

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

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JOHN SAMUELSEN,

Plaintiff,

-against-

CURTIS TATE, BARRY ROBERTS, ED WATT,
ANDREEVA PINDER, and John Doe 1 aka
TRUTHSEEKINGTRACKWORKER
@HOTMAIL.COM and Doe 2-25, the actual names:
of such individuals being unknown,

Defendants.
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VERIFIED COMPLAINT

.09105877

NEW YORK
COUNTY CLERK'S OFFICE

APR 27 2009

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Plaintiff, John Samuelsen, by his attorneys, Cary Kane LLP, as and for his
verified Complaint, alleges his follows:

NATURE OF THE ACTION

1. This is a libel action concerning false statements about the previous
employment record and mental health of plaintiff, a candidate for elected office of
Transport Workers Union Local 100 ("Local 100"). Specifically, defendants have
published a false statement that plaintiff, a white male, in his prior career as a corrections
officer, engaged in unlawful brutality against Black and Hispanic inmates and was forced
to resign his employment for this reason. Defendants have also published false
statements about the plaintiff being mentally ill. These false statements have been
published to the membership of Local 100 and others to harm plaintiff's reputation
among his co-workers and the membership of Local 100 for the purpose of eliminating
any competition for elective office against defendants, running as successors to a highly
unpopular incumbent union administration.

PARTIES

2. Plaintiff John Samuelsen (“Samuelsen”) is a track worker for the New York City Transit Authority. Samuelsen is a member in good standing of Local 100 and a declared candidate for the office of President of Local 100 on the Take Back Our Union slate. Samuelsen is white.

3. Defendant Curtis Tate (“Tate”) is the Acting President of Local 100 and running for President of Local 100 on the United Invincible slate. Tate is employed full time by Local 100, and works at its principal offices at 80 West End Avenue, New York, New York 10023.

4. Defendant Barry Roberts (“Roberts”) is the Administrative Vice President of Local 100 and is running for Administrative Vice President on the United Invincible slate. Roberts is employed full time by Local 100, and works at its principal offices at 80 West End Avenue, New York, New York 10023.

5. Defendant Ed Watt (“Watt”) is the Secretary Treasurer of Local 100 and is running for re-election on the United Invincible slate. Watt is employed full time by Local 100, and works at its principal offices at 80 West End Avenue, New York, New York 10023.

6. Defendant Andreeva Pinder (“Pinder”) is a Vice President of Local 100 and is running for Recording Secretary on the United Invincible slate. Pinder is employed full time by Local 100, and works at its principal offices at 80 West End Avenue, New York, New York 10023.

7. Defendants John Doe 1 is the individual identified on United Invincible's website as the author of the defamatory item described below and who uses the email address: truthseekingtrackworker@hotmail.com. Defendants John Doe 2 - 25 are other individuals who have participated in the publication of the defamatory statements at issue in this Complaint. Plaintiff reserves the right to amend the Complaint to add such individuals as their identity becomes known.

STATEMENT OF FACTS

8. The membership of Local 100 is responsible for the efficient operation and maintenance of the New York City Transit Authority's bus and subway services. The 38,000 members, while ethnically very diverse, are, upon information and belief, predominantly Black and Hispanic.

9. Samuelsen is a 16-year employee of the New York City Transit Authority. While he was elected shop steward by his coworkers, Local 100's administration refused to recognize him as such and he therefore currently does not have a position with Local 100. Samuelsen is a candidate for the position of President of Local 100 on the "Take Back Our Union" slate. The slate is made up of Local 100 members who are running together for union office to create a union with more transparency in its operations and better responsiveness to its membership as compared to the current administration.

10. Defendants Tate, Roberts, Watt and Pinder are candidates running on the incumbent United Invincible slate for the positions of President, Vice President, Secretary-Treasurer and Recording Secretary, respectively, of Local 100. Upon information and belief, the defendants are each employed by Local 100 at salaries significantly higher than what they could earn if they lose the election and are forced to

return as a rank-and-file member of the union to their former employment with the New York City Transit Authority.

11. The United Invincible slate maintains a website and weblog where it disseminates its campaign literature and issues statements on behalf of defendants.

12. Upon information and belief, all statements on the United Invincible website are approved by defendants.

13. United Invincible's weblog contains an undated entry entitled "A Rikers Island Corrections Officer!!" which refers to plaintiff, who briefly worked for a few years for the New York City Department of Corrections prior to his employment by the New York City Transit Authority. The entry, which is purportedly submitted by an individual with an email address of truthseekingtrackworker@hotmail.com, questions why Samuelsen left his employment at the Department of Corrections to work for the New York City Transit Authority. A copy of this entry as it appears on the United Invincible's website is annexed hereto as Exhibit "A".

14. The entry contains the following false and defamatory statement:

Did he leave on his own accord or was it part of a deal after he was faced with accusations of excessive force against black and hispanic [(sic)] inmates?

15. The above language, although phrased in the form of a question, falsely insinuates that Samuelsen engaged in unlawful violence and brutality against minority inmates while employed as a corrections officer and that he left his employment with the Corrections Department because of this alleged misconduct.

16. The entry also contains the following false and defamatory statement:

If you want to be elected president of Local 100, disclose to Transit workers what's in your files John!

17. The above statement falsely insinuates that Samuelson's personnel file at the Corrections Department contains paperwork showing that he engaged in unlawful violence and brutality against Black and Hispanic inmates while employed as a corrections officer, and that he left his employment with the Corrections Department because of this misconduct.

18. Referring to plaintiff, the entry on United Invincible's website contains the following false and defamatory statement:

If you have a problem, therapy is available under the Local 100 MTA medical plan. But leading Local 100...that's an entirely different matter.

19. The above language falsely insinuates that Samuelson is mentally ill or unstable, that his mental condition manifests itself in violence and brutality directed at minorities, and that he is thereby unfit to serve as President of Local 100.

20. At the bottom of the entry, the website tells readers to download, print and distribute the item. When downloaded, the item becomes a flyer over United Invincible's name and logo while hiding the material in the item on the web page suggesting that this is an email from an individual.

21. On or about April 16, 2009, upon information and belief, defendants and/or agents of defendants were distributing paper copies of the flyer produced by downloading the item containing the statements referred to in Paragraphs 13 through 19 of this Complaint. Upon information and belief, copies were distributed to members of Local 100 by leaving them on tables at the East New York Capitol Construction facility of the NYC Transit Authority. A copy of the distributed flier is annexed hereto as Exhibit "B".

22. Upon information and belief, copies of the item referred to in Paragraphs 12 to 18 of this Complaint have also been emailed by defendants and/or their agents to numerous people, perhaps hundreds or even thousands of members of Local 100 as well as others.

23 Defendants either knew that the defamatory statements in Exhibits A and B were untrue or published such statements with reckless and wanton disregard of whether they were false and untrue, and made such statements with the intention of damaging and impugning the reputation of Samuelsen among Local 100 members and the general public just before Local 100 holds its elections to elect new officers.

24. In addition to the defamatory material sued upon in this Complaint, United Invincible's web site spews a steady stream of propaganda intended to incite antipathy against plaintiff by falsely implying that he and his supporters are racist.

25. For example, on their web site United Invincible says that workers supporting Take Back Our Union "deserve to be called haters, cause [(sic)] that's what they do and all they do. That's how they found each other and that's what holds them together."

26. Making it clear that Blacks should not support Samuelsen, a poem even appears on United Invincible's web site which purportedly describes the shame to be endured if one is Black and supportive of Samuelsen and Take Back Our Union. The poem is entitled "Ode to Marvin Holland" a well known Black rank-and-file leader who supports Samuelsen. According to the poem:

Losing all Pride
Marvin camped at John's door
If Harlem could see him, it would shake its head for sure

The poem ends with the question: "Will Marvin's heart still pump ...for Johnny or for we?"

27. While defendant Roberts says on his website that United Invincible "will beat [Samuelsen and Take Back Our Union] so bad that none of them will ever lift their hand to run for office again," he and the other defendant's do not have the right to defame Samuelsen as part of their campaign against him.

WHEREFORE, plaintiff demands judgment against defendants in the amount of \$2,000,000.00 and punitive damages in the additional amount of \$2,000,000.00, and costs and disbursements of this action, and such other and further relief as this Court deems just and proper.

Dated: New York, NY
April 23, 2009

Yours, etc.

CARY KANE LLP
Attorneys for Plaintiff

By: 

Larry Cary
1350 Broadway, Suite 815
New York, NY 10018
(212) 868-6300

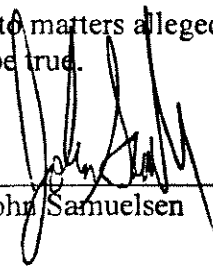
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 of such individuals being unknown, :
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 Defendants. :
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VERIFICATION

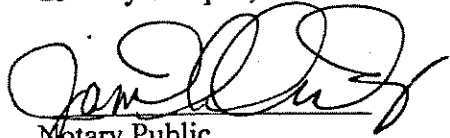
JOHN SAMUELSEN, being duly sworn, hereby deposes and says:

I am the plaintiff in this action, and I have read and know the contents of the foregoing Complaint is true to my own knowledge, except as to matters alleged upon information and belief, and as to those matters I believe it to be true.



John Samuelsen

Sworn to before me this
23rd day of April, 2009


Notary Public

JANET L. CRUZ-DIAZ
Notary Public, State of New York
No. 01CR6018875
Qualified in Richmond County
Commission Expires January 19, 2011

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A Rikers Island Corrections Officer!! - Submitted by United Invincible Supporter (truthseekingtrackworker@hotmail.com)

A Rikers Island Corrections Officer!!

I just found out that John Samuelsen was a Rikers Island Corrections Officer before he became to work for Transit.

A Rikers Island Corrections Officer wants to 'Take Back OUR Union'? Something is wrong with that picture!

John should disclose why he left a job with a 20yr pension to come to one with a 25/62 pension at the time he came over in the early 1990's.

Did he leave on his own accord or was it part of a deal after he was faced with accusations of excessive force against black and hispanic inmates?

If you want to be elected president of Local 100 , disclose to Transit workers what's in your files John!

If you have a problem, therapy is available under the Local 100 MTA medical plan. But leading Local 100 ... that's an entirely different matter.



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Visit our website: voteunitedinvincible.com

