

ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW, INC.
2069 Canal Street
New Orleans, Louisiana 70112,

2009 SEP 23 PM 3:10
CIVIL DIVISION

IN THE
CIRCUIT COURT
FOR

TONJA THOMPSON
c/o Brown, Goldstein & Levy, LLP
120 E. Baltimore Street, Suite 1700
Baltimore, MD 21202,

BALTIMORE CITY

and

Case No.

SHERA WILLIAMS
c/o Brown, Goldstein & Levy, LLP
120 E. Baltimore Street, Suite 1700
Baltimore, MD 21202,

Plaintiffs,

v.

JAMES E. O'KEEFE, III
121 Goodwin Terrace
Westwood, NJ 07675,

HANNAH GILES
21376 Marina Cove Circle #C17
Miami, FL 33180, and

BREITBART.COM LLC,
Resident Agent:
Andrew James Breitbart
541 Cashmere Terrace
Los Angeles, California 90049,

Defendants.

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COMPLAINT AND DEMAND FOR JURY TRIAL

Association of Community Organizations for Reform Now, Inc. (hereinafter "ACORN"),

Tonja Thompson, and Shera Williams, by their undersigned attorneys, sue James E. O'Keefe, III,

Hannah M. Giles, and Breitbart.com, and state:

INTRODUCTION

1. This is an action brought for damages and injunctive relief for the taping and disclosure of plaintiffs' private conversations surreptitiously recorded by filmmakers seeking to injure ACORN.

PARTIES

2. Plaintiff ACORN is an Arkansas Corporation with its principal office in New Orleans, Louisiana. It functions as a membership organization, with over 500,000 members across the United States and chapters in over 40 states. Most members are persons of limited economic means.

3. Plaintiffs Tonja Thompson and Shera Williams are residents of Baltimore City, Maryland. At all relevant times, they were employees of ACORN.

4. Defendant James O'Keefe ("O'Keefe") is a resident, upon information and belief, of the State of New Jersey. He represents himself to be an "independent filmmaker."

5. Defendant Hannah Giles ("Giles") is a resident, upon information and belief, of the State of Florida. She represents herself to be a "writer."

6. Defendant Breitbart.com LLC ("Breitbart") is a California limited liability corporation. Breitbart is a multimedia corporation that runs a number of websites including biggovernment.com.

FACTS RELEVANT TO ALL CLAIMS

7. As one of its activities, ACORN does initial intake for people with home ownership and mortgage problems and refers qualified applicants to ACORN Housing, Inc., which helps homeowners in need of mortgage assistance.

8. In or about July 2009, Mr. O'Keefe and Ms. Giles entered the offices of the Baltimore Chapter of ACORN, purportedly seeking advice about obtaining a mortgage for Ms. Giles. In a private office in which Ms. Williams and Ms. Thompson had a reasonable expectation of privacy, Mr. O'Keefe and Ms. Giles engaged in private conversations with them.

9. Unbeknown to Ms. Thompson, Ms. Williams, or ACORN, Mr. O'Keefe and Ms. Giles had a hidden camera and microphone, which captured some or all portions of the oral communications held in the ACORN office.

10. Ms. Thompson and Ms. Williams did not consent to the taping of their conversations with Ms. Giles and Mr. O'Keefe.

11. On information and belief, O'Keefe is a contributor to and employee of Breitbart.com and/or its website biggovernment.com.

12. Between the date of taping and September 10, 2009, all three defendants, in concert, prepared the tapes for distribution and broadcast on the Internet and on television.

13. Despite knowing and having reason to know that the oral communications at issue were obtained through the interception of those communications and in violation of the Maryland Wiretap Law, Breitbart, O'Keefe, and Giles wilfully disclosed and are continuing to disclose to other persons tapes of their conversations with Ms. Thompson and Ms. Williams.

14. On September 10, 2009, and continuing to this date, Breibart (through its various websites, including biggovernment.com) broadcast the communications and video secretly taped in Baltimore.

15. Mr. O'Keefe posted the taped conversation on the YouTube website.

16. From on or about September 10, 2009, to the present, Mr. O'Keefe, Ms. Giles, and Mr. Breitbart have each repeatedly disclosed to third parties various versions of their tapes of plaintiffs' private conversations.

COUNT I

(Violation of Courts and Judicial Proceedings Code §§ 10-402(a) and 10-410)

17. Plaintiffs incorporate by reference each and every allegation set forth in the preceding paragraphs as if set out below.

18. Section 10-402(a) of the Courts and Judicial Proceedings Code of Maryland provides that it is unlawful for any person to:

- (1) willfully intercept, endeavor to intercept or procure any other person to intercept or endeavor to intercept, any ... oral ... communication;
- (2) willfully disclose, or endeavor to disclose, to any other person, the contents of any ... oral ... communication, knowing or having reason to know that the information was obtained through the interception of any ... oral ... communication, knowing or having reason to know that the information was obtained through the interception of a[n] ... oral ... communication in violation of this subtitle;
- (3) willfully use, or endeavor to use, the contents of any ... oral ... communication, knowing or having reason to know that the information was obtained through the interception of ... oral ... communication in violation of this subtitle.

19. Section 10-410 of the Courts and Judicial Proceedings Code provides that:

- (a) Any person whose . . . oral . . . communication is intercepted, disclosed, or used in violation of this subtitle shall have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use the communications, and be entitled to recover from any person:
 - (1) Actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

- (2) Punitive damages; and
- (3) A reasonable attorney's fee and other litigation costs reasonably incurred.

20. By intercepting oral communications of Ms. Thompson and Ms. Williams, and by disclosing and posting videotapes, audiotapes, transcripts, and descriptions of those intercepted conversations on the Internet and providing them to Breitbart, Fox News, and others without plaintiffs' knowledge or consent, Mr. O'Keefe and Ms. Giles violated Courts and Judicial Proceedings Code §§ 10-402(a)(1), (2), and (3), to plaintiffs' injury.

21. By procuring the interception of the oral communications of Ms. Thompson and Ms. Williams and by disclosing, using, and broadcasting those intercepted communications to other persons without plaintiffs' knowledge or consent, Breitbart violated §§ 10-402(a)(1), (2), and (3), to plaintiffs' injury.

22. As a direct and proximate result of the actions of defendants, Ms. Thompson and Ms. Williams have lost their employment and have suffered extreme emotional distress with attendant physical symptoms and injury to their reputations.

23. As a direct and proximate result of the actions of defendants, ACORN has suffered injury to its reputation.

24. As a result of the broadcast and rebroadcast of the oral communications taped by defendants, all plaintiffs have suffered and continue to suffer immediate and irreparable injury.

25. Defendants' actions as aforescribed were done intentionally, willfully, in reckless disregard of the law, and with malice.

WHEREFORE plaintiffs pray that this Court:

1. Enter a temporary restraining order, preliminary, and permanent injunctions requiring defendants to cease distributing and broadcasting the oral communications intercepted in the Baltimore offices of ACORN in July 2009, and to make their best efforts to prevent others from distributing and broadcasting said communications.

2. Enter judgment in favor of Ms. Thompson, Ms. Williams, and ACORN and against Mr. O'Keefe, Ms. Giles, and Breitbart.com LLC, jointly and severally, for compensatory damages in the amount of \$500,000 for Ms. Thompson, \$500,000 for Ms. Williams, and \$1 million for ACORN; liquidated damages of \$1,000 per plaintiff against all defendants, jointly and severally; punitive damages in the amount of \$1 million per defendant; plus reasonable attorneys' fees and other litigation costs; and award such other and further relief as the interests of justice may require.

Jury Demand

Plaintiffs demand that their cause be tried by a jury.



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Dated: September 23, 2009