

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NO.

11

TLC THE LASER CENTER (DELAWARE)
INC., a foreign corporation, and
TLC THE LASER CENTER (INSTITUTE)
INC., a foreign corporation,

02007898

Plaintiffs,

v.

RONALD PASQUALINO, an individual,
THE TLC MALPRACTICE FOUNDATION,
INC., an unregistered corporation, and TLC
LASER EYE CENTER MALPRACTICE
FOUNDATION, INC., an unregistered corporation,

Defendants.

A TRUE COPY
HOWARD C. FORMAN
CLERK OF CIRCUIT COURT

APR 24 2002

COMPLAINT

Plaintiffs TLC THE LASER CENTER (DELAWARE) INC. and TLC THE LASER CENTER (INSTITUTE) INC. (collectively, "TLC") hereby sue Defendants RONALD PASQUALINO ("Pasqualino"), THE TLC MALPRACTICE FOUNDATION, INC. (the "TLC Foundation"), and TLC LASER EYE CENTER MALPRACTICE FOUNDATION, INC. (the "TLC Laser Foundation") (the TLC Foundation and the TLC Laser Foundation are sometimes hereinafter collectively referred to as the "Foundations") and allege:

The Parties, Jurisdiction, and Venue

1. Plaintiff TLC The Laser Center (Delaware) Inc. is a Delaware corporation.
Plaintiff TLC The Laser Center (Institute) Inc. is a Delaware corporation authorized to do

business in the State of Florida. TLC The Laser Center (Institute) Inc. is a wholly-owned subsidiary of TLC The Laser Center (Delaware) Inc.

2. Defendant Pasqualino is an individual, a resident of Broward County, Florida and is sui juris.

3. Defendant TLC Foundation is an entity doing business in Broward County, Florida. Although TLC Foundation holds itself out as a corporation, it is not incorporated pursuant to the laws of the State of Florida and is not authorized to conduct business as a corporation in the State of Florida. Upon information and belief, Defendant TLC Foundation is the alter ego of Defendant Pasqualino.

4. Defendant TLC Laser Foundation is an entity doing business in Broward County, Florida. Although TLC Laser Foundation holds itself out as a corporation, it is not incorporated pursuant to the laws of the State of Florida and is not authorized to conduct business as a corporation in the State of Florida. Upon information and belief, Defendant TLC Laser Foundation is the alter ego of Defendant Pasqualino.

5. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs, and attorneys' fees.

6. Venue lies in Broward County, Florida pursuant to section 47.011, Florida Statutes, because all Defendants reside in Broward County and Defendants' tortious conduct occurred in Broward County.

General Allegations

7. TLC The Laser Center (Delaware) Inc., through various subsidiaries, owns and manages a nationwide network of facilities at which physicians perform laser vision correction

procedures. TLC The Laser Center (Institute) Inc. manages a facility located at 450 East Las Olas Boulevard, Suite 130, Fort Lauderdale, Florida ("TLC-Fort Lauderdale").

8. In December 1999, a physician performed a laser vision correction procedure known as "LASIK" upon Pasqualino at TLC-Fort Lauderdale.

9. Thereafter, physicians performed two "enhancement" procedures on Pasqualino at TLC-Fort Lauderdale.

10. Pasqualino was dissatisfied with the vision correction procedures he received.

11. Thereafter, Pasqualino began a campaign of defamation against TLC in an effort to destroy TLC's good name and reputation, alarm customers and investors, and drive down the value of TLC's stock.

12. Admittedly motivated by anger against TLC, Pasqualino and his fabricated "Foundations" have created an Internet website entitled TLC Laser Center Malpractice, located at www.tlcmalpractice.org (the "Website"). On that Website, Pasqualino and the Foundations made false statements of fact that TLC deliberately manipulated, altered and concealed Pasqualino's medical records, and that TLC engaged in criminal misconduct and is the subject of a state criminal action regarding TLC's handling of Pasqualino's medical records. Further, Pasqualino and the Foundations assert that a federal criminal racketeering ("RICO") action under 18 U.S.C. §§ 1961-1968 is being sought against TLC. Such RICO actions are punishable as felonies.

13. Beginning on or about April 10, 2002, Pasqualino and the Foundations made false statements of fact on the Website, claiming that TLC engaged in "DELIBERATE ATTEMPTS OF MANIPULATION OF PATIENTS RECORDS." Pasqualino and the Foundations stated that TLC's alleged manipulation of Pasqualino's patient records is the basis for the fictitious

“pending” criminal charges and criminal action against TLC. A copy of Defendants’ defamatory statements made on the Website is attached hereto as Exhibit A.

14. Beginning on or about April 5, 2002, Pasqualino made similar false statements of fact about TLC on a Yahoo! message board (the “Yahoo! Postings”), which is a mechanism through which actual and potential investors can discuss TLC over the Internet. A copy of Defendants’ defamatory statements on the Yahoo! Postings is attached hereto as Exhibit B. The false and defamatory postings on Yahoo! Postings made by Pasqualino include the following:

- a. “a state of florida [sic] criminal complaint is being sought against TLC and Dr. Braverman for Delberate [sic] attempt to manipulate patients records;”
- b. “State of Florida is seeking a CRIMINAL COMPLAINT against TLC and Dr. Braverman for deliberate Attempting to manipulate Patients Records;” and
- c. “OH BOY! - Fla Law Suit By The State.”

15. Defendants’ statements on the Website and the Yahoo! Postings are false, as TLC did not manipulate, alter or conceal Pasqualino’s medical records and, on information and belief, no state or federal law enforcement agencies have filed a criminal action or pursued criminal charges of any kind against TLC.

16. The statements of fact on the Website and the Yahoo! Postings referenced above are false, defamatory and malicious. Defendants’ false statements were published to the public, without the consent of TLC, as part of a campaign to injure TLC by discouraging prospective and current investors to invest in TLC and by discouraging potential customers to use TLC’s facilities.

17. In a transparent attempt to lend an air of credibility to his factually insupportable attacks previously made against TLC, on April 10, 2002, Pasqualino filed an Offense Incident

Report with the Fort Lauderdale Police Department, accusing TLC of “altering” his medical records.

18. To the best of TLC’s knowledge and belief, the Fort Lauderdale Police Department has taken no action with respect to the Office Incident Report and there are no criminal charges pending against TLC.

COUNT I

Libel

19. TLC realleges and incorporates paragraphs 1 through 18 as if set forth fully herein.

20. Pasqualino and the Foundations have made false and defamatory statements of fact regarding TLC on the Website.

21. Pasqualino has also made false and defamatory statements of fact regarding TLC in his Yahoo! Postings.

22. Pasqualino and the Foundations made such statements without reasonable care as to the truth or falsity of those statements. In fact, Pasqualino and the Foundations knew the statements were false when they were made and the false statements were designed and intended to injure TLC’s reputation and to cause financial loss to TLC.

23. The statements made by Pasqualino and the Foundations accusing TLC of criminal misconduct and threatening a RICO action brought against TLC constitute libel per se and are actionable on their face.

24. Such statements were disseminated on the Internet, which is accessible worldwide. As of the date of the filing of this complaint, according to the Website’s own

“counter,” over 120,000 people had visited the Website and viewed the contents of the Website, including the defamatory statements about TLC.

25. Defendants’ false and defamatory statements published on the Website and in the Yahoo! Postings have exposed TLC to distrust, hatred, and contempt.

26. As a result of Defendants’ false and defamatory statements, TLC’s business has been injured and TLC has suffered substantial damages to its reputation.

27. Because of the malice exhibited by Pasqualino and the Foundations, TLC reserves its right to request leave to seek punitive damages against Pasqualino and the Foundations.

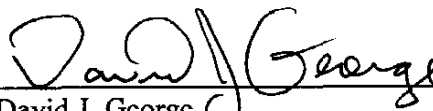
28. There are no justiciable issues of law with respect to the Defendants’ defamation of TLC. Accordingly, TLC is also entitled to an award of attorneys’ fees pursuant to section 57.105, Florida Statutes.

29. TLC has retained the law firm of Proskauer Rose LLP to represent its interests in this matter and is obligated to compensate Proskauer Rose LLP for the services it performs.

WHEREFORE, TLC demands judgment in its favor and against Pasqualino and the Foundations for all damages proven at trial, together with interest, attorneys' fees, and costs; and such further relief as this Court deems just and proper.

This 24th day of April, 2002.

PROSKAUER ROSE LLP
2255 Glades Road, Suite 340 West
Boca Raton, Florida 33431
Telephone: (561) 241-7400
Facsimile: (561) 241-7145

A handwritten signature in cursive script that reads "David J. George". The signature is written in black ink and is positioned above a horizontal line.

David J. George
Florida Bar No. 0898570
Stephanie Reed Traband
Florida Bar No. 0158471
Counsel for Plaintiff