

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

-----X
STEPHEN J. COLE-HATCHARD,

Plaintiff,

- against -

DICK EGGERS and "JOHN DOES 1-5,"
whose identities are unknown at present,

Defendants.
-----X

To the above named Defendant:

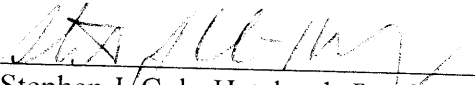
YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff's Attorney(s) within twenty (20) days after the service of this Summons, exclusive of the date of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: May 20, 2011

DEFENDANT'S ADDRESS:

Dick Eggers
13 Bontecou Road
Stony Point, New York 10980

Yours, etc.


Stephen J. Cole-Hatchard, *Pro Se*
315 Route 210
Stony Point, New York 10980
845-709-9454



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Rockland County, NY
Paul Piperato County Clerk

Index N

Date Pu

Plaintiff designates

ROCKLAND

as the place of trial

The basis of the venue is
CPLR § 509

SUMMONS

Defendant resides in
Stony Point, New York

SU-2011-004368

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Index No.: 11/007368

COMPLAINT

FILED MR

MAY 20 2011

**ROCKLAND COUNTY
CLERK'S OFFICE**

Plaintiff, *Pro Se*, respectfully alleges upon information and belief as and for his Complaint against the Defendants as follows:

1. At all times relevant hereto, the Plaintiff is and was a resident of the State of New York.
2. At all times relevant hereto, the Defendant Dick Eggers (herein the "Defendant") is and was a resident of the County of Rockland, State of New York.
3. Defendants "John Does 1-5" are intended to be persons whose names are presently unknown and who conspired with the Defendant regarding the actions set forth herein.
4. Venue is proper pursuant to CPLR § 509.

NATURE OF ACTION

5. Defendant has widely published false and malicious statements about Plaintiff, including false allegations of illegal acts.
6. Defendant was assisted in drafting said false statements, producing the letter, and financing the widespread distribution of the May 16, 2011 letter by one or more co-conspirators identified above as "John Does 1-5".

7. This action seeks to recover damages and injunctive relief arising from the Defendants' intentional tortious conduct, which includes conduct taken by the Defendant and his co-conspirators for the sole purpose of inflicting harm and damage upon Plaintiff, and publicly defaming Plaintiff.

BACKGROUND OF ACTION

8. The Plaintiff is an attorney, police officer, real estate broker, and financier currently sitting on the board of a publicly traded corporation.

9. Plaintiff was born, raised and currently resides in Stony Point, New York, and has advocated for taxpayers of Stony Point for a considerable time to lessen the burden of local government on all Stony Point residents, both on a volunteer basis and as an elected official.

10. Plaintiff does not currently hold any elected public office.

11. From January 1, 2006 through December 31, 2009, Plaintiff served as a member of the Town of Stony Point Town Board.

12. From July 1, 2007 through February 8, 2011, Plaintiff served as a member of the North Rockland School Board.

13. Since on or about January 1, 2005 through the present time, Plaintiff has voluntarily assisted the Town of Stony Point in its efforts to lessen the tax burden on Stony Point residents and to prevent a "shift" of school taxes from the Town of Haverstraw to the Town of Stony Point as both Towns are in the same School District.

14. In advocating for Stony Point taxpayers, the Plaintiff had been required to publish truthful statements about mistakes, misjudgments and other wrongful conduct involving certain individuals who include, but are not limited to, Town of Stony Point

Supervisor William Sherwood, other officials of the Town of Stony Point and the Town of Haverstraw, and certain of their attorneys and representatives.

15. Upon information and belief some or all of these officials and representatives are the co-conspirators identified above as "John Does 1-5".

16. More recently Plaintiff has also sought information from the Town Supervisor of the Town of Stony Point through the Freedom of Information Law.

17. The Town Supervisor for the Town of Stony Point, William E. Sherwood, has directly, and indirectly through friends and associates, attacked Plaintiff for exposing truthful information including the fact that the Town Supervisor failed to advise Town Board Members about an important Hearing on June 15, 2010, where the Town of Stony Point could have, but failed because of Town Supervisor Sherwood's actions and inactions, requested a better School Tax Rate for the Town.

18. Because Plaintiff has exposed these improper and otherwise wrongful acts by the Town Supervisor and other public officials, Plaintiff has been subjected to false and defamatory statements and "paper terrorism" as an attempt to silence Plaintiff from exposing wrongful and wasteful conduct by certain elected and appointed officials.

19. On or about May 16, 2011 Defendant published through a mass U.S. Postal Service mailing to, upon information and belief, approximately 5,300 households and businesses throughout the Town of Stony Point, New York a document entitled "**From the desk of Dick Eggers**".

20. The publication contained false and defamatory statements of fact against and concerning Plaintiff, which were known by Defendant to be false and untrue, and were intended to and would maliciously damage Plaintiff's reputation in business and society.

21. The false and defamatory statements regarding Plaintiff contained in Defendant's published mailing included, among other things, the following :

- a. "As a Stony Point town board member in 2006, **he botched a \$100 million settlement on the Mirant lawsuit** that would have saved Stony Point residents thousands of dollars in taxes";
- b. "He served as Treasurer for two different businesses that have filed for **bankruptcy**";
- c. "He lost millions of his family's savings in a real estate investment fund that went bad";
- d. "He resigned from the North Rockland school board after one term. **School taxes increased every year that he served on the board!** (By the way, his attendance record at meetings for the town board and school board was dreadful, yet he still finds the time to sell real estate in Colorado in his 'spare time!')";
- e. "He is employed by the Clarkstown police department, one of the highest paid police departments in the nation, but **defiantly broke the law** by having an illegal fireworks display at his home in 2007. He was also **cited by the DEC** for disturbing a stream in his backyard."

22. The foregoing six false statements of fact by Defendant were and are defamatory in that they falsely assert illegal, fraudulent, deceitful, inept and improper conduct by Plaintiff, and were uttered with actual and stated malice.

23. Any person reading the widely published letter would have no basis to know that the alleged facts therein were completely false, and would logically believe that the Plaintiff engaged in illegal conduct, "botched" a multi-million dollar tax settlement, bankrupted two companies, lost family savings in a risky real estate deal, and raised school taxes, all to the detriment of Plaintiff's business, professional and financial activities and livelihood.

24. Consequently, Defendant's letter is defamatory on its face and libel *per se*, and Defendant and his co-conspirator Defendants should be held liable to Plaintiff for

damages, ordered to issued corrective notices and letters, and permanently enjoined from uttering untruths about Plaintiff.

AS AND FOR A FIRST CAUSE OF ACTION

25. Plaintiff repeats and realleges each and every allegation set forth previously herein at paragraphs "1" through "24" as though set forth in full herein.

26. In the letter on stationary of Defendant dated May 16, 2011 that was published to thousands of residents of the Town of Stony Point, New York, the Defendant falsely stated as regarding plaintiff that "As a Stony Point town board member in 2006, **he botched a \$100 million settlement on the Mirant lawsuit** that would have saved Stony Point residents thousands of dollars in taxes";

27. The actual truth is that Plaintiff, as a member of the Town Board at that time, voted to block an early settlement proposal by the Town of Haverstraw in the Mirant tax certiorari case that would have resulted in a tax shift from the Town of Haverstraw to Town of Stony Point taxpayers of over \$3 million annually for a period of approximately eight (8) years.

28. The foregoing false statement of fact by Defendant was and is defamatory in that it asserts inept and improper conduct by Plaintiff, and was uttered with actual and stated malice.

29. The defamatory statement was known by the Defendant to be false and otherwise untrue or made by the Defendant with reckless disregard for the truth of said defamatory statements as a result of his utter failure to comprehend or attempt to understand the complexity of the Mirant tax certiorari matter.

30. By reason of the foregoing, the Plaintiff has been damaged in an amount to be determined by this Court, and the Defendant and his co-conspirator Defendants should be enjoined from again uttering such false statements.

AS AND FOR A SECOND CAUSE OF ACTION

31. Plaintiff repeats and realleges each and every allegation set forth previously herein at paragraphs "1" through "30" as though set forth in full herein.

32. In the letter on stationary of Defendant dated May 16, 2011 that was published to thousands of residents of the Town of Stony Point, New York, the Defendant falsely stated as regarding plaintiff that "He served as Treasurer for two different businesses that have filed for **bankruptcy**";

33. Truth in fact is that Plaintiff has never served as an officer or director of, nor been employed by any company that has ever filed for bankruptcy or otherwise been declared bankrupt.

34. Upon information and belief Defendant is referring to two companies by which Plaintiff was hired and responsible for the public offerings thereof. Plaintiff raised over \$66 million in public and private financing for the first such company, which company continues to this day to be a viable, profitable, publicly traded company. The second company was merged with a Florida health care provider after the initial public offering, and also continues to be publicly traded today. Neither has ever filed for bankruptcy or been otherwise declared insolvent.

35. The foregoing false statements of fact made by Defendant in his May 16, 2011 publication were and are defamatory in that they assert inept and improper conduct by

Plaintiff in his professional capacity, and were uttered with actual and stated malice intending to harm Plaintiff in his professional and financial activities.

36. The defamatory statements were known by the Defendant to be false and otherwise untrue or made by the Defendant with reckless disregard for the truth of said defamatory statements.

37. By reason of the foregoing, the Plaintiff has been damaged in an amount to be determined by this Court, and the Defendant and his co-conspirator Defendants should be enjoined from again uttering such false statements.

AS AND FOR A THIRD CAUSE OF ACTION

38. Plaintiff repeats and realleges each and every allegation set forth previously herein at paragraphs "1" through "37" as though set forth in full herein.

39. In a letter on stationary of Defendant dated May 16, 2011 that was published to thousands of residents of the Town of Stony Point, New York, the Defendant falsely stated as regarding plaintiff that "He lost millions of his family's savings in a real estate investment fund that went bad";

40. Truth in fact is that Plaintiff and his family as well as hundreds of others in the North Rockland Community, were victims of the theft of their savings in a widely publicized "Ponzi" scheme known as the Westgate Capital matter. Such savings was not in a "real estate investment fund that went bad", nor did those total amounts exceed even one million dollars, no less "millions" as falsely stated by Defendant.

41. The foregoing false statements of fact made by Defendant in his May 16, 2011 publication were and are defamatory in that they assert inept and improper conduct by

Plaintiff, especially in the area of finance and real estate, and were uttered with actual and stated malice intending to harm Plaintiff in his professional and financial activities.

42. The defamatory statements were known by the Defendant to be false and otherwise untrue or made by the Defendant with reckless disregard for the truth of said defamatory statements.

43. By reason of the foregoing, the Plaintiff has been damaged in an amount to be determined by this Court, and the Defendant and his co-conspirator Defendants should be enjoined from again uttering such false statements.

AS AND FOR A FOURTH CAUSE OF ACTION

44. Plaintiff repeats and realleges each and every allegation set forth previously herein at paragraphs "1" through "43" as though set forth in full herein.

45. In the letter on stationary of Defendant dated May 16, 2011 that was published to thousands of residents of the Town of Stony Point, New York, the Defendant falsely stated as regarding plaintiff that "He resigned from the North Rockland school board after one term. **School taxes increased every year that he served on the board!** (By the way, his attendance record at meetings for the town board and school board was dreadful, yet he still finds the time to sell real estate in Colorado in his 'spare time!')";

46. Truth in fact is that Plaintiff served on the unpaid school board from July 1, 2007 through February 8, 2011, and was a member during the adoption of the school tax levy for the school years 2008-2009, 2009-2010, and 2010-2011. During that period, the school tax levy went DOWN from \$140,700,000 in the 2007-2008 school tax year adopted prior to Plaintiff's tenure, to \$127,500,000, the final year of Plaintiff's term.

47. Further truth in fact, upon information and belief, is that the very reason Defendant has falsely claimed that Plaintiff caused school taxes to “go up” was to improperly attempt to cover the errors of Defendant’s close friend Supervisor Sherwood in failing to properly address the school tax shift from Haverstraw to Stony Point, allowing Haverstraw school taxes to go down, and forcing Stony Point taxpayer’s share to increase.

48. The foregoing false statements of fact made by Defendant in his May 16, 2011 publication were and are defamatory in that they assert inept and improper conduct by Plaintiff, and were uttered with actual and stated malice intending to harm Plaintiff in his professional and financial activities.

49. The defamatory statements were known by the Defendant to be false and otherwise untrue or made by the Defendant with reckless disregard for the truth of said defamatory statements.

50. By reason of the foregoing, the Plaintiff has been damaged in an amount to be determined by this Court, and the Defendant and his co-conspirator Defendants should be enjoined from again uttering such false statements.

AS AND FOR A FIFTH CAUSE OF ACTION

51. Plaintiff repeats and realleges each and every allegation set forth previously herein at paragraphs "1" through "50" as though set forth in full herein.

52. In the letter on stationary of Defendant dated May 16, 2011 that was published to thousands of residents of the Town of Stony Point, New York, the Defendant falsely stated as regarding plaintiff that “He is employed by the Clarkstown police department, one of the highest paid police departments in the nation, but **defiantly broke the law** by having an

illegal fireworks display at his home in 2007. He was also **cited by the DEC** for disturbing a stream in his backyard”.

53. Truth in fact is that in July of 2007, the Rockland Journal News alleged that Plaintiff, then a politically controversial member of the Stony Point Town Board, allowed fireworks to be set off on or near his property on the fourth of July.

54. Various independent law enforcement entities, including a Rockland County Grand Jury investigated the media’s claims, with no violation of law subsequently alleged.

55. Further truth in fact is that in the summer of 2010, an “anonymous tipster” contacted the New York State Department of Environmental Conservations (“DEC”) and the Town of Stony Point and alleged that Plaintiff singlehandedly moved an entire 300 foot long, 30 foot wide, three foot deep stream in his backyard, along with two dozen 30 and 40 foot tall trees along the stream banks.

56. The DEC inspected Plaintiff’s property and stream and found no such violations. The complaint was unfounded, no criminal or other citations were issued, and no further action was taken.

57. Under the initial oversight of Stony Point Supervisor Sherwood, the Town of Stony Point Building and Engineering Departments also inspected Plaintiff’s property, but then independently found no such violations.

58. The foregoing false statements of fact made by Defendant in his May 16, 2011 publication were and are defamatory and libel *per se* in that they falsely assert illegal conduct by Plaintiff, and were uttered with actual and stated malice intending to harm Plaintiff in his professional, legal, law enforcement and financial activities.

59. The defamatory statements were known by the Defendant to be false and otherwise untrue or made by the Defendant with reckless disregard for the truth of said defamatory statements.

60. By reason of the foregoing, the Plaintiff has been damaged in an amount to be determined by this Court, and the Defendant and his co-conspirator Defendants should be enjoined from again uttering such false statements.

AS AND FOR A SIXTH CAUSE OF ACTION

61. Plaintiff repeats and realleges each and every allegation set forth previously herein at paragraphs "1" through "60" as though set forth in full herein.

62. The aforementioned statements by the Defendant and his co-conspirator Defendants were made with disinterested malevolence so as to cause Plaintiff special damages.

63. The foregoing statements were without excuse or justification and by a series of acts that would otherwise be lawful.

64. By reason of the foregoing, the Plaintiff has been damaged in an amount to be determined by this Court, the Defendant and his co-conspirator Defendants should be enjoined from again uttering such false statements, and the Defendant and his co-conspirator Defendants should be ordered to issue true and corrective statements in the same manner such false and defamatory statements were made.

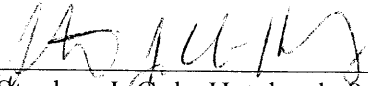
65. No other application has been made for the relief requested herein.

WHEREFORE, the Plaintiff demands Judgment against the Defendants both jointly and individually in an amount to be determined by this Court regarding damages; together with whatever equitable relief is appropriate; together with an award by the Court for

reasonable attorneys' fees; together with costs and disbursements; and for such other and further relief as to this Court may seem just and proper.

Dated: May 20, 2011
Stony Point, New York

Yours, etc.



Stephen J. Cole-Hatchard, *Pro Se*
315 Route 210
Stony Point, New York 10980
845-709-9454