

FILED

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ERIN CARTWRIGHT WEINSTEIN

Clerk of the Circuit Court

Lake County, Illinois

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

MARCUS SCHABACKER,)
)
 Petitioner,)
)
 v.)
)
 JAMISON STARKS, ALISON GRAF,)
 and GOOGLE LLC,)
)
 Respondents.)

Case No.: 21MR00000796

VERIFIED PETITION FOR DISCOVERY

Petitioner Marcus Schabacker ("Dr. Schabacker"), pursuant to Illinois Supreme Court Rule 224, respectfully requests that this Court enter an Order authorizing him to obtain discovery from Respondents Jamison Starks, Alison Graf, and Google LLC, for the purpose of identifying responsible parties. In support, Petitioner states as follows:

1. On or about September 14, 2021, an anonymous individual or individuals sent an email from "concernedparents115@gmail.com" to at least eight recipients containing defamatory statements about Dr. Schabacker (the "Defamatory Email").
2. Dr. Schabacker respectfully requests that this Court grant him discovery in order to determine the identity of the individual or individuals responsible for the Defamatory Email.

PARTIES, JURISDICTION, AND VENUE

3. Dr. Schabacker is a resident of the City of Lake Forest, Lake County, Illinois and a sitting member of the Lake Forest Community High School District #115 Board of Education (the "Board of Education").
4. Respondent Jamison Starks is a resident of the City of Lake Forest, Lake County, Illinois.

5. Respondent Alison Graf is a resident of the Village of Lake Bluff, Lake County, Illinois.

6. This Court has jurisdiction over Respondents Jamison Starks and Alison Graf as Illinois residents.

7. Google LLC ("Google") is a Delaware Limited Liability Company with its principal offices in Santa Clara, California. Google LLC offers email services to individuals within the State of Illinois.

8. This Court has jurisdiction over Google based on Google's transaction of business in the State of Illinois and Google's making and performance of contracts and/or promises substantially connected to Illinois in accordance with the Illinois Long-Arm Statute, 735 ILCS 5/2-209 and constitutional due process.

9. Venue is proper in Lake County under 735 ILCS 5/2-101 both because the transactions or some part thereof occurred in Lake County and because two of the three Respondents reside in Lake County while the third is a nonresident of Illinois.

THE DEFAMATORY STATEMENTS

10. On or about September 14, 2021, an anonymous individual or individuals sent an email from "concernedparents115@gmail.com" to at least eight recipients under the subject line "Marcus Schabackers Underage drinking party removed from sons account" (the "Defamatory Email"). The Defamatory Email stated, in relevant part, that:

Board of Education and Dr. Montgomery,

The concerned parents of Lake Forest will be opening an investigation into Marcus Schabacker's conduct.

He has known [sic] or unknowingly contributed to the underage drinking, possession of alcohol and underage use of tobacco products at his residence. ...

11. The assertion that Dr. Schabacker "known [sic] or unknowingly contributed to the underage drinking, possession of alcohol and underage use of tobacco products at his residence" is both false and defamatory *per se*, as it accuses Dr. Schabacker of committing and/or contributing to a crime.
12. The defamatory statements in question were published to at least eight persons.
13. The unknown individual or individuals who made these defamatory statements knew or should have known the falsity of their statements.
14. These statements have directly and proximately injured Petitioner and his personal and professional reputation.

ILLINOIS SUPREME COURT RULE 224

15. Illinois Supreme Court Rule 224(a)(1)(i) permits an independent action for discovery for the purpose of ascertaining the identity of one who may be responsible in damages.
16. The author(s) of the Defamatory Email chose to deliberately conceal their identity (or identities) while defaming Dr. Schabacker by name. Dr. Schabacker therefore requires discovery for the purpose of ascertaining the identity (or identities) of those who may be responsible in damages for the defamatory statements contained in the Defamatory Email.

DISCOVERY FROM RESPONDENTS STARKS AND GRAF

17. Respondent Starks appeared at the Board of Education meeting on September 13, 2021. During that meeting, Mr. Starks addressed Dr. Schabacker and criticized him for following Governor Pritzker's executive order requiring masks in schools, stating that Dr. Schabacker was "not doing anything" and not being a "leader."

18. Respondent Graf also appeared at the Board of Education meeting on September 13, 2021. During that meeting, Ms. Graf addressed Dr. Schabacker and asserted that he was only paying attention to who was wearing a mask at the meeting and who was not, rather than attending to public comments.

19. Based upon information and belief, Dr. Schabacker believes that, during the week before the September 13, 2021 Board of Education meeting, Mr. Starks and Ms. Graf met with others to discuss how to force the Board of Education to defy Governor Pritzker's mandate that schools require masks during in-person instruction. During that meeting, the participants discussed their intent to make "outlandish" statements and cause the Board of Education to feel threatened. They also discussed their desire to specifically target Dr. Schabacker.

20. Based upon the facts set forth in paragraphs 7 through 15 above, Mr. Starks and Ms. Graf either know the identity of the author(s) of the Defamatory Email, or have information that will assist in determining the identity of the author(s) of the Defamatory Email.

21. Therefore, Petitioner requests that this Court order Respondents Starks and Graf to:

- a. produce for copying and inspection any and all documents and/or electronically stored information regarding (i) Dr. Schabacker and/or his family; (ii) the Board of Education and/or its policies; (iii) the registration and/or use of the "concernedparents115@gmail.com" email account; and (iv) efforts to modify any COVID-19 policies, including mask policies, at Lake Forest High School; and
- b. testify under oath before a stenographer regarding their knowledge of any and all author(s) of the Defamatory Email and any and all persons making up "concernedparents115."

SEEKING DISCOVERY FROM RESPONDENT GOOGLE

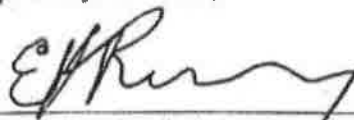
22. Google operates the Gmail email service and the "gmail.com" domain name. On information and belief, Google either has information that will either identify the author(s) of the Defamatory Email or that will assist in determining the identity of the author(s) of the Defamatory Email.

23. Therefore, Petitioner requests that this Court order Respondent Google to produce for copying and inspection any and all documents and/or electronically stored information regarding the registration and/or use of the "concernedparents115@gmail.com" email address.

WHEREFORE, the Petitioner, MARCUS SCHABACKER respectfully requests that this Court enter an Order permitting the discovery requested herein for the purpose of ascertaining the identity of responsible person(s), and for any and all further relief that this Court may deem equitable and just.

Dated: October 4, 2021

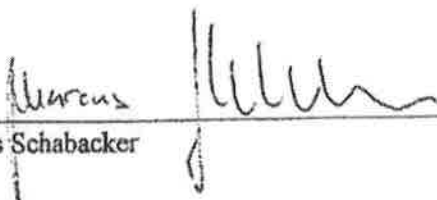
Respectfully submitted,



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VERIFICATION

Under the penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certify that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Marcus Schabacker