

**IN THE CIRCUIT COURT
FOR THE COUNTY OF MANISTEE**

JOSEPH HENRY MARTIN,

Plaintiff,

v.

Case No. 10-13845 - CZ

**LRBOI TRIBAL COUNCIL, by and through:
STEVE PARSONS, Tribal Council Speaker,
individually and in his official capacity,
JANINE SAM, Tribal Council Recorder,
individually and in her official capacity,
ROBERT WHITELOON, Tribal Councilor,
individually and in his official capacity,
CANDACE CHAPMAN, Tribal Councilor,
individually and in her official capacity,
VIRGIL JOHNSON, Tribal Councilor,
individually and in his official capacity,
LORETTA BECARRIA, Tribal Councilor,
individually and in her official capacity,
PAT RUITER, Tribal Councilor,
individually and in her official capacity,
SANDRA MEZESKE, Tribal Councilor,
individually and in her official capacity,
LARRY ROMANELLI, Tribal Ogema,
individually and in his official capacity,
David Giampetroni, Esq.,
STATE OF MICHIGAN, by and through:
JENNIFER M. GRANHOLM, Governor of the
State of Michigan,
JOHN WERNET, Deputy Legal Counsel for the
Governor of the State of Michigan**

Defendants.

Joseph H. Martin
Pro se
362 1st Street
Manistee, MI 49660
(989) 600-5607

THERE IS NO OTHER PENDING OR RESOLVED
CIVIL ACTION ARISING OUT OF THE SAME
TRANSACTION OR OCCURRENCE AS ALLEGED
IN THE COMPLAINT.

**Verified Complaint for Damages, Declaratory and Injunctive Relief
(INJUNCTIVE RELIEF SOUGHT)**

The Plaintiff, Joseph Henry Martin ("Plaintiff"), complains of the Defendants, and states the following:

1. This is a civil action for damages, declaratory and injunctive relief arising under Section 600.2911 of the Michigan Compiled Laws ("MCL"). This case concerns the publishing to third parties of defamatory statements by the above-named Defendants intended to disparage Plaintiff.

2. Plaintiff complains that the concerted actions of the Little River Band of Ottawa Indians ("LRBOI") Tribal Council ("Tribal Council"), individually and in their official capacities, LRBOI Tribal Ogema Larry Romanelli ("Ogema"), David Giampetroni ("Mr. Giampetroni"), and the Office of the Governor of the State of Michigan in the person of John Wernet ("Mr. Wernet") (collectively "Defendants"), in publishing false and defamatory statements to third parties including, but not limited to, the Illinois Attorney Registration and Disciplinary Commission ("IARDC"), accusing Plaintiff of committing or attempting to commit multiple crimes and/or engaging in other unethical, is violative of MCL Sec. 600.2911 in that they constitute defamation, and that false and defamatory statements of all Defendants herein directly contributed to the Defendant Little River Band of Ottawa Indians ("LRBOI") committing libel *per se*.

JURISDICTION

3. This action arises under Section 600.2911 of the MCL. This Court has subject matter jurisdiction under because the matter in controversy exceeds \$25,000.00. On information and belief, this Court has jurisdiction over the LRBOI, the State of Michigan, and all individually-named defendants so as to make jurisdiction proper in this court.

This Court possesses jurisdiction over the elected officials of the LRBOI for reasons including, but not limited to: 1) the LRBOI operates its government offices on land under the concurrent jurisdiction of the LRBOI and the State of Michigan; 2) the publishing to third parties of false and defamatory statements by the LRBOI were not traditional sovereign actions and were published in the State of Michigan and State of Illinois; 3) Plaintiff is not a tribal member of the LRBOI; and 4) Plaintiff and the LRBOI were not in a consensual relationship at the time of the defamatory statements, thus rendering any such actions *ultra vires* as beyond the scope of the LRBOI's authority and further rendering Plaintiff in the same stead as any other citizen of the State of Michigan not subject to the jurisdiction of the Tribe.

4. The jurisdiction of this Court over the claims arising under MCL 600.2911 comes under the Revised Judicature Act of 1961, MCL 600.701 *et seq.*

5. Venue in this case is proper in this judicial district because the LRBOI and the State of Michigan conduct business within the 19th Circuit as bodies politic, and upon information and belief, all individually-named defendants are natural persons, and resided or conducted business within the 19th Judicial Circuit of the State of Michigan during all relevant times of this action.

PARTIES

6. Plaintiff Joseph Henry Martin (“Plaintiff”) is a resident of Manistee, Manistee County, whose address is 362 1st Street, Manistee, Michigan 49660.

7. All Tribal Councilors (collectively “Tribal Council”) named herein are elected legislative representatives of the LRBOI, and as such reside within the State of Michigan and conduct their business, individually and collectively as a body politic, within the City of Manistee, Manistee County, Michigan.

8. Tribal Ogema Larry Romanelli (“Ogema”) is the elected executive representative of the LRBOI, and as such resides within the State of Michigan and conducts his business, individually and as a body politic, within the City of Manistee, Manistee County, Michigan.

9. David Giampetroni, Esq., is an attorney licensed with the State of Michigan and employed by the law firm of Kanji & Katzen, acting as outside counsel to the LRBOI and is counsel of record for the LRBOI Tribal Council and Ogema in all cases filed by Plaintiff against the LRBOI. Mr. Giampetroni’s office address is 101 North Main Street, Suite 555, Ann Arbor, Michigan.

10. Defendant John Wernet is Deputy Legal Counsel for Governor Jennifer Granholm. In that capacity, he provides legal advice to Governor Granholm. Additionally, Mr. Wernet is Governor Granholm’s “point person” on matters dealing with the several Indian tribes within the State’s boundaries, more specifically on Indian gaming issues. This injunctive action is brought against Mr. Wernet in his official capacity as legal counsel for the Governor. Jennifer M. Granholm is the Governor of the State of Michigan. As Governor, she is vested with the State’s “executive power” and must “take care that the laws be faithfully executed.” Michigan Constitution, Art. V, Secs. 1, 8.

Statutory Scheme

11. The Revised Judicature Act of 1961 (Act 236 of 1961) states in pertinent part:

600.2911 Action for libel or slander.

Sec. 2911.

(1) Words imputing a lack of chastity to any female or male are actionable in themselves and subject the person who uttered or published them to a civil action for the slander in the same manner as the uttering or publishing of words imputing the commission of a criminal offense.

(2)(a) Except as provided in subdivision (b), in actions based on libel or slander the plaintiff is entitled to recover only for the actual damages which he or she has suffered in respect to his or her property, business, trade, profession, occupation, or feelings.

(b) Exemplary and punitive damages shall not be recovered in actions for libel unless the plaintiff, before instituting his or her action, gives notice to the defendant to publish a retraction and allows a reasonable time to do so, and proof of the publication or correction shall be admissible in evidence under a denial on the question of the good faith of the defendant, and in mitigation and reduction of exemplary or punitive damages. For libel based on a radio or television broadcast, the retraction shall be made in the same manner and at the same time of the day as the original libel; for libel based on a publication, the retraction shall be published in the same size type, in the same editions and as far as practicable, in substantially the same position as the original libel; and for other libel, the retraction shall be published or communicated in substantially the same manner as the original libel.

(3) If the defendant in any action for slander or libel gives notice in a justification that the words spoken or published were true, this notice shall not be of itself proof of the malice charged in the complaint though not sustained by the evidence. In an action for slander or for publishing or broadcasting a libel even though the defendant has pleaded or attempted to prove a justification he or she may prove mitigating circumstances including the sources of his or her information and the ground for his or her belief. Damages shall not be awarded in a libel action for the publication or broadcast of a fair and true report of matters of public record, a public and official proceeding, or of a governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body, or for a heading of the report which is a fair and true headnote of the report. This privilege shall not apply to a libel which is contained in a matter added by a person concerned in the publication or contained in the report of anything said or done at the time and place of the public and official proceeding or governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body, which was not a part of the public and official proceeding or governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body.

(4) A person against whom a judgment is recovered for damages arising out of the authorship or publication of a libel is entitled to recover contribution in a civil action from all persons who were originally jointly liable for the libel with the defendant or defendants, whether joined as defendants or not, to the same extent as and with the same effect that joint sureties are liable to contribute to each other in cases where they are sureties on the same contract. If the libel has been published in a newspaper, magazine, or other periodical publication or by a radio or television broadcast, the servants and agents of the publisher or proprietor of the periodical or radio or television station or network, and the news agents and other persons who have been

connected with the libel only by selling or distributing the publication containing the libel and who have not acted maliciously in selling or publishing the libel, shall not be required to contribute and shall not be taken into account in determining the amount that any joint tortfeasor is required to contribute under the provisions of this section. If the author of the libel acted maliciously in composing or securing the printing or the publication of the libel and the printer, publisher, or distributor of the libel acted in good faith and without malice in printing and publishing the libel, the author of the libel is liable in a civil action to that printer, publisher, or distributor for the entire amount of the damages which are recovered against and paid by that printer, publisher, or distributor.

(5) In actions brought for the recovery of damages for libel in this state, it is competent for the defendant or defendants in the action to show in evidence upon the trial of the action that the plaintiff in the action has previously recovered a judgment for damages in an action for libel to the same or substantially the same purport or effect as the libel for the recovery of damages for which the action has been brought, or that the plaintiff in the action has previously brought an action for the libel or has received or agreed to receive compensation for the libel.

(6) An action for libel or slander shall not be brought based upon a communication involving public officials or public figures unless the claim is sustained by clear and convincing proof that the defamatory falsehood was published with knowledge that it was false or with reckless disregard of whether or not it was false.

(7) An action for libel or slander shall not be brought based upon a communication involving a private individual unless the defamatory falsehood concerns the private individual and was published negligently. Recovery under this provision shall be limited to economic damages including attorney fees.

(8) As used in this section, "libel" includes defamation by a radio or television broadcast.

GENERAL ALLEGATIONS

12. On or about August 17, 2009, Plaintiff filed a lawsuit in LRBOI Tribal Court alleging breach of contract by the Ogema and Tribal Council, marked Exhibit "A" and incorporated herein by reference.

13. On or about November 3, 2009, Plaintiff filed a civil rights lawsuit against the Ogema, Tribal Council, and Judge Angela Sherigan, based on allegations that all three acted in concert to deprive Plaintiff of due process and equal protection of the laws, marked Exhibit "B" and incorporated herein by reference.

14. On or about November 6, 2009, Plaintiff filed a third lawsuit, marked Exhibit "C" and incorporated herein by reference, alleging claims against the Ogema and Tribal Council of violations of the LRBOI's Whistleblower Protection Act.

15. On or about December 11, 2009, Plaintiff sent a "demand letter" to the LRBOI, stating that if the LRBOI did not accede to a settlement of all lawsuits and also promise to

engage in meaningful Tribal Court reform, Plaintiff would proceed to file against the LRBOI in the U.S. District Court for the Western District of Michigan, marked Exhibit “D” and incorporated herein by reference.

16. On February 2, 2010, the LRBOI, per the signatures of the Ogema Larry Romanelli and Tribal Council Speaker Steve Parsons, sent a letter, marked Exhibit “E” and incorporated herein by reference, to the Illinois Attorney Registration and Disciplinary Commission (“IARDC”) requesting an investigation (“Request for Investigation”) into possible “unethical activities” by Plaintiff. In the Request for Investigation, the LRBOI knowingly and willingly published false claims that Plaintiff engaged in criminal conduct including, but not limited to, an “attempt at extortion” and criminal trespass, and that Plaintiff engaged in other illegal activities *inter alia*, that Plaintiff was engaged in the unauthorized and therefore illegal practice of law in the State of Michigan while being employed as Chief Legislative Counsel for the LRBOI.

17. Upon information and belief, Defendant David Giampetroni advised the LRBOI before, during, and after the publication of false and defamatory statements, and was directly involved in the submission of said false statements to the IARDC.

18. Defendant David Giampetroni supplied an affidavit, which itself included false and defamatory statements intended to paint Plaintiff as a menace to society, for use in the submission to the IARDC.

19. On or about March 2, 2010, Defendant David Giampetroni stated in no uncertain terms to Plaintiff that he, and only he, was to receive a copy of Plaintiff’s response to the IARDC, even though he was not a signatory to the LRBOI’s submission to the IARDC, nor did the matter have anything to do with Mr. Giampetroni’s representation of the LRBOI.

20. The request for investigation includes on page 10 statements attributed to the State of Michigan through John Wernet which states that John Wernet conveyed to the LRBOI that Plaintiff “did disclose confidential information and discuss matters related to his representation of the Tribe in an attempt to persuade John Wernet to withhold his support of the Tribe’s economic development plans.”

21. As shown in Plaintiff’s response to the IARDC, marked Exhibit “F” and incorporated herein by reference, Plaintiff admits that he did visit John Wernet and informed him before proceeding into his office that Plaintiff did not represent the LRBOI, but denies disclosing confidential information and also denies attempting to persuade Mr. Wernet to withhold support of the Tribe’s economic development plans. Plaintiff also presented John Wernet with copies with the three lawsuits filed by Plaintiff against the LRBOI, and a cover letter, marked Exhibit “G”, and incorporated herein by reference.

22. As shown in Plaintiff’s response letter to the IARDC, dated March 9, 2010, Plaintiff clearly and convincingly refutes any criminal conduct, as well as any other conduct attributed to Plaintiff in the reckless and defamatory statements by the LRBOI, the State of Michigan through John Wernet, and David Giampetroni.

23. On or about March 9, 2010, Plaintiff sent a letter to the LRBOI demanding a full retraction of all false and/or defamatory statements submitted to the IARDC, marked Exhibit “H”, and incorporated herein by reference. The March 9 Letter identified some of Defendant’s false and defamatory statements and demanded that Defendant LRBOI take immediate action to retract such statements and agree to cease and desist from making these and similar false statements. Defendant LRBOI has failed to retract its statements and failed to agree to cease and desist from making these and similar false statements even though there have been at least five Tribal Council meetings during which closed sessions with the Ogema were conducted.

24. These statements defamed Plaintiff by falsely stating and implying that, *inter alia*, that Plaintiff engaged in an attempt at extortion, criminal trespass, the unauthorized and illegal practice of law, and that Plaintiff has supplied confidential information to persons and/or entities other than his former client.

25. Plaintiff has never engaged in any of the activities including, but not limited to, those enumerated in Paragraph 24, or any other activities included in the request for investigation. Any suggestion that Plaintiff is partially or wholly responsible for any such actions is false and defamatory.

COUNT I DEFAMATION PER SE

26. Plaintiff incorporates by reference paragraphs 1 – 25 above as though fully set forth herein.

27. Defendant LRBOI’s false statements pertained to Plaintiff, harmed Plaintiff’s reputation amongst the community, and deterred third persons from associating and dealing with Plaintiff.

28. Defendant LRBOI published these false statements to third parties in an unprivileged communication.

29. Defendant LRBOI’s statements are classified as defamation per se by falsely charging the commission of crime(s).

30. Defendant LRBOI’s statements were made with actual malice.

31. Defendant LRBOI has refused to make a complete, unequivocal retraction of its false statements.

32. There is no legal privilege or justification for Defendant LRBOI publishing its false statements.

33. Defendant LRBOI’s false statements constitute defamation *per se* under Michigan law.

34. As a result of Defendant LRBOI's false statements, Plaintiff has suffered and continues to suffer special and general damages in an amount in excess of \$25,000.

35. Plaintiff cannot be fully or adequately compensated solely through monetary damages alone for the irreparable harm and damage caused by Defendant LRBOI's false statements.

COUNT II DEFAMATION

36. Plaintiff realleges and incorporates paragraphs 1 – 35 as though fully set forth herein.

37. Defendant LRBOI's false statements pertained to Plaintiff.

38. Defendant LRBOI's publication of its false statements was intended to cause pecuniary loss, and Defendant LRBOI reasonably should have recognized that the publication would result in pecuniary loss.

39. Defendant LRBOI knew that the statements it made were false, and Defendant LRBOI acted in reckless disregard of its falsity.

40. As a result of Defendant LRBOI's false statements, Plaintiff has suffered and continue to suffer pecuniary loss in an amount in excess of \$25,000.

41. Defendant LRBOI has refused to make a complete, unequivocal retraction of their false statements.

42. Plaintiff cannot be fully or adequately compensated solely through monetary damages for the irreparable harm and damage caused by Defendant's false statements.

COUNT III DEFAMATION (DAVID GIAMPETRONI)

43. Plaintiff realleges and incorporates paragraphs 1 – 42 as though fully set forth herein.

44. Defendant David Giampetroni published false and disparaging statements concerning Plaintiff.

45. Defendant David Giampetroni's publication of his false statements was intended to cause pecuniary loss, and Defendant David Giampetroni reasonably should have recognized that publication would result in pecuniary loss.

46. Defendant David Giampetroni knew that the statements he made were false, and Defendant David Giampetroni acted in reckless disregard of its falsity.

47. As a result of Defendant David Giampetroni's false statements, Plaintiff has suffered and continues to suffer pecuniary loss in an amount in excess of \$25,000.

48. Defendant David Giampetroni has refused to make a complete, unequivocal retraction of his false statements.

49. Defendant David Giampetroni's false statements constitute defamation under Michigan law.

50. Plaintiff cannot be fully or adequately compensated solely through monetary damages for the irreparable harm and damage caused by Defendant David Giampetroni's false statements.

COUNT IV DEFAMATION (STATE OF MICHIGAN)

51. Plaintiff incorporates by reference paragraphs 1 – 50 above as though fully set forth herein.

52. Defendant State of Michigan (through John Wernet) published false and disparaging statements concerning Plaintiff.

53. Defendant State of Michigan's publication of its false statements was intended to cause pecuniary loss, and Defendant State of Michigan reasonably should have recognized that publication would result in pecuniary loss.

54. Defendant State of Michigan knew that the statements he made were false, and Defendant State of Michigan acted in reckless disregard of its falsity.

55. As a result of Defendant State of Michigan's false statements, Plaintiff has suffered and continues to suffer pecuniary loss in an amount in excess of \$25,000.

56. Defendant State of Michigan's false statements constitute defamation under Michigan law.

57. Plaintiff cannot be fully or adequately compensated solely through monetary damages for the irreparable harm and damage caused by Defendant State of Michigan's false statements.

REQUESTED RELIEF

WHEREFORE, Plaintiff Joseph H. Martin requests a Final Award:

(a) Permanently enjoining all Defendants herein from making the false statements including, but not limited to, those identified above;

(b) Permanently enjoining all Defendants herein from disparaging Plaintiff, or otherwise engaging in activities injurious to Plaintiff's reputation;

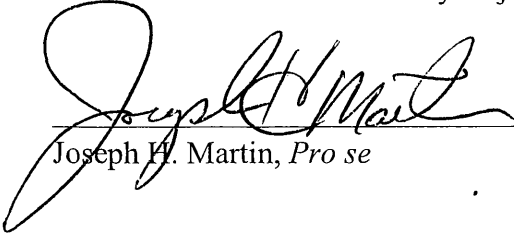
(c) Ordering all Defendants herein to unequivocally and publicly retract their false statements;

(d) Ordering Defendant LRBOI to pay Plaintiffs' damages;

(e) Ordering all Defendants herein to reimburse Plaintiffs for costs, fees and expenses in bringing this action; and

(f) Providing such further and additional relief as may be just and proper.

Date: 4/22/10



Joseph H. Martin, *Pro se*

VERIFICATION

I, Joseph Henry Martin, am the Plaintiff in the above-entitled action. I have read the foregoing and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Manistee, Michigan.

Date: 4/22/10