

IN THE CIRCUIT COURT OF LEFLORE COUNTY, MISSISSIPPI

JAMES K. LITTLETON

PLAINTIFF

VS.

CAUSE NO.: 2022-0055 CICI

**KEVIN ADAMS, TAMMY ADAMS
AND CHARLES STEVENSON
A/K/A CHARLIE STEVENSON**

DEFENDANTS

ANSWER AND AFFIRMATIVE DEFENSES OF KEVIN ADAMS

Defendant Kevin Adams answers the Amended Complaint (second) filed against him and responds to each paragraph, paragraph by paragraph, as follows:

1. This defendant does not have knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 1 of the Amended Complaint, and therefore denies same, and requests proof thereof.
2. This defendant admits the allegations contained in paragraph 2 of the Amended Complaint.
3. The allegations contained in paragraph 3 of the Amended Complaint do not apply or pertain to this defendant and no answer thereto is required; if there be any actual or inferential reference to any allegation or claim of liability therein against this defendant, then it is denied, and proof thereof is required.
4. The allegations contained in paragraph 4 of the Amended Complaint do not apply or pertain to this defendant and no answer thereto is required; if there be any actual or inferential reference to any allegation or claim of liability therein against this defendant, then it is denied, and proof thereof is required.
5. With regard to the allegations contained in paragraph 5 of the Amended Complaint, this defendant admits that, on Friday, September 2, 2022, in Schlater, Mississippi, he did disseminate

the campaign card attached to the Complaint as Exhibit “A” and the flyer attached to the Complaint as Exhibit “B”, handing them out as he went door-to-door campaigning. As to the remaining allegations of paragraph 5 of the Amended Complaint which apply or pertain to this defendant, the allegations are denied, and proof thereof is required.

6. With regard to the allegations contained in paragraph 6 of the Amended Complaint, this defendant admits that, on Saturday, September 3, 2022, in Minter City, Mississippi, he did disseminate the campaign card attached to the Complaint as Exhibit “A” and the flyer attached to the Complaint as Exhibit “B”, handing them out as he went door-to-door campaigning. As to the remaining allegations of paragraph 6 of the Amended Complaint which apply or pertain to this defendant, the allegations are denied, and proof thereof is required.

7. This defendant does not have knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 7 of the Amended Complaint, that the article referenced was originally published by the Greenwood Commonwealth on August 21, 2014, and therefore denies same and requires proof thereof. The defendant denies the allegation contained in paragraph 7 of the Amended Complaint that there was any allegation of bribery in the headline or article on the flyer and requires proof thereof. The remaining allegations contained in paragraph 7 of the Amended Complaint are admitted. The article originally published by the Greenwood Commonwealth, including its headline, speaks for itself.

8. This defendant denies the allegations contained in paragraph 8 of the Amended Complaint and requires proof thereof.

9. This defendant admits that he disseminated flyers on September 6, 2022, in the area of Greenwood High School. The remaining allegations contained in paragraph 9 of the Amended

Complaint are denied, and proof thereof is required.

10. This defendant denies the allegations contained in paragraph 10 of the Amended Complaint, and proof thereof is required.

11. This defendant admits that he received a Cease and Desist letter consistent with Exhibit “C” of the Amended Complaint on September 7, 2022. The remaining allegations of paragraph 11 of the Amended Complaint, as they apply to this defendant, are denied and proof thereof is required.

12. This defendant admits that he did disseminate the flyer in the Fairfield and Johnson Subdivisions, as alleged in paragraph 12 of the Amended Complaint. The remaining allegations of paragraph 12 of the Amended Complaint, as they apply to this defendant, are denied and proof thereof is required.

13. This defendant denies the allegations contained in paragraph 13 of the Amended Complaint and proof thereof is required.

14. This defendant does not have knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 14 of the Amended Complaint, and therefore denies same and requires proof thereof.

15. This defendant denies the allegations contained in paragraph 15 of the Amended Complaint and requires proof thereof.

16. This defendant denies the allegations contained in paragraph 16 of the Amended Complaint and requires proof thereof.

17. The allegations contained in paragraph 17 of the Amended Complaint do not apply or pertain to this defendant and no answer thereto is required; if there be any actual or inferential

reference to any allegation or claim of liability therein against this defendant, then it is denied, and proof thereof is required.

18. This defendant denies the allegations contained in paragraph 18 of the Amended Complaint and requires proof thereof.

19. This defendant denies the allegations contained in paragraph 19 of the Amended Complaint and requires proof thereof.

20. This defendant does not have knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 20 of the Amended Complaint, and therefore denies same and requires proof thereof.

21. This defendant admits that he approved of and paid for the flyers as alleged in paragraph 21 of the Amended Complaint. The remaining allegations of paragraph 21 of the Amended Complaint are denied and proof thereof is required.

22. This defendant admits that he did disseminate the flyer shown in the third photograph of Exhibit "D" of the Amended Complaint to said residents on September 19, 2022, which is a different flyer from that referenced in Exhibit "B", This defendant further admits that this dissemination was done after receiving the Cease and Desist letter of September 7, 2022, and that it was five (5) days after this defendant was served with the original Complaint in this cause, as alleged in paragraph 22 of the Amended Complaint. This defendant denies that the information contained in the flyers was false information, as alleged in paragraph 22 of the Amended Complaint. This defendant does not have knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 22 of the Amended Complaint, and therefore denies same and requires proof thereof.

In response to the first un-numbered paragraph of the Amended Complaint, beginning “WHEREFORE, PREMISES CONSIDERED,” this defendant denies the allegations contained and set forth therein and specifically denies that Plaintiff is entitled to recover any sum or form of relief whatsoever from or against this defendant.

In response to the second un-numbered paragraph of the Amended Complaint, beginning “WHEREFORE, PREMISES CONSIDERED,” this defendant denies the allegations contained and set forth therein and specifically denies that Plaintiff is entitled to recover any sum or form of relief whatsoever from or against this defendant.

In response to the third un-numbered paragraph of the Amended Complaint, beginning “WHEREFORE, PREMISES CONSIDERED,” this defendant denies the allegations contained and set forth therein and specifically denies that Plaintiff is entitled to recover any sum or form of relief whatsoever from or against this defendant.

All remaining allegations of the Amended Complaint not specifically admitted are hereby denied and strict proof thereof is required.

And now having fully answered the Amended Complaint and without waiving any defenses available to it, this defendant asserts the following affirmative defenses:

AFFIRMATIVE DEFENSE ONE

The Plaintiff’s Amended Complaint fails to state a claim upon which relief can be granted. Plaintiff’s allegations cannot support a claim for defamation, libel, or slander. Among the lack of elements necessary for such a cause (or causes) of action, the publication at issue is true, factually correct, and not false; the publication at issue is not defamatory; the publication at issue is privileged; and Plaintiff is a public figure and cannot prove actual malice, each requiring Plaintiff’s

Amended Complaint be dismissed. Additionally, the statements/materials were absolutely privileged because they were made by a government official, are political speech, by a government official, and in relation to a judicial election.

AFFIRMATIVE DEFENSE TWO

The facts not having been fully developed, Defendant further affirmatively invokes and pleads the protections of the provisions of Mississippi Rule of Civil Procedure 8(c), including: accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, intervening and superseding cause, improper venue, and any other matter constituting an avoidance or affirmative defense.

AFFIRMATIVE DEFENSE THREE

Defendant asserts that the Plaintiff may have failed to mitigate his damages, if any.

AFFIRMATIVE DEFENSE FOUR

The alleged incident in question resulted from the acts or omissions of persons or entities other than Defendant for which Defendant is in no way responsible or liable. Alternatively, said acts or omissions of persons or entities other than Defendant constitute an independent, superseding cause of the alleged accident of which Defendant is in no way responsible or liable.

AFFIRMATIVE DEFENSE FIVE

The sole proximate cause or proximate contributing cause of the Plaintiff's alleged injuries and/or damages was unrelated to any conduct by Defendant. Plaintiff's reputation in the community was not damaged by the publication(s) at issue.

AFFIRMATIVE DEFENSE SIX

Defendant denies all liability, but, alternatively, is entitled to a comparative apportionment of responsibility, fault, or causation as to the Plaintiff, other potential defendants, third parties or non-parties, pursuant to Miss. Code Ann. § 85-5-7 (as amended). Further, Defendant is entitled to a credit, pro rata reduction or percentage reduction for any amounts paid by other parties.

AFFIRMATIVE DEFENSE SEVEN

To the extent that the negligence/actions of the Plaintiff was a proximate cause, either in whole or part, of the Plaintiff's alleged damages, Defendant would affirmatively plead that the Plaintiff's recovery should be apportioned to the degree to which the negligence/actions of the Plaintiff contributed to the Plaintiff's damages, if any, pursuant to the Mississippi law of comparative negligence and Miss. Code Ann. § 11-7-15 (as amended).

AFFIRMATIVE DEFENSE EIGHT

Defendant reserves the right to amend his Answer by adding additional defenses or claims as additional facts are gathered herein.

AFFIRMATIVE DEFENSE NINE

Any award of punitive damages would be in violation of the due process clauses of the Fifth and Fourteenth Amendments of the United States Constitution and Article 3, Section 14 of the Mississippi Constitution since the standards for imposing liability and for assessing the amount of punitive damages are unconstitutionally vague. Moreover, the application of such standards is arbitrary, capricious, and not rationally related to any legitimate governmental interest.

AFFIRMATIVE DEFENSE TEN

Any claim for punitive damage violates the substantive and procedural due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and Article 3, Sections 14, 24, and 25 of the Mississippi Constitution since such claims chill Defendant's access to court and to counsel.

AFFIRMATIVE DEFENSE ELEVEN

Any assessment of punitive damages based on net worth, retained earnings, or wealth would be in violation of the equal protection clause of the Fourteenth Amendment to the Constitution of the United States.

AFFIRMATIVE DEFENSE TWELVE

Since punitive damages are penal in nature, Defendant is entitled to the same procedural safeguards accorded those charged with crimes against the State or the United States; thus, an assessment of punitive damages herein would be in violation of the Sixth Amendment of the United States Constitution.

AFFIRMATIVE DEFENSE THIRTEEN

Defendant pleads the applicable provisions of Miss. Code Ann. § 11-1-65 to the extent that the Plaintiff herein alleges any tort action for punitive damages.

AFFIRMATIVE DEFENSE FOURTEEN

Every element of Plaintiff's claims for punitive damages must be proved beyond a reasonable doubt, because without such proof, said claim would violate the Defendant's due process rights under the Fifth and Fourteenth Amendments to the United States Constitution and under Article 3, Section 14 of the Mississippi Constitution.

AFFIRMATIVE DEFENSE FIFTEEN

Any award of punitive damages to Plaintiff under Mississippi law without requiring a bifurcated trial as to all punitive damage issues would violate Defendant's due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and under Article 3, Section 14 of the Mississippi Constitution.

AFFIRMATIVE DEFENSE SIXTEEN

An award of punitive damages to the Plaintiff under Mississippi law by a jury that is not instructed on the principles of deterrence and punishment as limiting factors on punitive damages and not instructed to award solely that amount of punitive damages reflecting a principled relationship between the amount of punitive damages and actual harm suffered by the Plaintiff would violate the Defendant's due process and equal protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article 3, §§ 14 and 28 of the Mississippi Constitution.

AFFIRMATIVE DEFENSE SEVENTEEN

An award of punitive damages without affording the Defendant protection similar to those afforded criminal defendants including protection against unreasonable searches and seizures, double jeopardy, or impermissible multiple punishments and compel self-incrimination, the right to confront adverse witnesses, to compulsory process for favorable witnesses, to the effected assistance of counsel and to a unanimous verdict of a twelve-person jury on every element of an award of punitive damages would violate Defendant's due process and equal protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and provided by Article 3, §§ 14, 22, 23, 26, and 31 of the Mississippi Constitution.

AFFIRMATIVE DEFENSE EIGHTEEN

Any award of punitive damages against the Defendant would violate Defendant's right to protection from excessive fines provided by Article 3, § 28 of the Mississippi Constitution.

AFFIRMATIVE DEFENSE NINETEEN

Any award of punitive damages based in whole or in part on the net worth, wealth, or value of assets of the Defendant would deny the Defendant the right to equal protection guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article 3, § 14 of the Mississippi Constitution.

AFFIRMATIVE DEFENSE TWENTY

Any award of punitive damages that is not based on the guidelines set forth in *BMW of North America, Inc. v. Gore*, 116 S.Ct. 1589 (1996) and its progeny, including *Cooper Indus., Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424, 121 S. Ct. 1678, 149 L. Ed. 2d 674 (2001), and *State Farm Mut. Auto. Ins. Co. v. Campbell*, 123 S. Ct. 1513, 155 L. Ed. 2d 585, 71 USLW 4282 (2003), would violate the Defendant's rights under the Due Process Clause, the Fourteenth Amendment and other provisions of the United States Constitution.

AFFIRMATIVE DEFENSE TWENTY-ONE

Defendant affirmatively pleads Rule 11 of the Mississippi Rules of Civil Procedure and Litigation Accountability Act of 1988, § 11-55-1, et seq., or otherwise, and alleges this action is without substantial justification in that the claim of the Plaintiff against this Defendant has no basis in law, fact or equity; has interposed a claim for delay or harassment; and has unnecessarily expanded proceedings.

AFFIRMATIVE DEFENSE TWENTY-TWO

Some of the allegedly defamatory statements of which Plaintiff complains are opinion or

fair comment upon allegations or issues previously reported in the newspaper or asserted openly in other litigation.

AFFIRMATIVE DEFENSE TWENTY-THREE

Plaintiff's demands and cause of action are barred by the doctrine of unclean hands or, in the alternative, *in pari delicto* and *tu quoque*.

AFFIRMATIVE DEFENSE TWENTY-FOUR

Some or all of the allegedly defamatory accusations previously reported, or allegations previously asserted are at issue in pending litigation against Littleton.

JURY DEMAND

Defendant demands a jury trial on each of Plaintiff's claims that are not summarily or otherwise dismissed by the Court.

COUNTERCLAIM

COMES NOW, Kevin Andrew Adams, and asserts the following counterclaims against James K. Littleton:

1. Adams is an adult resident citizen of Leflore County, Mississippi.
2. Littleton is an adult resident citizen of Leflore County, Mississippi.
3. Subject matter jurisdiction, personal jurisdiction, and venue are proper in this Court.
4. At times within the current election contest and approximately simultaneously with the statements of which he complains, Littleton has injured, slandered, libeled, or otherwise defamed Adams and his wife, Tammy Adams. Those instances include, but are not limited to, the following falsities and offensive statements published to others by Littleton personally or in various media:
 - a. Personally stated, implied, or solicited statements from others in a radio

advertisement(s) that Adams breaks the law.

- b. Personally stated, implied, or solicited statements from others that Adams illegally holds African American children at gunpoint for entering white neighborhoods.
- c. Personally stated, implied, or solicited statements from others that Adams uses the N word.
- d. Personally stated, implied, or solicited statements from others that Adams is a racist.
- e. Personally stated, implied, or solicited statements from others that Adams illegally drinks and drives.
- f. Personally stated, implied, or solicited statements from others that Adams is a drunk or alcoholic.
- g. Personally stated, implied, or solicited statements from others that Adams illegally possesses a "machine gun".
- h. Personally stated, implied, or solicited statements from others that Adams illegally fired bullets into his home.
- i. Personally stated, implied, or solicited statements from others that Adams has illegally attempted to intimidate him by depositing dead animals at his residence and office.
- j. Personally stated, implied, or solicited from others that Adams has made false reports about him to law enforcement.
- k. Personally stated, implied, or solicited statements from others that Adams is an illegal stalker.

- l. Personally stated, implied, or solicited statements from others that Adams fosters the intimidation of school children.
 - m. Personally stated, implied, or solicited statements from others that Adams has illegally published false information about him in campaign materials.
 - n. Personally stated, implied, or solicited statements from others that his prior removal from public office was attributable to Adams rather than his own history of poor judgment and conduct.
 - o. Personally stated, implied, or solicited statements from others that Adams should be sanctioned or removed from office due to his allegedly illegal activities.
 - p. Personally stated, implied, or solicited statements from others that Adams has illegally violated the constitutional rights of litigants within his jurisdiction.
 - q. Made false and baseless allegations to the Judicial Election Oversight Committee or similar regulatory or law enforcement authorities.
 - r. Other similar instances to be investigated and revealed in the discovery process of this litigation.
 - s. As a result, Adams has suffered damages including, but not limited to, economic loss, out of pocket expenses, and damage to his reputation.
5. Premised upon the foregoing, Adams asserts the following claims:
- a. Slander.
 - b. Slander *per se*.
 - c. Libel.
 - d. Libel *per se*.
 - e. Defamation of all types and characters including, but not limited to, Littleton

acting with actual malice, intent to harm Adams, and intent to defraud the electorate of Leflore County, Mississippi. Alternatively, Adams claims that Littleton acted negligently in these regards.

- f. Intentional infliction of emotional distress.
- g. Negligent infliction of emotional distress.

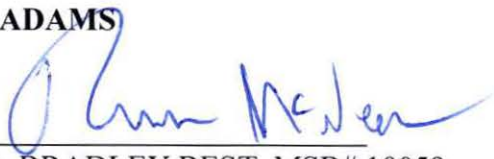
WHEREFORE, PREMISES CONSIDERED, Adams requests the following relief:

- i. A jury trial.
- ii. A verdict and judgment for actual damages.
- iii. A verdict and judgment for punitive damages.
- iv. A verdict and judgment of attorney fees and expenses.
- v. Any and all pre or post judgment interest that might be properly applied to the judgment.
- vi. A public retraction of all false and offensive comments made, implied, or solicited by Littleton.
- vii. Any other relief that might be proper in the premises.

RESPECTFULLY SUBMITTED, this the 13th day of October, 2022.

KEVIN ADAMS

BY:


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CERTIFICATE OF SERVICE

I, Edward R. McNees, of Holcomb Law Group, do hereby certify that I have this date served via U.S. Mail, postage pre-paid, a true and correct copy of the above and foregoing to:

James K. Littleton, littletonlawoffice@yahoo.com
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Greenwood, MS 38935
Counsel for Plaintiff

This the 13th day of October, 2022.


EDWARD R. MCNEES