

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

-----X Index No. 105573/11

JOSEPH RAKOFSKY, and
RAKOFSKY LAW FIRM, P.C.,

Plaintiffs,

-against-

**NOTICE OF APPEARANCE,
DEMAND and ANSWER**

THE WASHINGTON POST COMPANY,
KEITH L. ALEXANDER,
JENNIFER JENKINS,
CREATIVE LOAFING MEDIA,
WASHINGTON CITY PAPER,
REND SMITH,
BREAKING MEDIA, LLC,
ABOVETHELAW.COM,
ELIE MYSTAL,
AMERICAN BAR ASSOCIATION,
ABAJOURNAL.COM,
DEBRA CASSENS WEISS,
SARAH RANDAG,
MYSHINGLE.COM,
CAROLUN ELEFANT,
SIMPLE JUSTICE NY, LLC,
BLOG.SIMPLEJUSTICE.US,
KRAVET & VOGEL, LLP,
SCOTT H. GREENFIELD,
LAW OFFICE OF ERIC L. MAYER,
ERIC L. MAYER, *individually*,
GAMSO, HELMICK & HOOLAHAN,
JEFF GAMSO, *individually*,
CRIMEANDFEDERALISM.COM,
"JOHN DOE #1",
ORLANDO-ACCIDENTLAWYER.COM,
"JOHN DOE #2",
LAW OFFICE OF FARAJI A. ROSENTHALL,
FARAJI A. ROSENTHAL, *individually*,
BENNETT AND BENNETT,
MARK BENNETT, *individually*,
SEDDIQ LAW,
MIRRIAM SEDDIQ, *individually*,
THE MARTHA SPERRY DAILY,
ADVANTAGE ADVOCATES
MARTHA SPERRY, *individually*,
ALLBRITTON COMMUNICATIONS COMPANY,

TBD.COM,
RESTORINGDIGNITYTOTHELAW.BLOGSPOT.COM,
"J.DOG84@YMAIL.COM",
ADRIAN K. BEAN,
HESLEP & ASSOCIATES,
KOEHLER LAW,
JAMISON KOEHLER, *individually*,
THE TURKEWITZ LAW FIRM,
ERIC TURKEWITZ, *individually*,
THE BEASLEY FIRM, LLC,
MAXWELL S. KENNERLY,
STEINBERG MORTON HOPE & ISRAEL, LLP,
ANTONIN I. PRIBETIC,
PALMIERI LAW,
LORI D. PALMIERI, *individually*,
TANNEBAUM WEISS, PL,
BRIAN TANNEBAUM, *individually*,
WALLACE, BROWN & SCHWARTZ,
GEORGE M. WALLACE, *individually*,
DAVID C. WELLS, P.C. and
DAVID C. WELLS, *individually*,
ROB MCKINNEY, ATTORNEY-AT-LAW,
ROB MCKINNEY, *individually*,
THOMSON REUTERS,
DAN SLATER,
BANNER VENTURES, LLC,
BANNINATION.COM,
"TARRANT84",
UNIVERSITY OF ST. THOMAS SCHOOL OF LAW,
DEBORAH K. HACKERSON,
LAW OFFICES OF MICHAEL T. DOUDNA,
MICHAEL T. DOUDNA, *individually*,
MACE J. YAMPOLSKY & ASSOCIATES,
MACE J. YAMPOLSKY, *individually*,
THE LAW OFFICE OF JEANNE O'HALLERAN, LLC,
JEANNE O'HALLERAN, *individually*,
REITER & SCHILLER, P.A.,
LEAH K. WEAVER,
AVVO CORPORTAION,
JOSHUA KING,
ACCELA, INC.,
COLIN SAMUELS,
THE BURNEY LAW FIRM, LLC and
NATHANIEL BURNEY, *individually*,

Defendants.

C O U N S E L :

PLEASE TAKE NOTICE, that MACE J. YAMPOLSKY, *individually* and MACE J. YAMPOLSKY LTD., sued herein as MACE J. YAMPOLSKY & ASSOCIATES, the above named defendants herein, hereby appears through their attorney, JOHN H. TESCHNER, ESQ. in this action and demand that all further papers in this proceeding be served upon the undersigned at the address stated below.

PLEASE TAKE FURTHER NOTICE, that MACE J. YAMPOLSKY, *individually* and MACE J. YAMPOLSKY LTD., defendants herein, in answer to the Complaint and Amended Complaint, respectfully states:

1. Denies knowledge or information sufficient to form a belief as to the allegations contained in the following enumerated paragraphs of the complaint: "1" through "187", "189" through "194", "198" through "206", "209", "211".
2. Denies the allegations of paragraphs "188", "196", "197", "207", "210", "212", "213", "215", "216", "217" and "218" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

3. Defendant, Mace J. Yampolsky is a resident of the State of Nevada and has never resided in the State of New York.
4. Defendant, Mace J. Yampolsky, is an attorney licensed to practice law in the State of Nevada.
5. Defendant, Mace J. Yampolsky, does not do business in the State of New York and derives no revenue from any activity within the State of New York..
6. Defendant, MACE J. YAMPOLSKY LTD., is a corporation organized under the laws of the State of Nevada.
7. Defendant, MACE J. YAMPOLSKY LTD., does not do business in the State of

New York and derives no revenue from any activity within the State of New York.

8. Defendants do not own or possess any real property situated within the State of New York.
9. Defendants do not contract anywhere to supply goods or services within the State of New York.
8. Upon information and belief, plaintiff is not a resident of the State of New York.
9. Plaintiffs' cause of actions did not arise in the State of New York.
10. Defendants did not commit a tortious act without the State of New York which caused injury to person or property within the State of New York.
11. Defendants were not served with the summons, complaint and amended complaint within the State of New York.
12. This Court is without personal jurisdiction over the defendants.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

13. Defendant, Mace J. Yampolsky is a resident of the State of Nevada and has never resided in the State of New York.
14. Defendant, Mace J. Yampolsky, is an attorney licensed to practice law in the State of Nevada.
15. Defendant, Mace J. Yampolsky, does not do business in the State of New York and derives no revenue from any activity within the State of New York..
16. Defendant, MACE J. YAMPOLSKY LTD., is a corporation organized under the laws of the State of Nevada.
17. Defendant, MACE J. YAMPOLSKY LTD., does not do business in the State of New York and derives no revenue from any activity within the State of New

York.

18. Defendants do not own or possess any real property situated within the State of New York.
19. Defendants do not contract anywhere to supply goods or services within the State of New York.
20. Upon information and belief, plaintiff is not a resident of the State of New York.
21. Plaintiffs' cause of actions did not arise in the State of New York.
22. Defendants did not commit a tortious act without the State of New York which caused injury to person or property within the State of New York.
23. Defendants from time to time publish articles in The Las Vegas Tribune, which is a free newspaper, distributed to the public in the Las Vegas, Nevada and is published on the internet.
24. On April 13, 2011, defendants published an article in The Las Vegas Tribune entitled "*I never tried a case before ... but what's the big deal?*".
25. The following is the link to defendants published article:

<http://www.lasvegastribune.com/index.php/commentary/mace-yampolsky/1766-i-never-tried-a-case-before-but-whats-the-big-deal> .
26. It is this article which forms the basis of plaintiffs' cause of action for defamation.
27. Pursuant to Sections CPLR 302(2) and (3), defamation actions are exempt from the long arm jurisdiction of the State of New York.
28. This Court is without personal jurisdiction over the defendants.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE
TO BOTH PLAINTIFF'S CAUSES OF ACTION**

29. The complaint fails to state a cause of action for which relief can be granted.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

30. The plaintiffs allegations of damages in the complaint, if any, are attributable in whole or in part, to the culpable conduct of the plaintiffs.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

31. Plaintiffs' claims are barred by documentary evidence.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

32. This Court does not have subject matter jurisdiction over plaintiffs' cause of actions.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

33. Defendant, Mace J. Yampolsky is a resident of the State of Nevada and has never resided in the State of New York.
34. Defendant, Mace J. Yampolsky, is an attorney licensed to practice law in the State of Nevada.
35. Defendant, Mace J. Yampolsky, does not do business in the State of New York and derives no revenue from any activity within the State of New York..
36. Defendant, MACE J. YAMPOLSKY LTD., is a corporation organized under the laws of the State of Nevada.
37. Defendant, MACE J. YAMPOLSKY LTD., does not do business in the State of New York and derives no revenue from any activity within the State of New York.

38. Defendants do not own or possess any real property situated within the State of New York.
39. Defendants do not contract anywhere to supply goods or services within the State of New York.
40. Upon information and belief, plaintiff is not a resident of the State of New York.
41. Plaintiffs' cause of actions did not arise in the State of New York.
42. Defendants did not commit a tortious act without the State of New York which caused injury to person or property within the State of New York.
43. Defendants from time to time publish articles in The Las Vegas Tribune, which is a free newspaper, distributed to the public in the Las Vegas, Nevada and is published on the internet.
44. On April 13, 2011, defendants published an article in The Las Vegas Tribune entitled "*I never tried a case before ... but what's the big deal?*".
45. The following is the link to defendants published article:
<http://www.lasvegastribune.com/index.php/commentary/mace-yampolsky/1766-i-never-tried-a-case-before-but-whats-the-big-deal> .
46. It is this article which forms the basis of plaintiffs' cause of action for defamation.
47. New York State is an inconvenient forum to hear this action pursuant to CPLR Section 327.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

48. All factual statements published by the defendants relating to plaintiffs in the The Las Vegas Tribune article entitled "*I never tried a case before ... but what's the big deal?*" are true statements of facts.

AS AND FOR AN NINTH AFFIRMATIVE DEFENSE

49. All statements published by the defendants relating to plaintiffs in the The Las Vegas Tribune article entitled "*I never tried a case before ... but what's the big deal?*" are fair comments of opinion protected by the First Amendment to the United States Constitution and the Constitution of the State of New York. Constitution .

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

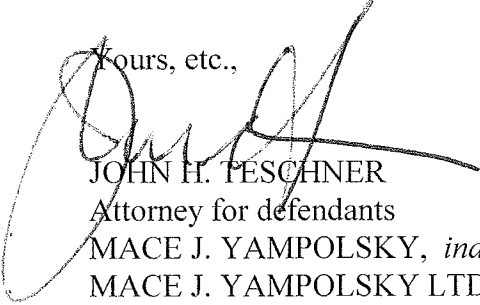
50. Plaintiffs commenced this action in bad faith solely to harass, annoy and maliciously injure defendants.
51. Plaintiffs commenced this action in bad faith without any reasonable basis in law or fact and the cause of action cannot be supported by a reasonable argument for reversal of existing law.
52. As a result of the complained of conduct plaintiffs claims are frivolous.

AS AND FOR AN NINTH AFFIRMATIVE DEFENSE

53. Plaintiffs commenced this action in bad faith solely to harass, annoy and maliciously injure defendants.
54. Plaintiffs commenced this action in bad faith without any reasonable basis in law or fact and the cause of action cannot be supported by a reasonable argument for reversal of existing law.
55. Plaintiffs' complaint asserts material factual statements that are false.
56. The commencement of this action, as complained herein, constitutes frivolous. conduct within the meaning of Section 130.1-1 of the New York Court Rules.

Wherefore the summons, complaint and amended complaint must be dismissed together with costs, disbursements, sanctions and reasonable attorney fees necessary to defend this action and for such other and further relief as to this Court may deem just and proper.

Dated: New York, New York
June 15, 2011


Yours, etc.,
JOHN H. TESCHNER
Attorney for defendants
MACE J. YAMPOLSKY, *individually*, and
MACE J. YAMPOLSKY LTD.
132 Nassau Street, Suite 900
New York, NY 10038
(212) 925-1937

TO: RICHARD BORZOUYE, ESQ.
Borzouye Law Firm, P.C.
14 Wall Street, 20th Floor
New York, N.Y. 10005
1(212) 618-1459

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)

: SS.:

COUNTY OF NEW YORK)

I, **SUSAN VENTURA**, being duly sworn deposes and says:

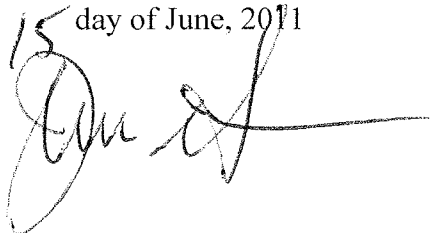
I am not a party to the action, am over 18 years of age and reside in KINGS COUNTY.

On June 15, 2011, I served the within **NOTICE OF APPEARANCE, DEMAND AND ANSWER**, by depositing a true copy thereof in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, and addressed to each of the following person at the last known address set forth after each name:

RICHARD BORZOUYE, ESQ.
Borzouye Law Firm, P.C.
14 Wall Street, 20th Floor
New York, N.Y. 10005


SUSAN VENTURA

Sworn to me on this
15 day of June, 2011



JOHN H TESCHNER
Notary Public, State of New York
No. 02TE4887394
Qualified in Westchester County
Commission Expires 11/24/2016