arrested as part of a police sweep in the area around West 24th Street and 11th Avenue, said Sgt. Joe Gallagher. Five other men were arrested at the same time.

Mr. Casaburro spoke to local Republican officials about his desire to run for the seat held by Nita Lowey, a Democrat, and he filed a petition with the State Board of Elections seeking an independent line on the ballot. That petition was denied because it had only 273 signatures, and

3,500 signatures were required.

The Republican-Conservative candidate in the 18th District is Andy Hartzell of Scarsdale.

Woman Sues Town Over Slip on Dog Drool

CHESHIRE, Conn., Oct. 13 (AP) — A woman who injured herself after slipping on some dog drool is suing the town for negligence.

The woman, Carla S. Koch, says in her lawsuit that there were no mats on the floor last year at a town-run canine obedience class at the youth center. She broke her ankle during a fall on the linoleum floor, she said.

"It isn't a matter of dogs don't drool," she said. "There's a reason for mats in obedience school and this is it."

Town Attorney John K. Knott Jr. said he was not familiar with the specifics of the case, but said, "It's unbelievable the claims people make."

After the accident on Sept. 27, 1993,

Ms. Koch had surgery and was on crutches for 10 weeks. She says she has scars on both sides of her leg, and still has two pins in her leg.

Panel Approves Bill To End Lifelong Tenure

TRENTON, Oct. 13 (AP) — School principals and administrators would no longer be given lifelong job security under a bill approved by the Senate Education Committee today.

New Jersey is among only seven states that give school administrators lifelong job protection.

The bill would require school boards to hire school principals and managers on contracts that would run from three to five years. It would affect only principals and administrators hired after final approval of the bill.

The State Department of Education and the New Jersey School Boards Association both support the measure.

10/14/94



Date Produced: 03/04/2019

Florida Elections Commission:

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FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539**
www.fec.state.fl.us; fec@myfloridalegal.com

February 25, 2019

CERTIFIED MAIL 9214 8969 0099 9790 1626 2533 89

Ben F. Johnson
2791 Grand Avenue (Glenwood)
DeLand, FL 32724

RE: Case No.: FEC 19-105; Respondent: Ben F. Johnson

Dear Mr. Johnson:

On February 19, 2019, the Florida Elections Commission received the enclosed complaint alleging that you violated Florida's election laws. Section 106.25(2), Florida Statutes, states:

The respondent shall have 14 days *after receipt* of the complaint to file an initial response, and the executive director may not determine the legal sufficiency of the complaint during that time period.

If you choose to file a response to the complaint, please send it to my attention at the address listed above. To ensure that we receive your response in a timely manner, you may also want to send it via e-mail to my attention at fec@myfloridalegal.com. You will be notified by letter whether the complaint is determined to be legally sufficient.

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address.

Pursuant to section 106.25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapter 104 or 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing.

Ben F. Johnson
February 25, 2019
Page 2
FEC 19-105

The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

For additional information, please refer to the "Frequently Asked Questions" section of the Commission's website (www.fec.state.fl.us) or contact us via email at fec@myfloridalegal.com.

Sincerely,
Erin Riley
Deputy Agency Clerk

/enr
Enclosure: Complaint w/attachments

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- Adult Signature Restricted Delivery \$1.60

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Electronic Return Receipt Requested

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Code: 19-105; 14 Day Ltr

Sent To Ben F. Johnson
 2791 Grand Avenue (Glenwood)
 DeLand, FL 32724

Street, Apt. No.,
 or PO Box No.
 City, State, Zip+4

COMPLAINT

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom it is brought.

1. PERSON BRINGING COMPLAINT:

Name: John Casaburro Work Phone: () N/A
Address: 111 Kendra ave. Home Phone: (386) 215-7327
City: DeLand County: Volusia State: FL Zip Code: 32724

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

If you intend to name more than one individual or entity, please file multiple complaints. A person can be an individual, political committee, political party, electioneering communication organization, club, corporation, partnership, company, association, or other type of organization.

Name of individual or entity: Ben F. Johnson
Address: 2791 Grand ave. (Glenwood) Phone: WORK- 740-5224
(386) 943-7026
City: DeLand County: Volusia State: FL Zip Code: 32724

If individual is a candidate, list the office or position sought: county council

Have you filed this complaint with the State Attorney's Office? (check one) Yes No
Are you alleging a violation of Section 104.271(2), F.S.? (check one) Yes No
Are you alleging a violation of Section 104.2715, F.S.? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please attach a **concise** narrative statement in which you list the provisions of the Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate provisions of Chapter 104 and Chapter 106, Florida Statutes. Please include the following items as part of your attached statement: ✓

- ✓• The facts and actions that you believe support the violations you allege;
- ✓• The names/telephone numbers of persons whom you believe may be witnesses to the facts;
- ✓• A copy or picture of any political advertisement(s) you mention in your statement;
- ✓• A copy of each document you mention in your statement;
- ✓• An explanation of why you believe information you reference from websites is relevant; and
- ✓• Any other evidence supporting your allegations.

SEE REVERSE SIDE OF DOCUMENT FOR ADDITIONAL INFORMATION

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

4. OATH:

STATE OF FLORIDA
COUNTY OF Volusia

I swear or affirm that the above information is true and correct to the best of my knowledge.

John Casolino
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 13th day of
February, 20 19



Shannon Toomey
Signature of Officer Authorized to Administer Oaths or Notary Public

Shannon Toomey
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ Or Produced Identification

Type of Identification Produced FLDL

5. IMPROPERLY COMPLETED COMPLAINT FORMS MAY BE RETURNED:

- You **MUST submit this** completed complaint **form** in order to file a complaint.
- You **MUST** complete **ALL FOUR** of the above sections of this form. **DO NOT** leave any blanks.
- You **MUST** submit the **ORIGINAL** complaint form. Copied/faxed/emailed forms are returned.
- Each complaint can only be filed against **ONE PERSON** or **ENTITY**. If you wish to file against multiple parties, you **MUST** submit a complaint form **for each party** you wish to file against.
- **DO NOT** submit multiple complaint forms with one set of attachments applying to multiple complaints. You **MUST** attach **copies** of attachments **to each complaint** to which they apply.
- **MAKE SURE** the alleged violation(s) of **Chapters 104 or 106** occurred within the last **2 years**.
- **MAKE SURE** your complaint is **sworn** and there is **no defect** to the **notarization** in Section 4.



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street, Suite 224

Collins Building

Tallahassee, Florida 32399-1050

(850) 922-4539

www.fec.state.fl.us; fec@myfloridalegal.com

February 11, 2019

John Casaburro
111 Kendra Avenue
DeLand, FL 32724

Dear Mr. Casaburro:

The Florida Elections Commission received your complaint alleging a violation of Florida's election laws. However, your complaint is being returned to you because it does not comply with Rule 2B-1.0025, Florida Administrative Code. In accordance with Rule 2B-1.0025, the complaint is being rejected for the following reason(s):

- Complaint is not filed on FEC Form 1
- Information required by FEC Form 1 is incomplete
- More than one Respondent is named
- Complainant's name is not included
- Exhibits or attachments referenced in the complaint are not attached to each complaint
- Complaint does not include an original signature ✓ correction made
- Complaint is not properly notarized

If you have any questions, please contact us at fec@myfloridalegal.com or at the number listed above. Enclosed is a copy of FEC Form 1, Complaint form, should you decided to refile your complaint.

Sincerely,

Erin Riley

Deputy Agency Clerk

ER/dm

Enclosures: Complaint materials
FEC Form 1 (eff 8/22/17)

Feb 1-2019

Narrative to F.E.C. - Ben F. Johnson

I Candidate Johnson hired a Internet News Outlet Reporter / Publisher to make many False statements with Malice against complainants, During campaign violating Sec. 104.271, F.S. See enclosed civil court Complaint case no. 2019-10091 (exhibit A, etc.

-II- Candidate Johnson Paid said reporter/publisher \$1,000. on 7-23-2018 (EX-H #2 of civil court complaint) to headline surfer (D.B.A. For Henry Frederick, reporter for "advertising". Frederick's admits there was no ads for Johnson. The treasurer report was knowingly incorrect, False and misleading violating sections 106.07(5) + 106.19, F.S.

III- Witness - Henry Frederick's / Headline Surfer called to settle case on 1-26-19 + admitted...
A- There were no Johnson campaign ads posted.
B- Admits to fabricating infamous condom picture (386-689-2830 Frederick cell #)
C- Admits to Publishing incomplete Police Reports, media events + statements.

Witness - Robert Moni - searched internet for Johnson campaign ads by Frederick's + Found none 3 months prior to court filing

cell 386-235-8785

pg 1 of 1 John Casaburro

In the 7th Judicial Circuit Court in and for Volusia County, Florida

John E. Casaburro	X	Case No: <u>2019-10091</u>
Plaintif	X	Div No: <u>C101</u>
-vs-	X	COMPLAINT:
		For Libel, Slander, Defamation, and
		Breach of Contract
Henry Frederick, AKA Headline Surfer (D.B.A); and Ben F. Johnson	X	
<u>Defendant's</u>	X	

Comes now Plaintiff, John Casaburro , and here by sue's Defendants Henry Frederick, who owns, writes and is publisher of Headline Surfer, an internet news outlet as a D.B.A (according to State records his prior corporation is unpaid) and Ben F. Johnson while a private citizen.

I. This is an action that exceeds (fifteen thousand dollars) \$15,000.00 exclusive of attorneys fees, costs and interest.

The Parties

- II. Plaintiff John Casaburro, resides at 111 Kendra Ave, DeLand, FL 32724. Cell phone 386-215-7327.
- III. Defendant Henry Frederick resides at 416 Dorchester Square, Lake Mary, FL 32746 and/or 500 Airport Blvd. West, Unit 1307, Sanford FL 32773. Phone number 386-689-2830.
- IV. Defendant Ben F. Johnson resides at 2791 Grand Ave (Glenwood) DeLand, FL 32720. Office number 386-740-5224 or 943-7026.
- V. Venue is in Volusia County where Plaintiff and Johnson live and where Johnson paid Frederick to trash/slander Plaintiff.

Background (Exhibit -A-)

- VI. On or about July 31, 2018, Defendant Frederick wrote a false and trash article on his newsletter site about Plaintiff, such as, I am a monster in my neighbourhood. Truth is I have been President of area HOA (unincorporated) since 2002. The only neighbours that hated me are the drug dealers and their friends that got evicted. See Exhibit B, Letter from good neighbour Mike Densmore and Exhibit C, most recent HOA/neighbourhood petition with 39 good neighbours signing. -B- Frederick claims that plaintiff is in some sort conspiracy with Mike Chitwood, Sheriff and Councilwoman Heather Post. Truth is, I met Post briefly at a GOP event and represented Mike Chitwood as a good cop, not a politician. -C- Frederick accuses Plaintiff of a gross and perverted act of leaving a bloody condom on someone's doorstep. Truth is, picture is bogus. Houses in background do not match the modest homes on my street and the Police car is a City PD. My area is County DeLand, where only Sheriff Deputies cars respond to calls. Picture is clearly a fake.
- VII. Frederick goes on in his article and calls me a "psycho", dishonest and an unethical person because I was a write in candidature for Council at Large.
- VIII. Frederick claims that I had no good standing with the Republican Party. Truth is I have won four

good service awards, one that is attached as exhibit D.

- IX. Fredericks takes out of context remarks from a biased reporter from 1989 NY, claiming that Plaintiff is a racist. Jews were enslaved as workhorses for 400 years; my people from Naples Italy were fed to lions, hung on a cross and fought to fight in public venues. This was compared to black take care of your work horse mindset of the 1800's USA at a meeting with black civic leaders. Also, as one of the Founders of Fathers Rights in 1980's and as a nationwide leader, I was talking about low employment, family splits, and crime as a leading reason young black men avoided fatherhood and do not marry.
- X. Finally (and there are many other false statements by Frederick) in 1994 Plaintiff was falsely arrested, held overnight at a police station. Charge amounted to a \$45.00 desk appearance fine for disorderly conduct that was paid in court the next morning. I sent Frederick ticket receipt/appeal win that cleared my name of a made up charge with no backing. (See exhibits E & F) Frederick omits facts and findings by Federal Judges to harm Plaintiff with malice.
- XI. Plaintiff has been a political activist since 1978 and a businessman with many achievements. Frederick misquotes me to harm and injure like Plaintiff is some kind of mental case.

Statutes and Jurisdiction in Circuit Court

- XII. a. "Defamation by Implication"; omitting facts are considered to be falsely and (§ 25.05(1) Liable, while recklessly disregarding their falsity.
- b. FL ST 770.01 and 770.02 have been violated by Frederick. Notice was sent by regular US Mail on January 7, 2019 and by email to correct liability and slander.
- c. 770.2 (2)(a) Frederick had 10 days to correct, provide apology and retract his statements of slander and Defendant failed to do so. (See Exhibit G)
- d. Frederick has injured Plaintiff in his reputation, office, business, any future employment (see Cooper v. Miami Herald 31 so 2nd 382, 384 (FL.1947) with false and defamatory (§ 558 (1977 Tort's) Plaintiff is entitled to relief, damages, and costs.
- e. Section 550 of Libel/Defamation has Frederick libel for gross negligence due to faulty and biased research since Johnson paid him at least \$1000.000 out of his campaign funds.
- f. Frederick exposed plaintiff with false reports that caused distrust, hatred, ridicule to the public and Plaintiffs daughter is very upset about my grandchildren being exposed to such lewd and awful falsehoods. (See Thomas v. Jacksonville Television, Inc., 699 so 2nd 800, 803 (FL 1st DCA 1997) .
- g. Defendants Slander with Malice hurt my vendibility with the public and GOP (see Old Plantation Corp v. Maule Industries, Inc., 68 so 2nd 180, 181 (FLA 1953) Special damages apply here by slander, false and malicious statements.
- h. Defendants slander was motivated by ill will and the desire to do harm (Schreidell v. Shoter) Jury trial is demanded for punitive damages.
- i. Attorney fees are due under 285 so 2nd 29, 31 (Clusman v. Lieberman, FLA 4th DCA 1973 (sec 633).

Ben F. Johnson's Contribution to Slander with Fredericks and Breach of Contract

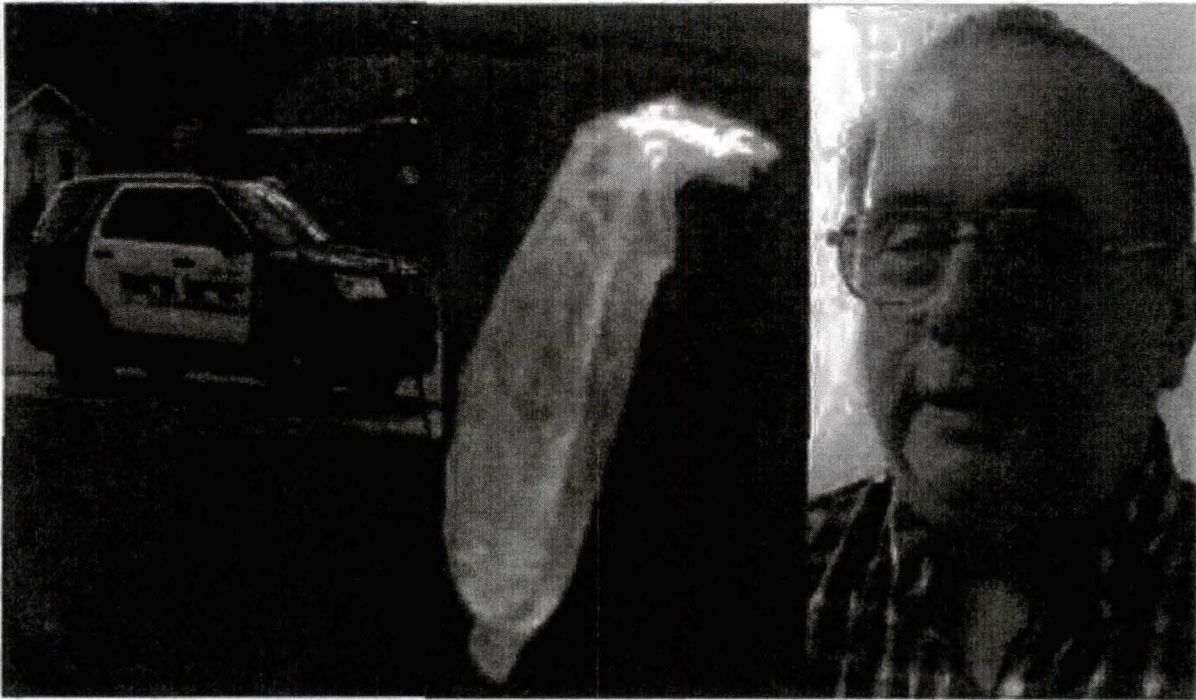
- XIII. Johnson paid Frederick \$1000.00, see campaign Treasurer Report (exhibit H) #2 & 6.
- XIV. Fredericks quoted Johnson as being the victim, Johnson knew or should have known that Frederick was known to be a sleazy reporter with a reputation of mud raking.
- XV. Plaintiff has a mediation settlement agreement with the Republican Party (see Exhibit I) #9, no

slander allowed by members. Johnson has been a member of DeLand Republican Club as a private citizen, club is a sub-connected entity by County RECVC by Charter of the full committee. Johnson has breached this contract, knows the party Chairman well and should have known this or knew and hired Frederick to smear mud around the Plaintiff.

- XVI. Johnson is culpable and is severally and individually liable with both Defendants with Fraudulent and Conspiratorial conduct in concert with each other inflicting harmful slander, defamation with ill will and malice against Plaintiff. Where as in conclusion, Plaintiff asks court for a jury trial for all of the foregoing wrongs and damages in excess of \$500,000.00 (one half million), plus attorneys fees and costs.

ADA Accommodation - Plaintiff suffers from chronic neck and back pain, numb fingers, degenerative eye, light sensitive that causes headaches and lost focus (can not use a computer). Plaintiff requests that court allow/order all pleadings and notice be sent US mail.

PJ-3



HEADLINE SURFER



Investigative Reports
THE SLEAZE FACTOR!

Headline Surfer multimedia presentation / Shown above is John Casaburro, an ogre to his DeLand-area neighbors for years and an enigma over the years in insider politics is now a write-in candidate for countywide elected

office taking his cues from vitriolic Volusia Sheriff Mike Chitwood in trying to derail the former sheriff, Ben Johnson, considered an overwhelming favorite to outright win the Aug. 28 primary and succeed retiring At-Large County Councilwoman Joyce Cusack on the dais in DeLand. Not only is Chitwood threatened by the prospect of Johnson's return to elected office, but so too is first-term Councilwoman Heather Post, a former deputy, whose veracity is easily called into question as to the prior illicit use of cocaine as indicated in her personnel file.

By HENRY FREDERICK

Headline Surfer

DAYTONA BEACH, Fla. -- He was once suspected by a neighboring DeLand family of four of leaving a dripping used condom with blood on it on the welcoming mat of their front porch door as a perverse act of intimidation.

The wife and mom of two little kids discovered it upon returning from an errand -- snagging a pair of sterile gloves to pick it up before it could lead to disaster.

Several Volusia County Sheriff's deputies responded and one of them in turn put on a pair of sterile gloves to pick up the nasty find crumpled within the moms discarded and bunched-up gloves subsequently scooped into an evidence bag to be brought back to headquarters for storage.

One voter who attended a recent political event where Casaburro was distributing his phony sleaze piece reported that the candidate got downright ugly and intimidating when he was challenged to provide proof of the allegations. Naturally, Casaburro was unable to back up his allegations – for the very reason that they have no basis in fact. They aren't true, period.

Instead, Casaburro tried to bully the person demanding to see proof.



"He got so angry at me that he hovered over me in a very threatening manner," said the vote of his encounter with Cassaburro. His name is being withheld by Headline Surfer to spare him further harassment from Casaburro and others like him that are stirring the pot behind the scenes.

For his part, Ben Johnson reports being flooded with phone calls and social media messages from outraged voters. So far, Johnson has taken the high road and purposely keeping his public comments to a minimum.

Certainly, plenty of people are hopping mad about Casaburro's gutter tactics.

"I hate trashy campaigns!" one Johnson supporter wrote in an e-mail to him. "But it really makes me angry when they trash honorable people!"

Another said of the slime piece: "I think it is slander and libel against you." Yet another was even more blunt in a post on Johnson's Facebook campaign page: "Time to crucify this clown."

In a recent story published in the West Volusia Beacon profiling the at-large council race, Casaburro evidently told the bylined writer that this was his first time running for political office. That, as it turns out, also isn't true. But it's certainly understandable why Casaburro would want to run away from his past.

In 1989, while living in New York and running for Mayor of Yonkers, Casaburro made headlines in the New York city newspapers for highly inflammatory and degrading comments suggesting that most African-Americans had it good during this country's slavery era. "Ninety percent of all Blacks lived well and had it good" under slavery, Casaburro was quoted as saying.

The article went on to report that Casaburro degraded the African-American culture by saying: "Most Blacks are encouraged not to marry a woman. They're encouraged to impregnate, not marry her because it's almost an irresponsibility to get married since welfare will take care of her."

Casaburro's racist remarks, outed by Johnson in an NAACP candidate forum ????????????????????

In 1994, the New York Times reported that following a failed Congressional bid in New York, Casaburro was arrested during a prostitution sweep in Manhattan after he struck up a conversation about oral sex and money with a woman who turned out to be an undercover officer.

When he was arrested, Casaburro was reported to be carrying a flier identifying himself as a candidate in the 18th Congressional District race. He was charged with patronizing a prostitute. Casaburro sued then-New York Mayor Rudy Giuliani and the City of New York over the arrest, seeking \$10 million in damages. It didn't take long for the suit to be thrown out.

EX-A-Pg. 2

Mike Densmore
1075 E. Plymouth Ave
DeLand, FL 32724
386-216-1313

Judge *Green*
Case No. *2013-23504*

Dear Sir:

I have been a personal friend and neighbor to John Casaburro for the past 10 years. While living across the street from Mr. Casaburro I found him to be a good neighbor and know that he was instrumental in weeding out many of the unfavorable people from the area. With his help we were able to clean up our street and reduce crime in our area. I have since moved from this neighborhood but still keep in touch with John and see him on his morning walks as he walks down the street. He has on many occasions stopped to pet my dogs and has given them his left over steak bones as a treat to them. It is my opinion that John would never harm anybody's animals and experienced him to be quite the opposite in that respect. Thank you for your time and I wish the best for everyone regarding this matter.

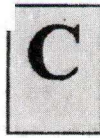
Sincerely,



Michael Densmore

1-14-14

EX-B-



Mr. John E. Casaburro
111 Kendra Avenue
Deland, FL 32724

Kendra Ave. and surrounding streets unincorporated Homeowners Association C/O Mr. John E. Casaburro, 111 Kendra Ave, Deland FL, 32724. Phone Number: 386-215-7327

To: Volusia County Sheriff Michael J. Chitwood; District #1
Councilman Pat Patterson

County Manager James T. Dinneen Offices at 123 West Indiana Ave.
Deland Fl, 32720

RE: Children's Safety Issues: Speeding in our area near Deland High School

Gentleman, please be advised: we hereby petition county officials of ongoing speed problems on Kendra Ave, Lindly Blvd., N. Hill Ave (Turn) that endanger our young children, school children, joggers, etc. We suggest the following remedy by the county:

1. Increase Police presence/speed traps (especially right before and after school hours)
2. Install 4 speed mats ^(* 2) (not bumps) along Kendra Ave.
3. Caution/Small Children at Play signs attached to 25 mph speed limit signs, (2) on Kendra Ave.

We thank you for your consideration with this matter.

4-14-17

John E. Casaburro

EX-C-pg. 1 of 3

Kendra ave. Short cut to DeLand High School (2 blocks)

	Print Name:	Sign Name:	Address: / Phone #
	vacant houses - 108, 103 - Kendra		
1.	John Casaburro	John Casaburro	386-215-7327 111 Kendra
2.	Michele Sidman	Michele Sidman	843-742-8873 109 Kendra Ave.
3.	Carol Izquierdo	Carol Izquierdo	407-754-8568 113 Kendra Ave
4.	Blanche Cook	386-627-5071	123 Kendra Ave Deland, FL 32724
5.	Blanche Cook		
6.	Chris Baker	386-717-8439	116 Kendra Ave Deland F
7.	Chris Baker		
8.	Lindsay Buzenas	386-748-8116	114 Kendra AVE Deland FL
9.	Lindsay Buzenas		
10.	Kimm Killa	386-624-3972	112 Kendra
11.	Kimm Killa		
12.	Ryan Dalka	704-426-2495	104 Kendra
13.	Rosa Torres	(386) 279-9200	106 Kendra Ave
14.	Siantania Marks	386-473-3122	107 Kendra Ave
15.	Siantania Marks		
16.	Edward L. Wellman	386-848-7713	100 Kendra AVE
17.	Edward L. Wellman		
18.	Alison Strickland	386 588 0185	105. Kendra Ave
19.	Alison Strickland		
20.	CANDACE PETT	386 736 0969	101 Kendra Ave
21.	Candace Pett		
22.	Cheryl Joyner	(386) 748-2054 Cheryl Joyner	831 Lindley Blvd. ↑ (Faces Kendra)

23.	Cherry Cough	102 Kendra Ave	386-747-0511
24.	Jana Witt	119 Kendra Ave.	386-740-9885
25.	Paul J. Belky	121 Kendra Ave	386-986-9772
26.	PATTIE HEIZER P. Heizer	816 MONTREVILLE	386-748-3597
27.	Lauri Barkley	1140 Montreville ←	Face Kendra
28.	Cliff Brown	1050 LINDLEY BWD	386-738-2129. Large prop. owner
29.	George Robertson	1040 LINDLEY BLVD	386 776-2369
30.	R. Vandy	1101 N. HILL AVE	386-748-5009
31.	VANDERLIP	28, 29, 30 at dangerous TURN,	2 speed, need mats
32.	Melquiades Mirians	113 Kendra Ave	
33.	Miriam W.	118 Kendra Ave	407 430 3511
34.	Roberto	120 Kendra	386-801604
35.	Thompson Scott	109 Kendra Ave	843 742 8874
36.	Steve Schever	1045 Lindley Blvd	386-747-2107
37.	John Sam		
38.	Melvin Steen	1045 Lindley Blvd	
39.	Dan Palmer	110 Kendra Ave	386 2129847
40.			
41.			
42.			
43.			
44.			
45.	<u>NOTES</u>		
46.	ALL LINDLEY OLD N. HILL ave TURN owners signed		
47.	Majority of House holds on Kendra signed - 20 out of 22		

3-2 weeks ago a school kid was struck by a car on N. Hill Ave.
 EX-C-pg-3-



RECVC

Certificate of Service

RECVC
Board of Directors

Joe Stich
Chairman

Tony Ledbetter
Vice Chairman

Judi Buckley
Treasurer

Virginia Hewett
Secretary

Headquarters
747 S. Ridgewood Ave
Suite 104 Box 3a
Daytona Beach, FL
32114

Phone:
1-386-795-1704

Fax:
1-386-426-5744

Email:
jstich@cfl.rr.com

Web
www.recvc.org

This Certificate of Service

is given to

John Casaburro

for his service as the

Vice Chairman of the RECVC

and for his efforts as

A fundraising Chairman

During his term of office

During the years

2009-2010

Given this day April 2, 2011

Joe Stich
Chairman
RECVC



I paid a 45 Fine for Disorderly Conduct
There was no prostitution even! City could not
produce tape in court. This was nothing more
than a desk appearance. See Enclosed
appeal I win to clear my Name. Judge
Said city wronged me a dozen times - False
arrest, conviction No Due Process, Illegal Search etc.

No 362685 RECEIPT FOR FINE
CRIMINAL COURT

COUNTY OF Ny Part AR. C
Defendant John Casaburo Date 10/28/94
Cal. No. - Docket No. 94C 013404
Fine Imposed \$ -
MS > \$45 D V M S C

an call



EX-E



Mr. John E. Casaburro
111 Kendra Avenue
Deland, FL 32724

to: Henry Fredrick
headLineSurfer

Jan. 7, 2019

-NOTICE-

Required Request to Remove Slander and
DemFamation from your Web Site, Google,
Face book, Twitter, etc. And Replace with
a Letter of Apology. And Retraction

Dear Mr. Fredricks, I have recently viewed
your opinion's of me on the Web. You
should advise your client that your statements
are full of falsehood's, Fake News, Items
taken out of context, conjecture & heresay.
You and your client are liable for this gross
Perperation. I have a "no slander" Contract
with the Republican Party. Mr. Johnson
has legally been a member of the County
Executive Committee as a elected official.
Also as a Private Citizen & member of the
Republican Club of De Land chartered by
County. You & he must clean-up- remove
this slander ASAP or a Lawyer will enforce
a breech of the Contract/mediation agreement
& Liable Law's. You will be responsible for
Damages, Legal Fee's & cost's well over
what Johnson paid you.

see Attached proof to some of Falsehood's) your's truly,
Via-U.S. Mail various addresses. John Casaburro
EX-6

#2	<u>Headline Surfer</u> ✓ 416 Dorchester Sq. Lake Mary, FL 327460000	Advertising	Monetary ✓	✓ <u>\$1,000.00</u>
7/23/2018				
#3	BZ Mailing Services Inc 1901 Mason Ave #103 Daytona Beach, FL 321170000	Advertising	Monetary	\$14,318.13
7/23/2018				
#4	City Of Deltona 800 Deltona Blvd DeLtona, FL 327250000	Sign Permit	Monetary	\$150.00
7/26/2018				
#5	PayPal 2211 N. First St., San Jose, CA 951310000	PayPal Fee	Monetary	\$3.20
7/26/2018				
#6	<u>Ben F. Johnson</u> ✓ 2791 Grand Ave. DeLand, FL 327200000	<u>Reimburse gas</u> ✓	Monetary	\$36.34
7/27/2018				
#7	West Volusia Beacon 110 W New York Ave DeLand, FL 327200000	Ad in Voter 's Guide	Monetary	\$455.00
7/27/2018				
Total Expenditures				\$16,362.67

Campaign Treasurer's Report – Fund Transfers

Seq#	Institution	Transfer Type	Nature of Account	Amount
Date			Amend	

Campaign Treasurer's Report – Distributions

Seq#	Vendor	Purpose	Expenditure Related Exp.	Amount
Date			Amend	

* Petty cash expenditures are realized when the funds are withdrawn for petty cash. Therefore, the referenced item is not included in the total.

EX-H-

COPY

IN THE CIRCUIT COURT, 7TH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA

JOHN E. CASABURRO,

Plaintiff,

V.

CASE NO.: 2010-32956-CICI

DIVISION: 31 GRAHAM

THE REPUBLICAN EXECUTIVE COMMITTEE
OF VOLUSIA COUNTY C/O PAUL J. STICH, CHAIRMAN,

Defendant. _____/

MEDIATION SETTLEMENT AGREEMENT

Come now the parties, Plaintiff JOHN E. CASABURRO (hereinafter "Casaburro"), and Defendant THE REPUBLICAN EXECUTIVE THE REPUBLICAN EXECUTIVE COMMITTEE (hereinafter "RECVC"), who hereby stipulate and agree as follows:

1. RECVC will recognize John E. Casaburro at the April, 2011 general meeting with an award and certificate for his service as the Vice Chairman of the RECVC for 2008-2010 and fund raising chairman in 2009.
2. RECVC will place an article in the next monthly newsletter indicating that John E. Casaburro has never been removed as a member in good standing, and consequently is a member in good standing and inviting all members to attend the recognition ceremony in April, 2011.
3. RECVC will mail a letter to all of the existing roster of the Republican Party Executive Committee, as of March 1, 2011, regarding John E. Casaburro's service as Vice Chairman to the RECVC and state that he has not been removed as a member in good standing, and consequently is a member in good standing with the RECVC.

Exhibit "A"

EX- I 1 of 3 pg

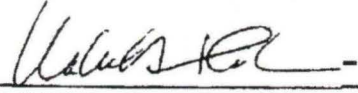
4. RECVC will provide to John E. Casaburro with tickets for a paid-in-full regular table for 2012 Lincoln Day Dinner.
5. John E. Casaburro shall voluntarily dismiss his cause of action with prejudice within 30 days of execution of this agreement.
6. In the event that RECVC fails to perform any term of this Agreement, the parties agree that John E. Casaburro shall be entitled to collect his attorney's fees and costs in the event of enforcement of such failure to comply.
7. Mutual releases of the RECVC Committee and all board members and John E. Casaburro shall be executed for all actions that have occurred at any time prior to the execution of this agreement.
8. RECVC shall bear all costs of the mediation.
9. The chairman of the RECVC shall present an article in the next monthly newsletter regarding zero tolerance of any member slandering or in any way causing or encouraging the defamation of any member of a Republican Party Committee in Volusia County.
10. This settlement and its terms shall be kept strictly confidential by all parties.
11. RECVC shall reimburse John E. Casaburro for costs totaling \$650.00 within thirty (30) days.

DATED this 22 day of March, 2011.

THE REPUBLICAN EXECUTIVE
COMMITTEE OF VOLUSIA
COUNTY

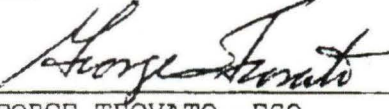
BY: 
PAUL J. STICH, Chairman

ROBERT S. THURLOW, P.A.

BY: 
ROBERT S. THURLOW, ESQ.
FL Bar No. 883972
415 Canal Street
New Smyrna Beach, FL 32168
386-425-1530
Attorney for Defendant

BY: 
JOHN E. CASABURRO

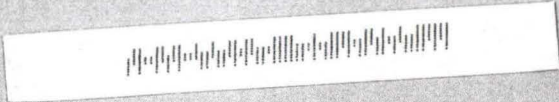
PRINCIPLE LEGAL OFFICES,
P.A.

BY: 
GEORGE TROVATO, ESQ.
FL Bar No. 0786241
1709 Providence Blvd.
Deltona, FL 32725
386-526-9006
Attorney for Plaintiff

E:\jkm\Mediation\StichAgreement

EXT-pg-3-

Joh Casaburro
111 Kendra Ave
Deland, FL 32724



1023



32399

U.S. POSTAGE PAID
FCM LG ENV
DELAND, FL
32724
FEB 13, 19
AMOUNT

\$1.60

R2303S104427-16

Florida Elections Commission
107 W Gaines Street
Suite 224
Tallahassee, FL 32399-1050

RECEIVED

2019 FEB 19 P 3:49

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION