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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

FEB 16 2016

ANGELA ENGLE HORNE )

Plaintiff, )

v. )

Civil Action No.: 3:16 CV 92

WTVR, LLC d/b/a CBS6 )

Serve: Corporation Service Company )

Registered Agent )

1111 East Main Street, 16th Floor )

Bank of America Center )

Richmond, VA 23219 )

Defendant. )

**COMPLAINT**

Plaintiff Angela Engle Horne (“Horne” or “Plaintiff”), by counsel, states as follows for her Complaint against defendant WTVR, LLC (“WTVR”) d/b/a CBS6.

**NATURE OF ACTION**

1. This is an action for defamation. On February 13, 2015, CBS6 aired a two-minute, 21 second story entitled: “Sources: Convicted felon worked at school board office in Central Va.” The unmistakable message from the story was that an applicant to the Prince George County School System had lied about her prior felony conviction and was fired only after the conviction was discovered as a result of a criminal background check process. In fact, the story closed by stating that “Virginia state law is ... specific when it comes to filling out an application for a school system. It is a ***class 1 misdemeanor*** to make false representations when it comes to revealing criminal convictions.” In other words, the applicant at issue, a felon, had engaged in further criminal conduct by lying on her application to the school system in order to get a job.

2. The applicant at issue in the news story is Horne and the accusations about her are false. She did ***not*** make any misrepresentations about her prior criminal history in her school application; she did ***not*** conceal or omit any pertinent details about her past as part of the hiring process; and she did ***not*** violate state law in any way shape or fashion when she completed her employment application for the Prince George County School System. To the contrary, Horne was completely up-front and honest about her past with then-Superintendent Dr. Bobby Browder, who assured her that her prior felony would not prevent her from being hired as the School's Finance Director because the position did not involve working in a school or with any school children. Indeed, Dr. Browder knew about Horne's felony conviction well before the background check process even *started*, so the completion of that process revealed nothing new to Dr. Browder about Horne's past. What *did* happen, however, is that the Prince George County School Board, which had previously ***not known*** about Horne's past (through no fault of Horne), learned about Horne's conviction and terminated her as of February 10, 2015. Throughout the entire application/hiring process and throughout her entire period of employment, Horne did nothing wrong or illegal and nothing that would justify her being accused by a local television station of making false representations on her employment application with the Prince George County School System. Horne therefore now files action for defamation to hold CBS6 liable for its false statements about her.

#### **PARTIES**

3. Horne is an individual resident of Disputanta, Virginia. From September 29, 2014 through February 10, 2015, she worked as the Budget & Finance Director for the Prince George County School System (the "School System"). At all relevant times herein, Horne is and has been a domiciliary and citizen of the Commonwealth of Virginia.

4. Defendant WTVR is a limited liability company organized under the laws of Delaware with its principal place of business located at 1717 Dixie Highway, Fort Wright, Kentucky 41011. For diversity purposes, WTVR is a citizen of Delaware or Kentucky, or both.

5. WTVR operates the metro Richmond, Virginia CBS television affiliate, doing business as CBS6, which broadcasts from its studio at 3301 West Broad Street, Richmond, Virginia 23220. Using its more-than-1000-foot-tall tower in Richmond, Virginia, WTVR reaches more viewers than any other television station in Central Virginia, spanning a region that reaches Fredericksburg to the North, westward beyond Charlottesville, east into Tidewater and south into North Carolina. Locally, WTVR's television viewing area encompasses at least the following localities: City of Richmond, City of Petersburg, City of Hopewell, Caroline County, Chesterfield County, Dinwiddie County, Goochland County, Hanover County, Henrico County, New Kent County, Powhatan County, and Spotsylvania County.

#### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

7. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391, and Local Rule 3(B)(4), as this is the district and division where a substantial part of the events or omissions giving rise to the claims herein occurred.

#### **FACTUAL BACKGROUND**

##### **A. HORNE APPLIES FOR THE BUDGET & FINANCE DIRECTOR POSITION AT THE SCHOOL SYSTEM AND IS COMPLETELY HONEST WHEN DOING SO**

8. On July 19, 2014, Horne completed an on-line application to be the School System's Budget Director.

9. In completing the application, Horne truthfully answered "Yes" to the question about whether she had been convicted of a felony. She then, as required by the application, provided the following details about her conviction:

Fifteen years ago due to a room mate living in my home, there was a guilt by association (drug charge); because this person lived in my home yet never had drugs in my home as I am aware, I became involved in the incident. Because I had never had a blemish before or after that incident, I took a positive approach to a negative situation and have used this past experience to serve as an intervention specialist in support of young teens who were heading in the wrong direction; I would like to continue in a support role to assist young teens in turning their lives around. *From my work history and confidence that honesty speaks volumes as to my ethics, this has not had an impact on my serving in senior management positions* and I'm happy to discuss further upon interview.

(emphasis added).

10. Nowhere on the application did it say that Horne would be ineligible for employment by the School System if she had previously been convicted of a felony.

**B. HORNE INTERVIEWS FOR THE BUDGET & FINANCE DIRECTOR POSITION AT THE SCHOOL SYSTEM AND IS REPEATEDLY ASSURED THAT HER FELONY CONVICTION WOULD NOT PRECLUDE HER FROM EMPLOYMENT WITH THE SCHOOL SYSTEM**

11. On August 4, 2014, Horne received a telephone call from Dr. Bobby Browder, the then Superintendent of the School System, asking her to come in to interview for the Budget Director position. She agreed to do so.

12. On August 6, 2014, Horne interviewed for the position. At the time, she met with Dr. Browder, Dr. Shelly Bazemore (the Assistant Superintendent) and Bonnie Jacobs, the Accounting Manager for the School System.

13. Almost a month later, on September 5, 2014, Dr. Browder called Horne to tell her that it was down to her and one other candidate.

14. As part of this conversation, Dr. Browder asked Horne whether her prior conviction involved a felony. Horne truthfully said: "Yes sir, it was a felony." Horne then fully explained the circumstances surrounding her conviction and said that the conviction had not been a problem for any of her previous employers.

15. Horne then also expressly asked Dr. Browder to ensure that her conviction would ***not*** be a problem for her candidacy. She said that if she was the chosen candidate, she did not want to give her two weeks' notice to her then-employer until Dr. Browder was certain that her conviction would ***not*** have an effect on her employment. Indeed, at the time of the call, Horne was working full-time for a private employer in Prince George County, making \$75,000 a year.

16. In response to Horne's concerns, Dr. Browder (as part of this same conversation) told her that he did not believe her conviction would be a problem because she would not be working in an actual school or in direct contact with children and, instead, would be working out of the School Board office. Regardless, he promised to follow up on the issue and call her back.

17. Later that same day (September 5, 2014), Dr. Browder did so. He called Horne and advised her that her felony conviction would ***not*** be a problem with respect to her employment with the School System. He also reiterated that she would not be working in an actual school or in direct contact with any children but instead would be working out of the School Board office.

18. In that same telephone call, Dr. Browder asked Horne if she would like to come in to the School Board office on Saturday, September 6, 2014 to essentially shadow the predecessor Budget & Finance Director and get a feel for the position. Horne agreed with the idea and went into the School Board office from 8:00 a.m. to noon on September

6, 2014 and worked with Betsy Drewry (the preceding Budget & Finance Director) and Ms. Jacobs.

19. On September 9, 2014, Dr. Browder called Horne to let her know that she had been chosen by the School Board for the Budget & Finance Director position. He also told her that he had gone before the School Board and that everything was “clear” with respect to her prior conviction. He said that because she would not be working in a school or around “kids,” it would not be a problem and that it was okay for her to put in her two weeks’ notice. They then agreed on a start date of September 29, 2014. Later that same week, Horne went to the School and completed her background check and her fingerprinting.

20. In reliance on the representations made by Dr. Browder, Horne gave her two weeks’ notice to her then-employer and ceased her then-employment.

**C. HORNE LEARNS THAT DR. BROWDER’S REPEATED REPRESENTATIONS WERE FALSE AND IS ULTIMATELY TERMINATED FROM HER POSITION**

21. As expected, Horne began her employment with the School Board on September 29, 2014.

22. Also as expected, in or around mid to late October 2014 (consistent with the normal turnaround time), the Virginia State Police Central Criminal Records Exchange completed Horne’s background check. It faxed the document to Dr. Browder’s attention. At that time, upon information and belief, Dr. Browder saw the background check and knew of its existence.

23. Not surprisingly, the background check confirmed Horne’s prior felony conviction. However, in that time frame (i.e., October 2014) and then thereafter, Dr. Browder, upon information and belief, made an intentional and conscious decision **not**

to share Horne's background check information with the School Board.

24. Between September 29, 2014 and February 6, 2015, no one affiliated with the School Board or the School System said anything to Horne to hint, suggest, or indicate in any way that her prior conviction was a problem with respect to her employment. Indeed, during this time, Horne was often complimented by Dr. Browder and others about her strong performance as the Budget & Finance Director and was told that the plan was for her to remain in her position for a long time.

25. On Friday, February 6, 2015, however, things changed dramatically. At that time, Horne received a late-afternoon telephone call from Dr. Browder asking her to come to his office to discuss something, in his words, "important." Horne did so. When she entered his office, Dr. Browder closed the door and told Horne that someone had sent an anonymous letter to a member of the School Board concerning her past felony conviction. He then told Horne that he had contacted the School System's attorneys and had been told that it was against "Virginia code" for a public school to hire an employee with a felony conviction. He explained that he did not know what would happen with her employment but that he would meet with the School Board the following Monday to discuss the situation.

26. Horne was flabbergasted. She protested to Dr. Browder that she had discussed *exactly this issue* with him before she was even hired and that he had told her she was in the "clear." Dr. Browder sheepishly said "well I don't remember that" (as if to avoid his culpability for his prior representations") to which Horne replied that they had talked about the matter *several times before* she was hired. She left the office distraught and in tears.

27. Horne returned to work on Monday morning, February 9, 2015 and sat down in the main conference room to prepare for her usual pre-meeting in advance of the School



Board meeting taking place later that evening. Although all School Board meetings are important, this particular meeting was especially significant because Dr. Browder would be presenting the upcoming budget for the school year. Indeed, even with the prior week's uncertainty about Horne's employment status, Dr. Browder had pushed Horne hard the Friday before to ensure that the budget presentation was completed and ready to be presented.

28. Before Dr. Browder entered the room, Horne was told that "Dr. Browder had spent the entire weekend *regretting* his decision not to share [Horne's] background or disclosure with the Board." She was also told that Dr. Browder had instructed certain School System personnel *not* to speak with Horne over the weekend about her employment.

29. Dr. Browder then entered the room, and the conversation about Horne's background check ceased. Instead, the group focused their primary attention to preparing Dr. Browder's budget presentation before the School Board, although there was some discussion about Horne's employment issues with the School System.

30. Later that day, in the evening of February 9, 2015, both Horne and Dr. Browder attended the public session of the School Board meeting. At that time, Dr. Browder gave the presentation (that Horne had completed for him) and it was received well by the School Board.

31. The School Board then moved to go into closed session to discuss Horne's employment status. As Horne was exiting, two School Board members specifically told her that she had done nothing wrong and that they just needed to discuss the situation. Even so, while the School Board was in closed session, it voted to terminate Horne's employment.

32. On February 10, 2015, Horne showed up for work and was told by Dr. Browder that her employment had been terminated. He said that if she agreed to "resign," she would

be paid through February 27, 2015. However, if she did not agree to do so, she would only be paid through February 10, 2015.

33. Horne refused to resign and was paid only through February 10, 2015.

**D. THE DEFAMATORY CBS6 NEWS STORY**

34. Three days after Horne was fired, CBS6 ran its story about her. The story, which was the lead story of the 5:30 p.m. broadcast, was titled “Sources: **Convicted felon worked in school board office in Central Va.**” and, at all relevant times, had the words “Felon Hired, Then Fired” and “How Prince George Schools Prevents This” showing on banners at the bottom of the screen.

35. The story opened with CBS6 news anchor Lorenzo Hall saying “Now, at 5:30, **Hired And Then Fired**, a CBS6 viewer reached out to us concerned about **a felon working for a local school system.**” Co-anchor Candace Burns then took over and said “Getting a job with a felony conviction is perfectly legal in Virginia unless you want to work in a school. That’s not allowed. CBS6 senior reporter Wayne Covil is working for you. He spoke **to the School System** about **how they keep this from happening.**”

36. The camera then zoomed in on Covil, who said “Candace, sources tell us **a person who was hired to work in the School Board office is no longer employed.**” He said “while the School Superintendent cannot legally talk about personnel matters, he did talk to me about the hiring practice and it starts with this book, Virginia School law.” At this point, Covil held up to the camera a copy of the “Virginia School Law Deskbook” (the “Deskbook”).

37. Covil continued: “The hiring process for most school systems starts on line with an application and one question specifically deals with crimes.” The then-Prince George County School Superintendent, Dr. Bobby Browder, then appeared on screen and

talked about the hiring process and how the School System winnows down the candidates for a position. Covil, at times, interjected to say that applicants are narrowed down to 10-15 and a final applicant is ultimately selected.

38. Dr. Browder then explained that only *after* an offer is made do “they” *then* begin the fingerprinting and background check. Covil again interjected: “This process, though, ***takes time*** and often the person is hired.” Dr. Browder highlighted this point, saying the background check process can take somewhere between 4 to 6 to 8 weeks “before the information comes in.”

39. The story then returned to Covil, who, again referencing the Deskbook, said “And ***this book*** outlines the state law when it comes to who can -- ***and who cannot*** -- work for a school system.” Dr. Browder again appeared on screen and said, among other things, that being “a convicted felon” is a “prohibiting factor” when it comes to working at a public school.

40. Covil then turned the story back to the background check process and said “Some though would like to see background checks earlier in the process.” He interviewed an unnamed citizen who said that he [the citizen] wished school systems would “finish the background checks and complete everything first.”

41. Covil then closed the story by saying “Virginia state law is also specific when it comes to filling out an application for a school system. It is a ***class 1 misdemeanor*** to make false representations when it comes to revealing criminal convictions.”

42. The complete video of the CBS6 news story is found at <http://wtvr.com/2015/02/13/sources-convicted-felon-worked-at-school-board-office-in-central-va/> (visited on February 16, 2016).

43. The unmistakable message from the story is that the “felon” who had been “hired” and then “fired” had misrepresented her prior felony conviction to the School System and had been terminated only after the completion of the 4 to 8 week background check process. Moreover, by making such a misrepresentation, the “felon” had engaged in additional criminal conduct by committing a class 1 misdemeanor when she lied on her on-line application. Indeed, the whole tenor of the story was what Prince George County Schools regularly did to “*prevent*” the hiring of felons.

44. This message is categorically false. Horne did not misrepresent her prior felony in any way during the application process or her employment at the School System and, instead, was completely forthcoming with Dr. Browder about her past. Moreover, Horne was **not** terminated because her background check revealed something she had failed to disclose, but, instead, was terminated because Dr. Browder had not properly advised the School Board about her prior history. At all time, Horne engaged in proper conduct vis-à-vis the School System with respect to her past.

45. At no time did CBS6 contact Horne to interview her about any of the facts, messages, and innuendos contained in the news story.

**E. THE CBS6 NEWS STORY WAS OF AND CONCERNING HORNE**

46. Although she was not specifically named in the story, Horne was clearly the “felon” at issue in the story. The story, for example, specifically references the fact that the employee at issue worked at the School Board office and was now no longer employed. Horne, of course, worked at the School Board office of the School System and was indeed no longer employed – having been terminated just three days earlier.

47. Additionally, there can be no doubt that the “School System” at issue was the Prince George County School System. “Prince George County,” for example, is specifically

named in the banner that showed throughout the story; Dr. Browder was the person who CBS6 interviewed, and, at times, the story showed camera shots of the Prince George County School Board office.

48. The only person who fits the description of the “felon” referenced in the story is Horne. And, indeed, members of the public easily recognized this, as many of Horne’s friends and colleagues immediately contacted her after the airing of the story to see if she was okay. These persons reasonably and accurately believed, of course, that the news story was about Horne.

**F. AFTERMATH**

49. As a result of the defamatory news story, Horne has suffered substantial mental and emotional distress, public shame in her community, loss of sleep, frustration, and reputational harm.

**COUNT I -- DEFAMATION *PER SE***

50. The allegations of paragraphs 1-49 are realleged as if fully set forth herein.

51. Horne has been defamed by the statements, inferences, and innuendos CBS6 specifically made and set forth in paragraphs 34 through 42 (and the internet reference in paragraph 42), which statements were published and were made with the intent to defame Horne. These specific statements, inferences, and innuendos include, but are not necessarily limited to:

- that Horne did not accurately complete her on-line application to the Prince George County School System;
- that Horne did not disclose her prior felony conviction as part of the initial application process; and

- that Horne's felony conviction was only discovered after the completion of the background check process and that is why she was terminated; and
- that Horne committed a class 1 misdemeanor by failing to properly disclose her prior felony conviction.

52. The statements at issue are false and purport to be statements of fact, not statements of opinion.

53. Moreover, the false statements all involve CBS6's effort to demean and disparage Horne and falsely accused her of a crime, falsely accuse her of being unfit in the performance of her job duties and falsely accuse her of unprofessional activity which she did not commit. Thus these statements constitute defamation *per se*.

54. Upon information and belief, the statements made by Covil were made in the scope and course of his employment CBS6 and therefore were made on behalf of, and as an agent of CBS6.

55. As a proximate cause of CBS6's conduct, Horne has suffered substantial compensatory damages, including as severe mental and emotional distress, reputational harm, loss of sleep, humiliation, embarrassment, loss of time, and other damages.

56. In addition, the statements by CBS6 were made intentionally, willfully, and maliciously against Horne and with utter and conscious disregard of her rights. No privileges attach to these statements, therefore, and Horne is also entitled to punitive damages in this matter.

WHEREFORE, Horne respectfully and specifically requests the following relief against CBS6:

- (a) Compensatory and presumed damages in the amount of one million

five hundred thousand dollars (\$1,500,000), or some amount as may be determined at trial, to compensate for all of the damages associated with CBS6's defamation of Horne;

- (b) Punitive damages in the amount of three hundred fifty thousand dollars (\$350,000) dollars;
- (c) Pre-judgment interest; and
- (d) Associated expenses and costs related to this action and all other such relief as is just and proper.

**A TRIAL BY JURY IS DEMANDED.**

Respectfully submitted,

ANGELA ENGLE HORNE

By \_\_\_\_\_

  
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Court Name: UNITED STATES DISTRICT COURT  
Division: 3  
Receipt Number: 34683032146  
Cashier ID: lbreeden  
Transaction Date: 02/16/2016  
Payer Name: RICHARD HAWKINS

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CIVIL FILING FEE  
For: RICHARD HAWKINS  
Amount: \$400.00

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CREDIT CARD  
Amt Tendered: \$400.00

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Total Due: \$400.00  
Total Tendered: \$400.00  
Change Amt: \$0.00

Case #3:16-CV-092