

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED

JAN 15 2009

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

WORLD PUBLISHING COMPANY,)
)
Plaintiff,)
)
vs.)
)
RENEGADE PUBLISHING, INC.)
d/b/a URBAN TULSA;)
KEITH SKRZYPCZAK; and)
MICHAEL D. BATES,)
)
Defendants.)

CJ 2009 00308
Case No. _____

LINDA G. MORRISSEY

PETITION

COMES NOW the Plaintiff, World Publishing Company, and for its claims for relief against the Defendants, alleges and states as follows:

1. World Publishing Company is an Oklahoma corporation ("Tulsa World") which publishes the *Tulsa World* newspaper. Tulsa World has continuously published the *Tulsa World* newspaper for over 100 years.

2. The Defendant, Renegade Publishing Company d/b/a Urban Tulsa ("Urban Tulsa"), publishes a weekly independent newspaper under the name *Urban Tulsa Weekly* and has for years engaged in a pattern of practice of criticizing the Tulsa World for the purpose of increasing *Urban Tulsa Weekly's* circulation and readership.

3. Keith Skrzypczak ("Skrzypczak") is the Editor and Publisher of Urban Tulsa and has for years engaged in a pattern of practice of criticizing the Tulsa World for the purpose of increasing *Urban Tulsa Weekly's* circulation and readership.

4. The Defendant, Michael D. Bates ("Bates"), is an individual residing in Tulsa, Oklahoma, and a writer for *Urban Tulsa Weekly* who wrote a story titled "Tulsa Whirled" that was published in the *Urban Tulsa Weekly* on or about January 14, 2009, and was published on the *Urban Tulsa Weekly* website on or about the same date (collectively the "Story"). A full true and correct copy of the Story from the *Urban Tulsa Weekly* and a copy from the website are attached hereto collectively as Exhibit "A."

5. On information and belief, Skrzypczak, as Editor and Publisher, either edited the Story or had a responsibility as Editor and Publisher to edit the Story to assure that the Story was not false and defamatory and/or disparaging.

6. The Story contains false statements of and concerning the Tulsa World, was published to third parties, was derogatory of the business of the Tulsa World and general quality and integrity of the Tulsa World circulation numbers and was intended to cause harm to the pecuniary interest of the Tulsa World or was recognized or should have been recognized that the false statements were likely to cause harm. The Story also was published with actual malice and the Tulsa World has and will suffer special damages as a result of this Story.

7. More specifically, the Story written by Bates, edited by Skrzypczak, and published by Urban Tulsa, makes a number of false and defamatory or disparaging statements.

(A) One false statement in the Story is that the Tulsa World concealed a decline in circulation by withdrawing in 1997 from the circulation audits performed by the Independent Audit Bureau of Circulations ("ABC"), and for nearly a decade ABC did not perform circulation audits of Tulsa World. This was a false statement as the ABC

performed paid circulation audits for the Tulsa World for 1996, 1997, 1998, 1999 and 2000. It later hired an independent company, Grant Thornton, LLP ("Grant Thornton"), to audit its paid circulation. Grant Thornton audited paid circulation figures in 2002-2005. In 2005, the Tulsa World again retained ABC to audit its paid circulation numbers.

(B) A second false statement is that a steep drop in circulation was concealed by the Tulsa World from its advertisers.

(C) The Story also alleges that Tulsa World hired its own consultants to conduct market survey and circulation estimates and concealed declines in circulation. The Story falsely asserts a steep drop of paid circulation for the Tulsa World from 2005 when compared to the paid circulation numbers for the Tulsa World for 2006, suggesting that the World was inflating its paid circulation by as much as 20%. This statement falsely implies that the Tulsa World inflated its paid circulation numbers to intentionally mislead advertisers and cause advertisers to overpay the Tulsa World for advertising.

8. Until 2002, ABC conducted circulation audits of the Tulsa World. Tulsa World discontinued its membership in ABC on March 18, 2002, for a variety of reasons, but mostly because it had lost faith in it as an auditing group. The decision proved to be valid, because in 2004 it was widely reported that certain newspaper members of the ABC had inflated their circulation numbers significantly despite ABC's audit of those newspapers' paid circulation. These revelations gave ABC audits and the newspaper industry in general a black eye.

9. To replace ABC for the years 2002-2005, the Tulsa World retained one of the world's largest and most reliable accounting firms, Grant Thornton, to conduct its audits of circulation. At that time, Grant Thornton had a staff of 21,500 employees,

operating in 585 offices, and had over almost \$1.84 billion in annual sales. Grant Thornton conducted four audits of the Tulsa World paid circulation numbers, and Tulsa World management believed Grant Thornton's audit practices to be more thorough than any process ever conducted by ABC when the Tulsa World previously subscribed to the ABC audits.

10. On March 23, 2005, the Tulsa World re-applied for membership in ABC. That membership was granted a few months later. The Tulsa World returned to the ABC after the Tulsa World had regained confidence that ABC had updated its accounting practices and was more thorough in its audit approach.

11. The Defendants' statements that Tulsa World's circulation declined by 20% from the 2005 Grant Thornton audit of paid circulation to the 2006 ABC audit of paid circulation is completely false and defamatory.

12. The 2005 Grant Thornton audit reflected a Monday through Saturday average paid circulation of 134,945 compared to the 2006 ABC average paid circulation audit of 126,736 or a 6.08% decline.

13. The 2005 Grant Thornton audit for Sunday circulation showed average paid circulation of 187,109 and the 2006 ABC audit of Sunday paid circulation showed 177,600 representing a 5.08% decline. In short, on a global basis, paid circulation numbers for the Tulsa World declined only about 5-6% from 2005 to 2006, and these declines were not unusual among industry counterparts.

14. This information is readily available to the advertisers and is published through many sources to advertisers by the Tulsa World and other media. The Defendants recognized that the 20% decline may be false by stating that the numbers

“suggest” the Tulsa World was inflating its circulation by as much as 20%. The use of the word “suggest” implies that Defendants recognized that their statements may be false and that they have substantial doubt as to the truthfulness of their statements. Attached hereto collectively as Exhibit “B” are the face pages of the audits of the paid circulation numbers for 2005 and 2006.

15. The Tulsa World each year pays substantive sums to audit and verify its paid circulation so that advertisers may rely on the paid circulation numbers provided when advertisers make a decision to place an ad with the Tulsa World. The Defendants’ false statements undermine the veracity and integrity of the Tulsa World circulation numbers and cause great harm to the Tulsa World and its reputation for honesty and integrity with advertisers. The Tulsa World has built its reputation with advertisers over 100 plus years, and these false statements cause the Tulsa World serious actual, special and consequential damages.

FIRST CLAIM FOR RELIEF

16. Plaintiff adopts and realleges the allegations set out above.

17. The false statements in the Story constitute commercial disparagement of the Tulsa World in that the Defendants made false statements of and concerning the Tulsa World and the integrity and veracity of its circulation numbers used to sell advertising.

18. The false statements were published by the Defendants, Urban Tulsa, Skrzypczak and Bates, in *Urban Tulsa Weekly* and its website.

19. The false statements were derogatory to the business of the Tulsa World in general and as to the quality of its paid circulation numbers and implied that the Tulsa

World had falsely concealed and attempted to mislead advertisers as to its circulation numbers.

20. The false statements were published with actual malice and were intended to cause harm to the pecuniary interest of the Tulsa World, or were recognized or should have been recognized as likely to harm the Tulsa World.

21. The statement that Tulsa World had inflated the circulation number from 2005 compared to 2006 and other false statements were published with actual knowledge of the falsity or with reckless disregard to the falsity as the ABC numbers and the Grant Thornton numbers are readily available or verifiable from many sources. Further, the Defendants failed to contact the Tulsa World to ask for its response before publishing the Story with the false statements, and did so with knowledge that the Tulsa World would be able to affirmatively demonstrate the falsity of the statements in the Story. This appears to have been done by Defendants to gain commercial advertising as a competitor of the Tulsa World.

22. The Story written by Bates, edited by Skrzypczak, and published by Urban Tulsa has caused the Tulsa World to suffer special damage in loss of revenue and good will and will cause the Tulsa World additional special and general damages. The false statements also damaged the reputation and integrity of the Tulsa World.

SECOND CLAIM FOR RELIEF
CORPORATE DEFAMATION

23. The Plaintiff adopts and realleges the allegations above.

24. The Defendants' statements in the Story were false and defamatory.

25. The Defendants' statements were not privileged.

26. The Defendants' false statements of and concerning the Tulsa World were published negligently or the Defendants knew those statements to be false or published the false statements with reckless disregard for the easily ascertainable truth or falsity. The false statements have caused and will cause special and general damages to the Tulsa World in the loss of revenue and good will and reputation. The false statements have also damaged the reputation and integrity of the Tulsa World with its advertisers and readers in that the false statements state or imply the Tulsa World purposefully, intentionally and willfully misled advertisers as to the decline in circulation for 2006 compared to 2005, the reasons the Tulsa World discontinued use of ABC and the concealment of circulation decline.

27. The Defendants' actions were willful, wanton and recklessly done with the intent to damage the Tulsa World and to obtain a commercial advantage.

WHEREFORE, the Tulsa World prays that the Tulsa World be granted actual, special and general damages in amounts in excess of \$10,000, and be granted punitive or exemplary damages in excess of \$10,000 to punish and make an example of the Defendants for their willful, malicious, reckless and wanton false statements.

Respectfully submitted,



Schaad Titus, OBA #9034

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Attorneys for Defendant,
World Publishing Company



CITYSCOPE

BY MICHAEL D. BATES



Tulsa Whirled

Daily lays off its future in last week's downsizing

The e-mail went out at about 5pm on Monday, January 5, ordering the recipient to show up for a special meeting the following morning at 10am.

Co-workers spent the rest of Monday night shooting messages back and forth via Blackberries, text messages, IMs, and Facebook, trying to find a pattern in who received the invite to the special meeting and who didn't.

The invitation was to the corporate abattoir. Behind the pebble-clad walls of the *Tulsa World's* totalitarian-moderne Main Street bunker, 28 employees, 26 of them news staffers, learned that they were being laid off.

The victims included copy editors, designers and reporters, including two of the daily's three state capitol reporters. They were given a minimal severance package: two weeks pay, plus accrued vacation, and insurance coverage through the end of January.

This was the second *World* layoff in less than a year. In March 2008, the daily shut down its *Community World* editions, axing 17 positions, while adding five new positions to the newsroom and website staff. A few of those who had been laid off were hired back for the new downtown positions.

That cost-cutting move made some economic sense, even though it was sad to see many good people put out of a job. The community editions were a strategic move in the mid-'90s to head off competition from suburban papers, a need that no longer existed. The paper was able to shed the cost of maintaining satellite offices around the metro area and the added expense of producing and distributing targeted editions.

This latest layoff appears to be both a strategic blunder and a missed opportunity. Creative, energetic, and intelligent young journalists who might have reinvigorated the paper with a fresh

perspective on local news and fresh ways to present stories to readers were let go.

Meanwhile, the paper kept the tired old voices whose pro-local-establishment bias has alienated its readers and accelerated its decline.

Word is that the daily's middle managers - the section editors - were left completely out of the loop. Upper management decided who would go, and they seem to have applied a strict last-in-first-out policy. Instead of using a scalpel, the *World* big shots took a blunt axe to the roster.

Not every long-time employee is deadwood, and some newcomers are no doubt too green and immature to be productive. But it doesn't make

One of the paper's designers wrote about her dismissal on her blog, headygoesherey.wordpress.com. A glance back through her archives reveals someone writing with informed passion about the best ways to organize and present information to newspaper readers.

Another of the layoff victims had been editor-in-chief of the *O'Collegian*, the student-run OSU daily, and had challenged the administration over student control of the paper's website. Yet another had been an award-winning sports editor in a smaller market before coming to Tulsa.

The daily's new hires were lured from around the country to what they were led to believe would be one of the most stable situations in print journalism.

They were encouraged to think that a locally-owned newspaper, under the founding family's ownership for more than a century, was universally respected around town and wouldn't be subject to the instant profit pressures experienced by papers owned by publicly-traded corporations. They were told that Tulsa's economy hasn't been hit as hard as that of the rest of the country.

Had the *World* lost circulation? What paper hasn't? But *World* recruiters could point to marketing surveys showing a half-million readers on average.

What the new hires likely didn't know was the back story.

Weak Minds, Weak Daily

The *World* has been hemorrhaging readers for well over a decade. Daily circulation dropped more than 30 percent between 1998 and 2008, from 162,186 to 110,467. Sunday circulation took a similar fall. This is a decline on the same order of magnitude as the *New Orleans Times-Picayune*.

The circulation decline was concealed for a time because in late 1997 the *World* withdrew from the

When Local Family Ownership Has It's Downside. The *World's* news and editorial coverage appears to be slanted to the benefit of the owning family's social and financial connections . . .

sense for management to keep someone on the payroll who sleeps at his desk or who is complacently phoning it in every day, hanging on until retirement, while laying off innovative and enthusiastic young staffers.

Youth Not Served

During the last few days, through some Internet sleuthing, I've learned more about those who were given the sack. Many of them had only been with the paper for four or five months, hired in August and let go in January.

Many of the newest hired-and-fired were recent graduates, but they were nevertheless talented journalists with an evident love for their chosen profession. Several came from the University of Missouri, one of the top journalism programs in the country.

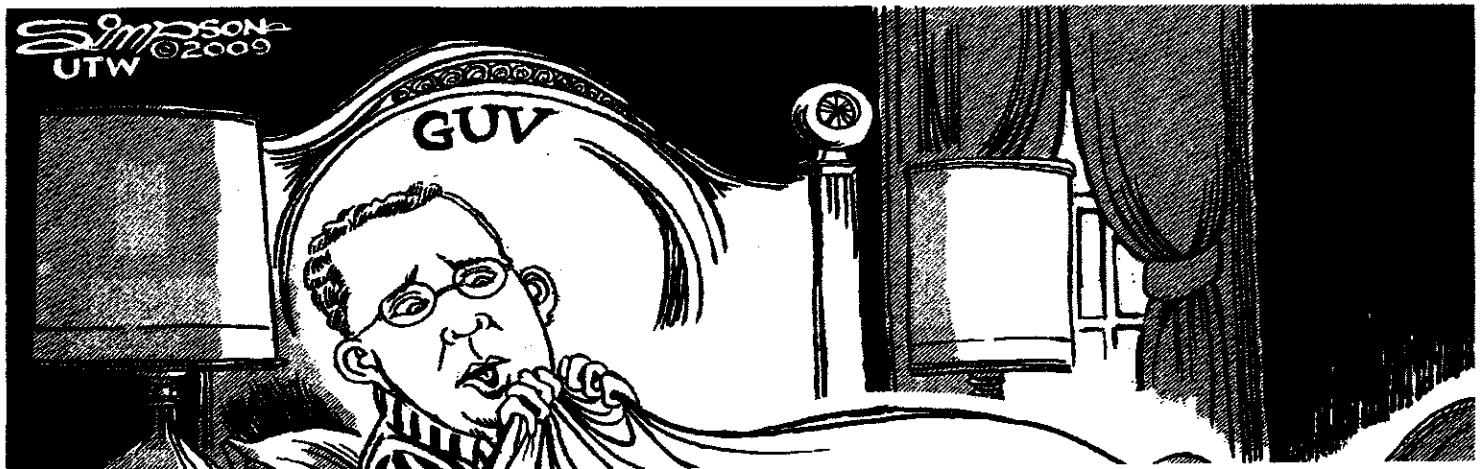


EXHIBIT "A"

semi-annual circulation audits performed by the independent Audit Bureau of Circulations (ABC), only rejoining in time for the March 2006 audit.

During the interim, the daily hired its own consultants to conduct market surveys and circulation estimates.

The steep drop between the paid consultant's March 2005 count and the March 2006 ABC numbers suggest that the *World* was inflating its circulation by as much as 20 percent.

While many papers have suffered drops as deep as the *World's*, on average the circulation of the top 100 papers in America has dropped by 13 percent during the last 10 years. The *Oklahoman's* decline matches the national average almost exactly.

Some papers in the region are selling more copies than a decade ago. The *Arkansas Democrat-Gazette's* circulation increased from 173,000 to 176,000.

The newly hired staffers may have had the impression that because both conservatives and liberals hated the paper, it must be well balanced. But the *World's* bias problem is different from the usual left-right divide.

Local family ownership has its downside. The *World's* news and editorial coverage appears to be slanted to the benefit of the owning family's social and financial connections.

Those Tulsans who are the most involved in and passionate about local issues and who would be the most likely to seek out and pay for sources of local news are the very subscribers that the *World* is losing.

Some of us vowed never to subscribe again when the paper's ownership decided in 1992 not to extend its joint operating agreement with the *Tulsa Tribune*, dooming the evening paper and giving the *World* a monopoly.

Others have been alienated one slanted story at a time. The paper has consistently supported the build-anything-anywhere development lobby and consistently attacked neighborhood groups and individual city councilors -- Democrats and Republicans alike -- who sought to reform zoning and land-use policies and processes.

Janet Pearson's Jan. 11th column is a case in point, an insulting piece that claims a lack of due diligence and understanding on the part of homeowners is behind the latest conflict between homeowners and developers in south Tulsa. It couldn't possibly be pro-developer bias on the part of planning bureaucrats, because chief planning bureaucrat Wayne Alberty told her so.

Four years ago Ken Neal, then editorial page editor, boasted to a civic club luncheon about the lack of dissent and diversity on the editorial board on local issues. That lack of diversity is killing the paper's credibility and its readership.

When Collective Strength surveyed a 1,000 Tulsans last summer, they heard back that Tulsans

feel that city leaders are out of touch with their communities' needs, that they're left out of the planning process, and that the wealthy and connected will control the outcome of our new comprehensive planning process.

Through its long-standing policy of comforting the comfortable and afflicting the afflicted, the *World* has deepened the alienation between the city's establishment and ordinary citizens.

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Sackcloth and Ashes, Maybe?

Perhaps the present crisis will inspire some overdue humility and soul-searching. The signs are not promising: Mike McCarville reported on his blog (www.tmrcom.blogspot.com) that just a week before the latest layoff, World president John Bair's name appeared on a list of candidates for a proprietary membership in Southern Hills Country Club, at an estimated cost of \$90,000.

If they want to regain readership, the *World's* owners and senior management need to confess and repent. They need to acknowledge that their one-sided editorial section and the bias they've encouraged on the news pages have driven away readers. And then they need to balance the paper -- add opposing views to the editorial board, hire an ombudsman to take a critical look at the paper's news coverage, convene focus groups of the paper's harshest critics.

The paper's ownership and senior management need to acknowledge that they have a blind spot and then act to correct it.

A city needs a good daily newspaper . . . only trustworthy local coverage and commentary will attract readers to a local newspaper.

The talented young journalists who were let go last week should be fine. Whatever the fate of daily newspapers, there will always be stories to tell and a need for

skilled storytellers. These young people have plenty of options, and their experience at the *World*, albeit very brief, gives them an edge over new J-school graduates with no experience at all.

But a city needs a good daily newspaper. Citizens need detailed coverage of the actions of city councils and planning commissions and school boards. History needs an ongoing record of the issues of the day.

In a day when national and international news is available from hundreds of sources at the press of a button, only trustworthy local coverage and commentary will attract readers to a local newspaper.

The latest layoff is a financial band-aid over the *Tulsa World's* untreated cancer: The loss of its readers' trust. Will the patient have the courage to undergo the radical steps needed to halt the cancer's spread? DTW

LOVE LETTERS, HATE MAIL

Why I March

Dear Editor:

After 52 years as a native Californian I recently moved. I loved California, its scenery, and its quirkiness. Being 52 though I knew that the majority of voters in California had voted against equal rights for blacks decades ago because that's what the scared majority wanted.

Still, I was proud of California because it was on the forefront in being open to ideas, innovations, a diversity of people, and was freer than most states. In grade school we ranked close to the top in education. We catapulted the economic boom of the U.S. after WWII with our aerospace/defense industries, agriculture, and superb universities. We tended to rely on science and facts to guide our policy making and less on religious fears, although we welcomed diverse religious freedom and freedom from religion.

I partook of many volunteer activities starting as a child, from planting seeds on a bikeway, raising funds for public television, walking/running to help alleviate poverty and diseases, volunteering for a suicide prevention hotline, to being an active Boy Scout.

While trying to be the "ideal" kid, there was a dark secret I guarded. I realized around 5th grade that I was gay. Even though I did not choose this anymore than anyone chooses to be straight I hid my secret well. Against this backdrop were religious extremists who while they meant well in their own minds were literally killing me with their proselytizing, saying that people like me would burn in hell and were inferior. I felt shame to such a degree that later I almost committed suicide by jumping off a dormitory in Davis.

Others kept saying, "If only homosexuals would settle down and not be promiscuous, and be more like us, we would give them respect and equal rights."

Later fundamentalists would say, "We support equal rights for homosexuals, but not "Special Privileges" for homosexuals", in their never-ending campaigns against gay equality.

Jumping ahead, we now have loving gay couples who are not promiscuous, who want to lead normal, supportive family lives, yet again the religious extremists have displayed their cingenuous words.

Our Constitution is traditionally there to support equal rights, not discard them. The Republican California Supreme Court ruled that granting marriage, a civil, not religious contract only to heterosexuals amounts to special privileges for heterosexuals in California.

Often I have heard conservatives say, "I think everyone should be treated equally and have equal opportunities and that's why I'm opposed to affirmative action." And we have all heard the line, "Same sex marriage threatens the sanctity of marriage!" if these people were truly authentic in that belief, their Proposition would have banned divorce, as NOTHING threatens the sanctity of marriage more than the big "D"!

I am sad that I was unable to vote against inequality. The California I knew in its day strived to welcome progress, compassion, and equality. The California I knew had Governor Reagan speak out strongly against the religious extremists who tried to ban gays as schoolteachers!

While I may have physically deserted California I pray that those of you there and in other states facing this civil rights issue will open your hearts and minds and help save the life of that little boy or girl out there who hear you say whether they are a worthwhile human being deserving what you take for granted, the right to love and marry. I support equal rights for all; not special privileges for heterosexuals. That is why I march. DTW

Paul A. Harris
753 Ruslin Road
Eureka Springs, AR 72632

Brick & Wood

by Dave Barber & Richard Mullen

No more fingerprints

What?

State Senator Randy Braden wants to stop

Of course, that data

And it can't protect anyone if

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EXHIBIT "A"



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News JANUARY 14, 2009

Columns
OpEd **Tulsa Whirled**

Commentary Daily lays off its future in last week's downsizing

In the City BY MICHAEL D. BATES

Letters

Double Take

Just Your Style The e-mail went out at about 5pm on Monday, January 5, ordering the recipient to show up for a special meeting the following morning at 10am.

Sports

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This was the second World layoff in less than a year. In March 2008, the daily shut down its Community World editions, axing 17 positions, while adding five new positions to the newsroom and website staff. A few of those who had been laid off were hired back for the new downtown positions.

That cost-cutting move made some economic sense, even though it was sad to see many good people put out of a job. The community editions were a strategic move in the mid-'90s to head off competition from suburban papers, a need that no longer existed. The paper was able to shed the cost of maintaining satellite offices around the metro area and the added expense of producing and distributing targeted editions.

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