

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

ROD SACHARNOSKI,

Plaintiff,

v.

DON CUNNINGHAM and
JEFF BOLER

Defendant.

Case No. 01 L 015378

Calendar B

SECOND AMENDED COMPLAINT

NOW COMES the Plaintiff, Rod Sacharnoski ("Sacharnoski"), by and through his attorneys, Davis, Mannix & McGrath, and complaining of the Defendants, Don Cunningham ("Cunningham") and Jeff Boler ("Boler"), as follows:

General Allegations

1. Plaintiff is a martial arts instructor and practitioner who owns and operates a martial arts organization known as Juko-Kai International ("Juko-Kai"). Based in Richardson, Texas, Juko-Kai is an umbrella organization which operates various schools teaching a variety of martial arts.
2. Defendant Cunningham is a resident of the State of Illinois who resides in DuPage County. He is an author of books on the martial arts and weaponry and the operator of a website at <http://www.concentric.net/~Budokai/>.
3. Defendant Boler is a resident of the Commonwealth of Kentucky who operates and moderates web site forums known as "Budo Quackwatch" and "E-Budo.com".

4. The statements upon which this action is based have been disseminated throughout the United States and other countries through the aforesaid Websites.

5. The content of these websites has been published in Cook County and these forums are open for postings by individuals located within Cook County. These messages have been downloaded and viewed by individuals in Cook County, and individuals from Cook County are registered as members of the E-Budo Bulletin Board system, which is a "bulletin Board" over which Defendants have conducted a campaign of harassment against Plaintiff by and through the publication of libelous and scandalous statements.

6. Beginning no later than 2000 and continuing through the date of filing of this Complaint, Defendant Cunningham has engaged in a systematic assault on the reputation and business of Rod Sacharnoski. He has done this through a variety of media, but primarily through internet forums known as Budo Quackwatch and e-budo.com. www.geocities.com/bolerjp/sacharnoski.htm and www.e-budo.com respectively. The e-budo site has approximately 6,000 members at the time of the filing of this complaint. Membership is open to anyone providing a valid e-mail address, and the membership includes several residents of Cook County, Illinois.

7. The following statements have been published by the defendants, either on the aforementioned websites or through material circulated by Don Cunningham (parenthetical information added for contextual purposes):

- a. No known legitimate Japanese koryu association ever recognized (Joku-Kai International). See www.geocities.com/bolerjp/sacharnoski.htm, a copy of which is attached hereto as Exhibit 1. Published May 31, 2001.
- b. USJF (United States Judo Federation) officials have since insisted that

they never recognized his (Sacharnoski's) claim to 8th dan, and the card (indicating that such a rank was appropriate) was issued without any authority. See www.geocities.com/bolerjp/sacharnoski.htm, a copy of which is attached hereto as Exhibit 1. Published May 31, 2001.

- c. Mr. Sacharnoski apparently likes to assume academic titles, such as professor and doctor. He evidently received a Ph.D. in Criminal Justice in 1982 from Columbia Pacific University, a non-accredited school which was later ordered closed by the Marin County Superior Court after the California Department of Consumer Fraud found it to be a "diploma mill" and offering non-recognized degrees for sale. See www.geocities.com/bolerjp/sacharnoski.htm, a copy of which is attached hereto as Exhibit 1. Published May 31, 2001.
- d. Sacharnoski spent an entire session in Japan (during which he maintains he provided a demonstration with this particular Japanese master) seated in a chair due to a foot injury. This did not prevent him from later writing to Inoue Sensei (the master in question), requesting that he be awarded a dan rank in Hontai Yoshi-ryu. See www.geocities.com/bolerjp/sacharnoski.htm, a copy of which is attached hereto as Exhibit 1. Published May 31, 2001.
- e. The kanji (Japanese characters) representing "Seidokan" (on the certificates issued by Plaintiff's school) actually translates as "sex way house." See www.geocities.com/bolerjp/sacharnoski.htm, a copy of which is attached hereto as Exhibit 1. Published May 31, 2001.
- f. I think this message is pretty clear. Juko-Kai is not authorized to operate or to offer any degrees in the State of Maine and never has been. See <http://204.95.207.136/vbulletin/showthread.php?s=&threadid=7005>, a copy of which is attached hereto as Exhibit 2. Published June 26, 2001.
- g. It is interesting that Rod left Maine shortly after state authorities closed his "University of Oriental Philosophy" for the second time. See www.e-budo.com/vbulletin/printthread.php?s=threadid=11130, a copy of which is attached hereto as Exhibit 3. Published April 5, 2002.
- h. Columbia Pacific University was closed sometime ago by the state authorities and was never state-approved or accredited. See www.e-budo.com/vbulletin/printthread.php?s=threadid=11130, a copy of which is attached hereto as Exhibit 3. Published April 7, 2002.

7. These statements are false and remain published and circulating on the internet at

the above referenced locations as of the date of filing of this complaint. Plaintiff first became aware of the publication of items a-f in June 2001 when they were forwarded to his attention by a student. Plaintiff saw the material in items g and h in the days following their publication.

8. Defendant Cunningham has also engaged in and continues to engage in a platform of interfering with contracts, relationships and economic opportunities which have existed for Plaintiff.

9. Defendant Boler has, on at least one occasion, apologized to Plaintiff for the unlawful activities which Defendants have directed against Plaintiff, but despite said apology, a copy of which is attached as Exhibit 4 hereto, continues in his campaign to libel and ruin the reputation of Plaintiff.

COUNT I
Defamation By Cunningham

1. Plaintiff repeats and re-alleges paragraphs 1-9 above of the General Allegations as paragraph 1 of Count I.

2. The statements listed above constitute defamation *per se*, as they are defamatory on their face and incapable of reasonable innocent construction.

3. Said statements falsely impute to the Plaintiff an inability to perform his job, and a lack of integrity in the discharge his employment by accusing him of perpetrating various frauds and lies.

4. The aforesaid statements falsely impute to the Plaintiff a lack of ability in his trade, profession or business by accusing him of various frauds and lies.

5. The aforesaid statements are defamatory *per se* in that the harm flowing toward

the Plaintiff from them is such that a showing of special damages in this case is unnecessary.

6. Defendant Cunningham was aware that these statements were false and he acted with reckless disregard of their falsity.

7. These statements were made with the intention of destroying the good name and reputation of the Plaintiff and his school.

8. As a direct and proximate result of these false and malicious statements, Plaintiff has suffered damages of both a personal and economic nature, including but not limited to a loss of student enrollment in his martial arts programs, a loss of prestige among the martial arts community and a loss of sales volume for his books, videos and other media.

9. There is no adequate remedy at law available to Plaintiff as a remedy for Cunningham's continuing conduct.

WHEREFORE, Plaintiff, Rod Sacharnoski, respectfully prays that this Court enter an injunction against Don Cunningham prohibiting him from continuing to publish defamatory material about Plaintiff or his school. Plaintiff also prays that this Court enter a judgment in his favor and against Defendant Don Cunningham, in an amount to be determined, but in excess of Fifty Thousand Dollars (\$50,000.00) as well as such further relief as this Court deems just and appropriate.

COUNT II

False Light Invasion of Privacy By Cunningham

1. Plaintiff repeats and re-alleges paragraphs 1 - 9 of the General Allegations as paragraph 1 of this Count II.

2. The statements enumerated in paragraph 6 have placed the Plaintiff in a false light before the public by wrongfully attributing various misdeeds and falsehoods to him.

3. The aforesaid statements place the Plaintiff in a false light that is highly offensive to a reasonable person, as it wrongfully paints the Plaintiff as a dishonest teacher as well as a criminal.

4. Defendant Cunningham knew said statements were false or acted in reckless disregard of their falsity.

5. As a direct result of these false and malicious statements, Plaintiff has suffered damages of both a personal and economic nature, including but not limited to a loss of student enrollment in his martial arts programs, a loss of prestige among the martial arts community and a loss of sales volume for his books, videos and other media.

WHEREFORE, Plaintiff, Rod Sacharnoski, respectfully prays that this Court enter a judgment in his favor and against Defendant Don Cunningham, in an amount to be determined, but in excess of Fifty Thousand Dollars (\$50,000.00) as well as such further relief as this Court deems just and appropriate.

COUNT III
Defamation By Boler

1. Plaintiff repeats and re-alleges paragraphs 1 - 9 of the General Allegations as paragraph 1 of this Count III.

2. Boler was at all times pertinent to this action the moderator/administrator of the message boards which contained the language specified in paragraph 6.

3. As the moderator/administrator of those boards, Boler was in the position to grant or deny individual access to the forum and was capable of removing individual posts and discussion threads.

4. Boler was aware of the defamatory statements made by Cunningham.

5. Despite his awareness of the false and defamatory statements posted by Cunningham, Boler continued to allow the sites under his control to publish them.

6. Boler was aware of the falsity of the statements, and he allowed them to be published with reckless disregard of their falsity.

7. The publication of these statements was done with the intention of destroying the good name and reputation of the Plaintiff and his school.

8. As a direct result of the publication of these false and misleading statements, Plaintiff has suffered damages of both a personal and economic nature, including but not limited to a loss of student enrollment in his martial arts programs, a loss of prestige among the martial arts community and a loss of sales volume for his books, videos and other media ventures.

9. There is no adequate remedy at law available to the Plaintiff as a remedy for the actions perpetrated by Boler.

WHEREFORE, Plaintiff, Rod Sacharnoski, respectfully prays that this Court enter a judgment in his favor and against Defendant Jeff Boler, in an amount to be determined, but in excess of Fifty Thousand Dollars (\$50,000.00), as well as an injunction ordering Boler to remove the defamatory language from the web sites under his control, and such further relief as this Court deems just and appropriate.

COUNT IV

False Light Invasion of Privacy by Boler

1. Plaintiff repeats and re-alleges paragraphs 1 - 9 of the General Allegations as paragraph 1 of this Count IV.

2. The statements made in paragraph 6 and published in forums over which Boler exercised control have placed the Plaintiff in a false light before the public by wrongfully attributing various misdeeds and falsehoods to him.

3. Boler knew that these statements were false, yet he acted with reckless disregard for their falsity by failing to remove them.

4. The statements which were published by Boler place the Plaintiff in a light that is highly offensive to a reasonable person, as it wrongly portrays the Plaintiff as a dishonest teacher as well as a criminal.

5. As a direct result of the publication of these false and misleading statements, Plaintiff has suffered damages of both a personal and economic nature, including but not limited to a loss of student enrollment in his martial arts programs, a loss of prestige among the martial arts community and a loss of sales volume for his books, videos and other media ventures.

6. There is no adequate remedy at law available to the Plaintiff as a remedy for the actions perpetrated by Boler

WHEREFORE, Plaintiff, Rod Sacharnoski, respectfully prays that this Court enter a judgment in his favor and against Defendant Jeff Boler, in an amount to be determined, but in excess of Fifty Thousand Dollars (\$50,000.00), as well as an injunction ordering Boler to remove the defamatory language from the web sites under his control, and such further relief as this Court deems just and appropriate.

COUNT V

Interference With Prospective Economic Advantage by Cunningham

1. Plaintiff repeats and re-alleges paragraphs 1 - 9 of the General Allegations as

paragraph 1 of this Count V.

2. In 2001, Plaintiff signed an agreement by which he granted Film Garden Entertainment (“Film Garden”) the right to use motion picture images including his likeness and footage of his students and school. He did so knowing that this material would be broadcast by television stations owned and operated by a client of Film Garden, Discovery Communications, Inc. (“DCI”).

3. Film Garden used this footage to create documentaries entitled “Martial Arts: Way of the Warrior” and “Ultimate 10: Martial Arts.”

4. These programs were subsequently aired by DCI on the Discovery Channel, and served as effective advertising for Plaintiff’s business.

5. On April 11, 2002, Defendant Cunningham posted a message to the E-Budo forum encouraging other members to contact DCI and notify them of their “negligence” in failing to discover the “truth” about Combat Ki and Juko-Kai. Cunningham also posted the contact information for various DCI executives. See www.ebudo.com/vbulletin/printthread.php?s=threadid=11130, a copy of which is attached hereto as Exhibit 3.

6. Cunningham then contacted the founder and CEO of DCI. He sent him the letter attached as Exhibit 5, in which he made the many of the same false and defamatory statements which have served as the primary weapons in his vendetta against Plaintiff. They are substantially similar to those enumerated in paragraph 6 above.

7. The documentary programs were scheduled to air at least twice in the summer of 2002. Following their receipt of Cunningham’s letter, DCI canceled those broadcasts.

8. Plaintiff had a reasonable expectancy of the continued good business relationship with DCI. Prior to Cunningham's interference, this relationship resulted in extensive advertising for Plaintiff and his business. There is no other factor which has interfered with that relationship except the machinations of Don Cunningham.

9. Cunningham knew of this ongoing expectancy of a good relationship between Plaintiff and DCI, and he knew that there were to be future broadcasts of the documentary programs.

10. Cunningham intentionally interfered with the expectancy and prevented the continued ripening of the relationship between Plaintiff and DCI by sending the letter attached as Exhibit 5 and exhorting E-Budo forum members to act on his previously published defamation and contact DCI directly. See Exhibit 3.

11. As a direct result of Cunningham's willful interference, Plaintiff has suffered damages of both a personal and economic nature, including but not limited to a loss of advertising opportunity, declining student enrollment in his martial arts programs, a loss of prestige among the martial arts community and a loss of sales volume for his books, videos and other media.

WHEREFORE, Plaintiff, Rod Sacharnoski, respectfully prays that this Court enter a judgment in his favor and against Defendant Don Cunningham, in an amount to be determined, but in excess of Fifty Thousand Dollars (\$50,000.00) as well as such further relief as this Court deems just and appropriate.

COUNT VI

Violation of the Uniform Deceptive Trade Practices Act by Cunningham

1. Plaintiff repeats and re-alleges paragraphs 1 - 9 of the General Allegations as

paragraph 1 of this Count VI.

2. Cunningham has willfully engaged in a deceptive trade practice by publishing the statements in Exhibits 1-5, which disparage the goods, services and business of Plaintiff by making false or misleading representations.


3. Cunningham's statements are false in that they misrepresent and mislead with respect to the true facts regarding Plaintiff's education, standing in the martial arts community, business dealings and teaching methods. These statements directly disparage the services provided by Plaintiff and his organization, the products sold by them and their business in general.

4. These statements have been made in the course of Cunningham's business, vocation or occupation in that he is an author, martial artist and "journalist."

5. As a result of Cunningham's deceptive trade practices, Plaintiff has been and continues to be damaged in a personal and pecuniary fashion by injury to his reputation and business.

WHEREFORE, Plaintiff, Rod Sacharnoski, respectfully prays that in accordance with 815 ILCS 510/3, this Court enter an injunction prohibiting Defendant Don Cunningham from continuing to engage in deceptive trade practices, as well as a judgment in Plaintiff's favor for court costs and attorneys' fees, and such further relief as this Court deems just and appropriate.

ROD SACHARNOSKI, Plaintiff,

By: 
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