

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JOSEPH RAKOFSKY, *et ano.*, : **Index No. 105573/11**
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 Plaintiffs, : **NOTICE OF CROSS-MOTION**
:
 -against- : **ASSIGNED JUSTICE:**
: **HON. SHLOMO HAGLER**
THE WASHINGTON POST COMPANY, *et al.*, :
: **RETURN DATE:**
 Defendants. : **JUNE 28, 2012**
:
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S I R S :

PLEASE TAKE NOTICE that upon the affidavit of JOSEPH RAKOFSKY, sworn to on the 9th day of May, 2012, and the documents submitted as exhibits thereto, and upon all the pleadings and other proceedings heretofore had herein, the undersigned will move in Supreme Court, New York County, at the Courthouse, 60 Centre Street, New York, New York, before Hon. Shlomo Hagler, IAS Part ____, on June 28, 2012, at 9:30 a.m. or a soon thereafter counsel can be heard, for the following relief:

- (1) an order, pursuant to CPLR 1001(a), adding WP Company LLC as a Defendant in and for purposes of the Amended Complaint heretofore filed by Plaintiffs as of right; and
- (2) an order, pursuant to CPLR 3025(b), allowing Plaintiffs to serve a Second Amended Verified Complaint; and

(3) an order, pursuant to CPLR 3217, permitting Plaintiffs to discontinue this action against eight (8) Defendants who have settled with them; and

(4) an order, pursuant to CPLR 2101(c), amending the caption of this action delete the names of such Defendants accordingly; and

(5) an order, pursuant to CPLR 3215, deeming seven (7) Defendants to be in default as to liability and setting this matter down for an inquest to determine Plaintiffs' damages as against those Defendants; and

(6) an order granting to Plaintiffs such other, further, and different relief as this Court shall deem to be just and proper under the circumstances.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2214(b), all answering papers, if any, must be served upon the undersigned no later than seven (7) days before the return date (or the adjourned return date, if any) of this motion.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2215(a), if the answering papers include a notice of cross-motion, three (3) additional days must be added for a total of ten (10) days.

THIS IS AN ACTION to recover for libel, intentional infliction of emotional distress, intentional interference with contract, violation of Civil Rights Law §§ 50-51, intentional interference with

prospective economic advantage, injurious falsehood, negligence, and prima facie tort in the form of cyber-bullying and mobbing.

Dated: New York, New York
May 9, 2012



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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JOSEPH RAKOFSKY, et ano., : **Index No. 105573/11**
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Plaintiffs, : **AFFIRMATION IN SUPPORT**
:
-against- : **ASSIGNED JUSTICE:**
: **HON. SHLOMO HAGLER**
THE WASHINGTON POST COMPANY, et al., :
: **RETURN DATE:**
: **JUNE 28, 2012**
Defendants. :
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MATTHEW GOLDSMITH, an attorney admitted to practice law in the Courts of the State of New York affirms under the penalties of perjury:

1. I am the substituted attorney-of-record for Plaintiffs, JOSEPH RAKOFSKY ("Rakofsky") and RAKOFSKY LAW FIRM, P.C. ("RLF").

2. I have personal knowledge of the facts set forth herein.

3. I make this affidavit in support of Plaintiffs' request for the relief sought in the foregoing Notice of Motion.


4. Plaintiffs seek to further amend the Amended Verified Complaint for the following reasons: (A) to delete parties against whom this action has been or should be discontinued; (B) to amend the caption accordingly; (C) to further clarify causes of action already pleaded; and (D) to add additional causes of action. Each of these goals is articulated in detail in the

affidavit made by Rakofsky, which follows below.

5. A copy of the Amended Verified Complaint is submitted herewith as Plaintiffs' Exhibit "1." A copy of the proposed Second Amended Verified Amended Complaint is submitted herewith as Plaintiffs' Exhibit "2." Due to their sheer bulk they are not physically annexed hereto. These papers are marked to show proposed deletions in red ink and proposed additions in blue ink.

6. In addition, Plaintiffs seek, separately from and in addition to leave to file a Second Amended Complaint an order adding Washington Post, LLC as a defendant under all counts of the Amended Complaint to which The Washington Post Company is now a defendant. This relief is sought as a result of Defendant The Washington Post Company's motion to dismiss the Amended Complaint as to Defendant The Washington Post Company on the ground that it is does not own, operate or publish The Washington Post newspaper and website and that WP Company LLC, a subsidiary of The Washington Post Company, owns, operates and publishes The Washington Post newspaper and website.

DATED: May 14, 2012
New York, New York



MATTHEW GOLDSMITH

pleading. The former locations of those parts of the pleading are marked on the proposed new pleading (Pl. Exh. "2"), and their former locations are also marked on the existing pleading (Pl. Exh. "1"), per CPLR 3025(b).

5. As for the existing articulated causes of action, some changes have been made to better state the causes of action. For example, each instance of a libelous utterance is set forth as a separate cause of action (CPLR 3014). This means that only the Defendant against whom a cause of action for a libelous utterance is actually interposed will need to join issue on that cause of action, and defend himself, herself, or itself, etcetera. This will simplify the Court's burden on this complex case.

6. We also add new causes of action for intentional interference with prospective economic advantage, injurious falsehood, negligence, and prima facie tort in the form of cyber-bullying or mobbing. These are also clearly marked on the proposed new pleading (Pl. Exh. "2").

7. I submit separate papers concerning the various pending motions to dismiss.

8. RLF and I are entitled to judgments by default against some Defendants, as follows below.

9. I engaged professional process servers to serve all initiatory papers, and, due to the large number of Defendants I also engaged an individual to administer and oversee that process.

10. All the Defendants identified below were served and they never appeared, answered, or made a motion which has the effect of extending their time to answer.

11. In some cases there was a brief delay in filing proof of service, but this was due to a stay granted in this action. I ask the Court to deem all such proof of service timely (CPLR 2004).

12. Upon an examination of the affidavits of service, this Court will see that many months have passed without any response from these Defendants.

13. Each of these Defendants published false and libelous statements of and concerning me; they also subjected RLF to injurious falsehoods. Together, they contributed to the destruction of my reputation and effectively removed me from the practice of law.

14. Proof of service on Defendants LAW OFFICE OF FARAJI A. ROSENTHALL and FARAJI A. ROSENTHALL is submitted as Exhibits "3" and "4," respectively.

15. Proof of service on Defendant ADRIAN K. BEAN is submitted as Exhibit "5."

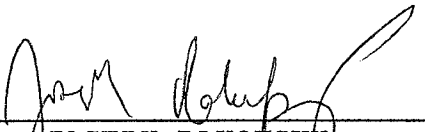
16. Proof of service on Defendants ROB McKINNEY, ATTORNEY AT LAW and ROB McKINNEY is submitted as Exhibits "6" and "7," respectively.

17. Proof of service on Defendants REITER & SCHILLER, P.A. and LEAH K. WEAVER is submitted as Exhibits "8" and "9," respectively.

18. None of these defaulting Defendants has requested an extension of time to appear, answer, or make a motion which has the effect of extending the time to answer.

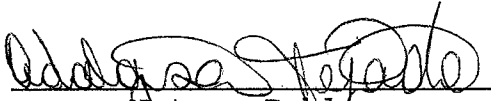
19. No additional notice is required because this is a tort action, not a contract action.

20. An inquest is necessary to determine my damages and RLF's damages. I am prepared to file necessary calendar papers and to pay necessary fees.



JOSEPH RAKOFSKY

Sworn to before me on this
10th day of May, 2012



Notary Public

Notary Public - State of New York
NO. 01TE617745
Qualified in New York County
My Commission Expires 11/9/2015

ADALGISA TEJADA
Notary Public - State of New York
NO. 01TE617745
Qualified in New York County
My Commission Expires 11/9/2015