

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FL

BRYAN ANDREW LOBER
P.O. Box 140
Sharpes, FL 32959
(321) 541-1850
Plaintiff,

Case No.: 05-2018-CA-____-XXXX-XX

Division: Circuit Civil

v.

CHARLES SIMPSON NELSON A/K/A CHUCK NELSON
233 Via Havarre
Merritt Island, FL 32953
(321) 453-4363 or (321) 543-7085
Defendant.

COMPLAINT

COMES NOW Bryan Andrew Lober (hereinafter “Plaintiff”) and hereby files this Complaint against CHARLES SIMPSON NELSON (hereinafter “Defendant”). In support thereof, Plaintiff states:

Jurisdiction and Venue

1. This is an action for damages where the amount in controversy exceeds fifteen thousand dollars (\$15,000) exclusive of interest and costs.
2. Plaintiff is a citizen of Florida and resides in Brevard County, Florida, with a confidential residential address pursuant to §119.071, Fla. Stat.
3. Defendant is a citizen of Florida and resides at 233 Via Havarre, Merritt Island, Brevard County, Florida 32953.
4. Pursuant to §47.011, Fla. Stat., venue is proper for this action in Brevard County, Florida, as Defendant resides within Brevard County, Florida. It is additionally proper as Brevard County, Florida, is where the cause of action accrued.

General Allegations

5. This is an action for damages arising from Defendant's publication and mass distribution two political mailers (hereinafter "Mailer 1" and "Mailer 2") containing false, injurious and defamatory statements about Plaintiff and about Plaintiff's political positions. *See Exhibits A & B.*
6. Plaintiff is a political candidate seeking election onto the Brevard County Board of County Commissioners for District 2.
7. Defendant is a political candidate seeking election onto the Brevard County Board of County Commissioners for District 2.
8. Upon information and belief, Mailers 1 & 2 were published to registered Republican voters in Brevard County, Florida, who began receiving Mailers 1 & 2 via US Postal Service delivery on or about Thursday, August 23, 2018.
9. Upon information and belief, Defendant is also known as "Chuck" Nelson.
10. Mailer 1 contains a disclaimer, in the address block, reading, "Political advertisement paid for and approved by Chuck Nelson, Republican, for County Commission, District 2." *See Exhibit A.*
11. The sides of Mailers 1 & 2 bearing address blocks shall hereinafter be referred to as the Front of each respective mailer.
12. The side of Mailers 1 & 2 opposite the Front shall hereinafter be referred to as the Back of each respective mailer.
13. The Back of Mailer 1 reads, in pertinent part, as follows:

"Liberal lawyer Bryan Lober is OK with cutting road deputies by 1 MILLION DOLLARS and is willing to let criminal illegal aliens roam our streets putting our safety at risk." Emphasis in original. *See Exhibit A.*

14. The bottom of the Back of Mailer 1 includes what a citation reading, “*Source: Florida Today Candidate Forum.” *See* Exhibit A.
15. Upon information and belief, the candidate forum referenced took place on Wednesday, August 8, 2018, at Eastern Florida State College in Cocoa, Florida.
16. Of note, the citation fails to reference any specific time(s) during the candidate forum.
17. The cited forum, which was video and audio recorded with the full knowledge and consent of all participants, utterly fails to support any of the aforementioned allegations referenced in 13, above, or in 23, below.
18. Upon information and belief, Defendant brought up a potential one million dollar cut to road deputies despite the fact that Plaintiff never once so much as insinuated that he supported any such cut. *See* Florida Today, Meet County Commission District 2 candidates, <https://www.floridatoday.com/videos/news/politics/elections/2018/08/08/meet-county-commission-district-2-candidates/938620002/> at 23:25.
19. Plaintiff timely stated, in response to Defendant’s comments, at the forum, pertaining to cutting the budget for road deputies,

“What was said was a mischaracterization of what I had earlier said. I’ve never proposed a million dollar cut to road deputies or anything of that nature so I’m not sure where that came from. I think that’s just a strawman argument that was put up to be easy to knock down.” *See* Florida Today, Meet County Commission District 2 candidates, <https://www.floridatoday.com/videos/news/politics/election/2018/08/08/meet-county-commission-district-2-candidates/938620002/> at 24:55.
20. The abovementioned assertion that Plaintiff “is willing to let criminal illegal aliens roam our streets putting our safety at risk” is wholly fabricated and without any basis in reality and without any support whatsoever in the cited forum and/or anywhere else.

21. While the characterization of Plaintiff as a “[l]iberal lawyer” is false and without basis, it could be said to constitute a subjective opinion and is therefore not a basis for the instant action.
22. The statement pertaining to defunding road deputies as well as the statement asserting that Plaintiff “is willing to let criminal illegal aliens roam our streets,” on the other hand, form the basis for the instant action.
23. Mailer 2 contains substantially the same contention (as contained within Mailer 1) with respect to cutting law enforcement funding. More specifically, the Back of Mailer 2 states, in pertinent part, “Bryan Lober is OK with cutting road deputies by 1 MILLION DOLLARS putting our safety at risk!” Emphasis in original. *See Exhibit B.*
24. Mailer 2 contains a disclaimer, to the left of the address block, reading, “Political advertisement paid for and approved by Chuck Nelson, Republican, for County Commission, District 2.” *See Exhibit B.*
25. Both Mailers 1 & 2 contain photographs of Sheriff Wayne Ivey and text pertaining to Sheriff Ivey endorsing Defendant in such a manner as to imply Sheriff Ivey endorsed Defendant over Plaintiff. Neither Mailer 1 nor Mailer 2 indicate that Sheriff Ivey endorsed Defendant prior to having learned that Plaintiff was going to enter the race.

COUNT ONE – DEFAMATION

26. Plaintiff incorporates by reference the allegations of paragraphs 1 – 24, above, as if fully stated herein.
27. This is an action for defamation.
28. Defendant published false statements about Plaintiff to third parties as articulated more fully in paragraphs 5, 8, 13 and 23.

29. Defendant's written statements are objectively false fabrications and they are defamatory as articulated more fully in paragraphs 13 – 23.
30. Despite audio and video of the aforementioned candidate forum being freely available to Defendant for weeks preceding the publication of publication of Mailers 1 & 2, Defendant completely disregarded Plaintiff's statements referenced in 19, above, evidencing malice on the part of Defendant and additionally evidencing that Defendant acted with knowledge or reckless disregard as to the falsity on a matter concerning a public figure or a limited purpose public figure.
31. Defendant's false statements impute, to Plaintiff, values which are incompatible with Plaintiff's political platform, campaign statements, and conservative Republican values.
32. Defendant's false statements impute, to Plaintiff, conduct, characteristics or a condition incompatible with the proper exercise of Plaintiff's lawful business, trade, profession or office, and are thus defamation *per se*. Thus, damages and malice are presumed and Plaintiff is entitled to collect presumed and punitive damages (upon leave of court to plead such damages).
33. Defendant's false statements tended to expose Plaintiff to hatred, ridicule, or contempt.
34. Defendant's fabricated statements were deliberately contrived, out of desperation and fear of potential loss of the election, for Defendant's political benefit.
35. Defendant's actions and statements are not privileged.
36. Defendant's false statements damaged and continue to damage Plaintiff's reputation and standing in the community.

37. As a direct and proximate result of Defendant's defamatory statements, Plaintiff has been damaged and will continue to be damaged by Defendant's false and injurious statements.

38. But for Defendant's publication of the aforementioned false statements, damage would not have occurred.

WHEREFORE, Plaintiff seeks judgement in his favor against Defendant for defamation, awarding presumed damages, compensatory damages, and punitive damages (upon leave of court to plead such damages), together with any such other and further relief deemed appropriate by this Honorable Court.

COUNT TWO – DEFAMATION BY IMPLICATION

39. Plaintiff incorporates, by reference, the allegations of paragraphs 1 – 25, above, as if fully stated herein.

40. This is an action for defamation by implication.

41. Defendant published false statements about Plaintiff to third parties as articulated more fully in paragraphs 5, 8, 13, 23 and 24.

42. The Back of Mailer 2 contained additional text reading, in pertinent part, "Bryan has no idea how to make a county budget and would resort to selling our county parks including those on the beach!" *See* Exhibit B.

43. Mailer 2 contains no citation(s) whatsoever. *See* Exhibit B.

44. Plaintiff has previously expressed willingness to consider and/or interest in leasing county parks to local municipalities for continued maintenance as parks and/or to sell county parks to local municipalities for continued maintenance as parks. The manner in which the statement, referenced in 42, above, was written suggested and strongly

- implied that Plaintiff would resort to selling parks in such a manner as to lead readers of average intelligence to believe that the parks would no longer be maintained as parks (e.g., that they would be sold to property developers). Were this not the intended implication, there would have been no reason to have printed this assertion.
45. Defendant's written statements, even if literally true (which they were not), were conveyed in such a way as to create a false impression of Plaintiff as articulated more fully in paragraphs 13 – 25 and in 42 - 44. Defendant likewise created and/or made defamatory implications regarding Plaintiff by omitting necessary and material facts.
46. Despite audio and video of the aforementioned candidate forum being freely available to Defendant for weeks preceding the publication of Mailers 1 & 2, Defendant completely disregarded Plaintiff's statements referenced in 19, above, evidencing malice on the part of Defendant and additionally evidencing that Defendant acted with knowledge or reckless disregard as to the falsity on a matter concerning a public figure or a limited purpose public figure.
47. Defendant's false statements impute, to Plaintiff, values which are incompatible with Plaintiff's political platform, campaign statements, and conservative Republican values.
48. Defendant's false statements and material omissions, in whole or in substantial part, constitute defamation *per se*. Thus, damages and malice are presumed and Plaintiff is entitled to collect presumed and punitive damages (upon leave of court to plead such damages).
49. Defendant's false statements tended to expose Plaintiff to hatred, ridicule, or contempt.
50. Defendant's statements were deliberately contrived for Defendant's political benefit.

51. Defendant's actions and statements are not privileged.
52. Defendant's false statements damaged and continue to damage Plaintiff's reputation and standing in the community.
53. As a direct and proximate result of Defendant's defamatory statements and material omissions, Plaintiff has been damaged and will continue to be damaged by Defendant's false and injurious statements.
54. But for Defendant's publication of the aforementioned false statements, damage would not have occurred.

WHEREFORE, Plaintiff seeks judgement in his favor against Defendant for defamation by implication, awarding presumed damages, compensatory damages, and punitive damages (upon leave of court to plead such damages), together with any such other and further relief deemed appropriate by this Honorable Court.

REQUEST FOR INJUNCTIVE RELIEF

55. Plaintiff incorporates, by reference, the allegations of paragraphs 1 – 24, above, as if fully stated herein.
56. This action is for permanent injunctive relief due to Defendant's aforementioned actions.
57. Plaintiff has been, is, and will continue to be irreparably harmed by Defendant's false statements.
58. Plaintiff has no adequate remedy at law and has a clear right to injunctive relief.
59. Additionally, the facts alleged in this Complaint establish the existence of a substantial likelihood that Plaintiff will succeed on the merits of his claims.

60. The issuance of an injunction would serve the public's interest by protecting Plaintiff from Defendant's unlawful acts and by protecting Plaintiff's rights to participate in the democratic process without fear of Defendant's false and defamatory statements.

WHEREFORE, Plaintiff seeks judgement in his favor against Defendant, requests the entry of preliminary and permanent injunctive relief enjoining Defendant from making false and defamatory statements about Plaintiff together with such additional relief as may be deemed appropriate by this Honorable Court.

JURY TRIAL DEMAND

WHEREFORE, Plaintiff demands a trial by jury on all issues so triable.

RESERVATION OF COSTS AND FEES

WHEREFORE, Plaintiff hereby requests the Court award reasonable attorney's fees and costs associated with the instant action.

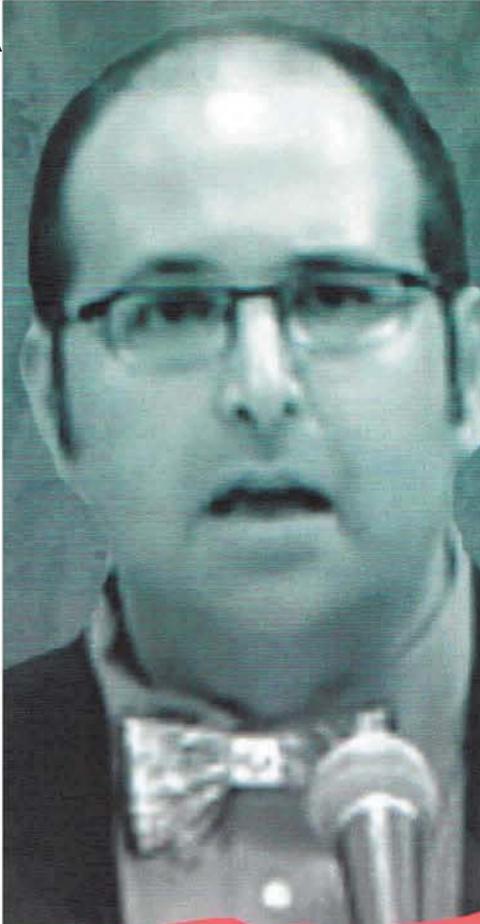
DATED this 24th day of August, 2018.

/s/ Bryan Andrew Lober
Bryan Andrew Lober, Esq.
Lober, Brown & Lober, PLLC
P.O. Box 140
Sharpes, FL 32959
bryan@loberlaw.com
ATTORNEY FOR PLAINTIFF
Florida Bar Number: 88717
PHONE: (321) 541-1850
FAX: (321) 608-2323

DESIGNATION OF E-MAIL ADDRESSES
PURSUANT TO RULE 2.516(b)(1), FLA.R.JUD.ADMIN

Pursuant to rule 2.516(b)(1), Fla.R.Jud.Admin., I hereby certify that the following e-mail addresses are designated for the purposes of service and that all copies of correspondence and pleadings shall be sent to the same:

Primary E-Mail: bryan@loberlaw.com



LIBERAL LAWYER

BRYAN LOBER

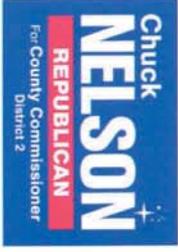
Liberal lawyer Bryan
Lober is OK with
cutting road deputies
by 1 MILLION DOLLARS
and is willing to
let criminal illegal
aliens roam our
streets putting our
safety at risk.

SHERIFF WAYNE IVEY



Trusts

REPUBLICAN **CHUCK NELSON**
TO KEEP OUR COMMUNITY SAFE AND
SUPPORT OUR MEN AND WOMEN OF
LAW ENFORCEMENT.

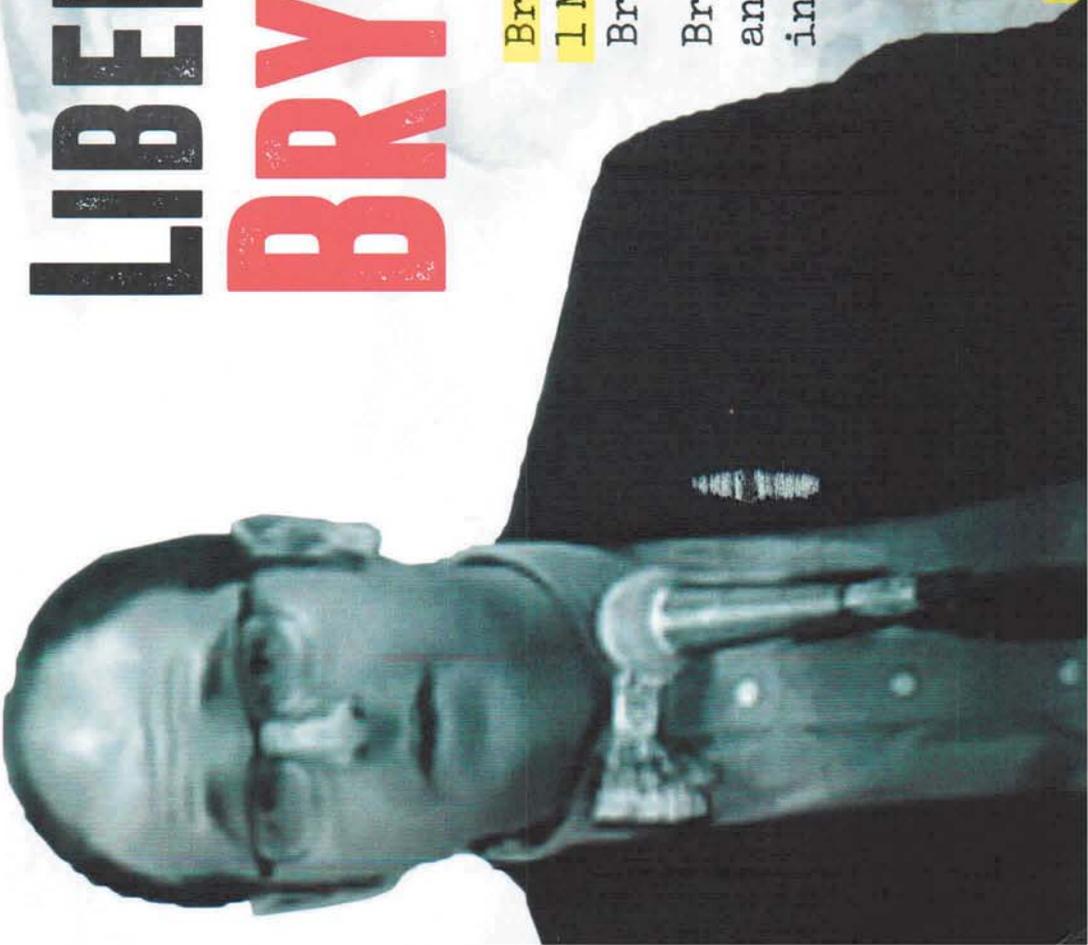


Contact Chuck Nelson
P.O. Box 541292
Merritt Island, FL 32954-1292
chucknelson@cfl.rr.com
chucknelson.us

Political advertisement paid for and approved by Chuck Nelson, Republican, for County Commissioner, District 2.

The Larkes Household
1356 Jane Ct
Merritt Island FL 32952-5413

Presort Standard
U.S. Postage
PAID
#32806
AMS



LIBERAL LAWYER BRYAN LOBER

Bryan Lober is OK with cutting road deputies by
1 MILLION DOLLARS putting our safety at risk!
Bryan is too EXTREME and INEXPERIENCED.

Bryan has no idea how to make a county budget
and would resort to selling our county parks
including those on the beach!

**WE CAN'T AFFORD BRYAN LOBER'S
LACK OF EXPERIENCE.**

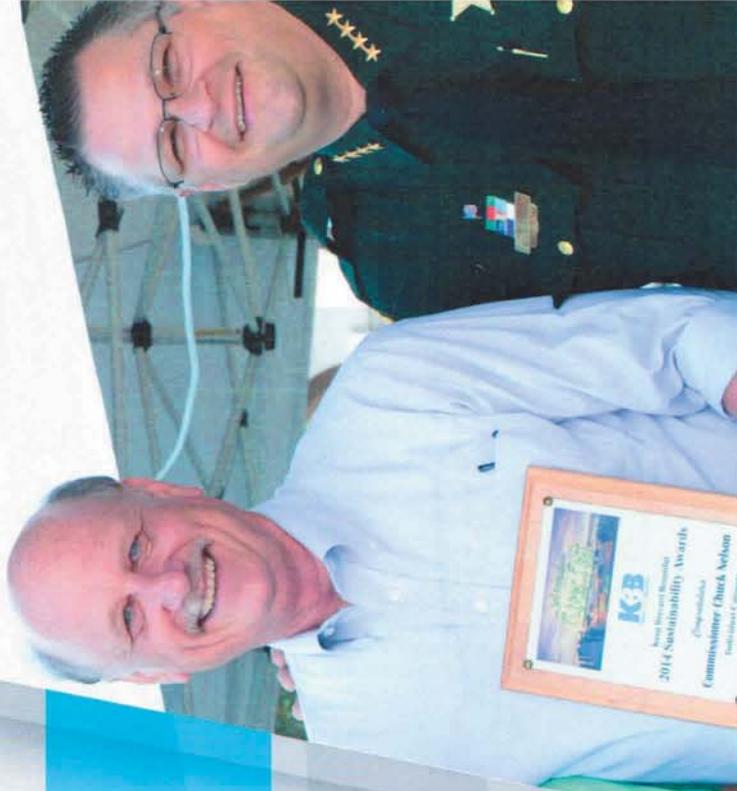
CHUCK NELSON

Endorsed by
SHERIFF WAYNE IVEY



▶ Together they will deport
illegal aliens found in our jails
saving taxpayers MILLIONS.

Political advertisement paid for and approved by Chuck Nelson, Republican, for County Commission, District 2.



Presort Standard
U.S. Postage
PAID
#32806
AMS

The Lankes Household
1356 Jane Ct
Merritt Island FL 32952-5413



Chuck NELSON
REPUBLICAN
For County Commissioner
District 2

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chucknelson.us