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**HARRIS COUNTY, T E X A S**

**\_\_\_ JUDICIAL DISTRICT**

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*STEPHEN E. STOCKMAN*

VS.

*TEXANS FOR A CONSERVATIVE MAJORITY*

No. \_\_\_\_\_

**PLAINTIFF'S ORIGINAL PETITION FOR LIBEL**

**PARTIES**

1. Stephen E. Stockman (Stockman) is an individual who resides in Harris County, Texas. He is a Member of the United States House of Representatives, representing the people of Texas Congressional District 36.

2. Texans for a Conservative Majority (TCM) is a Texas nonprofit corporation. Randy Cubriel, an Austin solo-lawyer, organized TCM and filed its certificate of formation with the Texas Secretary of State on October 21, 2013. TCM may be served with citation in this action by serving its registered agent, National Corporate Research, Ltd., 800 Brazos, Suite 400, Austin, Texas 78701.

**DISCOVERY CONTROL PLAN**

3. Pursuant to Tex. R. Civ. P. 190.4, plaintiff intends to conduct discovery under Level 3. Plaintiff asks this court for expedited discovery under Tex. R. Civ. P. 191.1 and 190.4.

**JURISDICTION**

4. This court has jurisdiction and venue. Texas Civil Practice & Remedies Code §15.017.

## FACTUAL ALLEGATIONS

5. This case involves some of the most outrageous, malicious defamation ever recorded in Harris County. Using the internet during the past one to two months immediately preceding the filing of this lawsuit, defendant repeatedly and wilfully published outlandish statements about plaintiff which were false and defamatory as a whole. Defendant also published individual statements which are literally or substantially false and defamatory. In addition, this libel is literally being advertised on heavily-repeated television advertisements. These advertisements are being run almost exclusively in Harris County.

- a. These statements were made in writing and disseminated on the world wide web through an internet website using domain name, “shadystockman.com/#criminal,” which itself is false and defamatory.
- b. These statements were derogatory and prejudicial to the reputation of Stockman and included unfounded and untrue statements claiming Stockman had been “jailed more than once,” “charged with a felony” and “violated federal ethics laws” under a hyper-text link titled “criminal history” with a photo of Stockman.
- c. Defendant’s statements were intentional, wilful and calculated to cause harm to plaintiff and to hurt plaintiff’s reputation.
- d. Defendant is actively promoting and advertising the defamatory website on its television commercials.
- e. Defendant’s statements include matters which constitute defamation *per se*.
- f. Defendant’s defamatory statements have had their intended effect: the statements have hurt the reputation and stature of plaintiff, a publicly elected official.

6. Defendant is a “nonprofit” corporation which was set up and is operated by a lawyer in solo practice in Austin, Texas, Randy Cubriel. Cubriel is a former employee of U.S. Senator John Cornyn. According to Cubriel’s website,<sup>1</sup> he devises, executes and manages “issue management campaigns across the U.S. Additionally, Cubriel has legislative, policy, and campaign experience at the state and federal levels. He works closely with elected officials and key decision-makers to support his clients’ governmental needs.” On information and belief, one of those “elected officials” is Senator Cornyn whom Stockman has challenged in the 2014 Republican Texas primary for the U.S. Senate: 100% of the funds donated to TCM as of January 15, 2014 – \$814,416 – was spent to oppose the nomination of plaintiff.<sup>2</sup>

#### CAUSE OF ACTION FOR LIBEL

7. Plaintiff incorporates the preceding allegations of this original petition.
8. Plaintiff is Member of the United States Congress and is a public official. Defendant is a non-media defendant.
9. Although plaintiff is a public official, defendant cannot maliciously publish false and defamatory statements against him, as it has done and continues to do. “The law does not allow someone the unrestricted right to publish statements about public officials that are untrue, and in upholding this principle the courts of this State have held that, ‘[a]s a general rule a publication concerning a public officer, in order to be libelous per se, must be of such a character as, if true, would subject him to removal from office.’” *Clark v. Jenkins*, 248 S.W.3d 418, 437 (internal citation omitted).

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<sup>1</sup>[www.Cubriellaw.com/about\\_us.html](http://www.Cubriellaw.com/about_us.html), accessed on January 16, 2014.

<sup>2</sup> <http://www.opensecrets.org/pacs/indexpend.php?cycle=2014&cmte=C00542217>, accessed January 16, 2014.

10. The false and defamatory statements alleged herein are defamatory per se. In addition and in the alternative, they carry a provably false factual connotation. Further, the statements, by omission or misleading juxtaposition, connote false facts even though the website does not state them directly. The false statements also distort meaning.

11. The false and defamatory statements alleged herein are defamatory per se because they specifically and directly impute criminality to plaintiff, falsely asserting that he was charged with a felony. Even if true, which it is not, truth is not a defense to this statement. The statements were published with actual malice because defendant had knowledge that they were false or made them with reckless disregard of whether or not the statements were false.

12. The false and defamatory statements alleged herein are defamatory per se because they specifically and directly impute dishonesty to plaintiff, falsely asserting that he “violated federal ethics laws.” Even if true, which it is not, truth is not a defense to this statement. The statements were published with actual malice because defendant had knowledge that they were false or made them with reckless disregard of whether or not the statements were false.

13. Plaintiff has been injured and has suffered actual damages as a direct and proximate result of defendant’s malicious and intentional libel.

14. Defendant is liable to plaintiff for actual and punitive damages.

#### **DEMAND**

15. Plaintiff demands trial by jury and judgment against defendant as follows:

- a. Actual damages and damages for defamation *per se*;
- b. Pre-judgment and post-judgment interest;
- c. Costs;

- d. Punitive damages; and
- e. Such other and further relief to which plaintiff may show itself justly entitled.

**REQUEST FOR DISCLOSURE**

16. Plaintiff hereby requests that defendant disclose, within 50 days of the service of this request, the information or material described in Texas Rule of Civil Procedure 194.2.

Respectfully Submitted:

**BREWER & PRITCHARD, P.C.**

*/s/ J. Mark Brewer*

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Unofficial Copy Office of Chris Daniel District Clerk