

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

HERB LEVINE,
Plaintiff,

v.

CASE NO.:

2004 CA 010575 SC

CITY OF VENICE, JOSEPH P. SLAPP,
DEAN CALAMARAS AND GEORGE
HUNT,
Defendants,

_____ /

COMPLAINT

Plaintiff, **Herbert L. Levine**, sues the Defendants **City of Venice, Joseph P. Slapp,**

Dean Calamaras and George Hunt, and alleges:

- 1) This is an action for damages that exceed \$15,000.00.
- 2) Plaintiff is a resident of Sarasota County.
- 3) The Defendant City of Venice is a municipality.
- 4) At all times relevant, Defendant Joseph P. Slapp was employed by the City of Venice as either Chief of Police or as Public Safety Director.
- 5) Defendant Joseph P. Slapp is a resident of Sarasota County, Florida.
- 6) At all times relevant, Defendant Dean Calamaras was a member of the Venice City Council, or Mayor of the City of Venice.
- 7) Defendant Dean Calamaras is a resident of Sarasota County, Florida.
- 8) At all times relevant, Defendant George Hunt was the City Manager of Venice.
- 9) Defendant George Hunt is a resident of Sarasota County, Florida.
- 10) On or about September 24, 2002, Defendant Herbert L. Levine served as

President of the Venice Taxpayers League.

11) The Venice Taxpayers League is a civic organization dating to 1955, which has served as a watchdog of local government actions, and has provided a citizen's forum for the discussion of civic issues, and an opportunity to interface with their elected governmental officials and government agents.

12) Plaintiff Herbert L. Levine, individually and as a member of the Venice Taxpayers League, has criticized certain acts and omissions of the Venice City Council, its members, including Defendant Dean Calamaras, the then City Manager, Defendant George Hunt, and the then Chief of Police or Public Safety Director, Defendant Joseph P. Slapp.

13) Those matters criticized by Plaintiff Herbert L. Levine, mentioned in Paragraph 12 above, include, but are not limited to:

- a. The holding of a meeting by members of the Venice city Council in violation of the state's sunshine law;
- b. The illegal wiretapping of said meeting by a then Venice City Council member;
- c. The Defendant Slapp's refusal to initiate an investigation of the activities referred to in sub-paragraphs a and b above;
- d. The result of Defendant's Slapp's investigation into the activities referred to in sub-paragraphs a and b above, after being ordered to accept a complaint by the Defendant Hunt, in his capacity as the City Manager.
- e. Answering false accusations by a City Council member that the illegal wiretapping was investigated by Plaintiff Herbert Levine;

- f. The use of a private bulk mail permit by a City Council member and Defendant Calamaras for sending political mailings;
- g. The failure of the city council member and Defendant Calamaras to report as “in kind” contributions the use of the bulk mail permit referenced to in sub-paragraph (f);
- h. Answering accusations by a council member, during a council meeting, that the Venice Taxpayers League was either a division of the “KKK” (Ku Klux Klan), or utilize “KKK” tactics.
- i. Assisting in the Venice Taxpayers League defense of an Elections Commission ethics violation complaint by a City Council member, which complaint was dismissed;
- j. Criticizing the conflict ridden procedures utilized by the City Council and Defendant Hunt, as City Manager, in renewing the Venice Golf Association’s Management lease of the Lake Venice Golf Course, on more favorable terms;
- k. Criticizing the manner in which the Defendant Hunt publicly presented a biased pro-development presentation in favor of the Henry Ranch annexation;
- l. Initiating a public inquiry into whether or not a City Council member sent off color email messages to a female city employee;
- m. Answering false claims by the Defendant Hunt that the female employee referred to in sub-paragraph (e) left employment because of Plaintiff’s action;
- n. Answering false and baseless assertions by a City Council member that Plaintiff had placed a “hissing” propane tank at his place of business;

- o. Criticizing the use of City employees to videotape Plaintiff while in attendance at City Council meetings;
 - p. Answering accusations by a Venice City Council member that Venice Taxpayer League members, Plaintiff included, were “bastards,” “sons a bitches,” “screwballs,” and “loonie bins”;
 - q. Criticizing the honesty of the policy of Defendant Hunt to use Enterprise funds for payroll purposes, in lieu of millage rate increases;
 - r. Criticizing the procurement process and ultimate cost of computers by the City;
 - s. Criticizing the sale of software to the City by a company owned by a City employee;
 - t. Answering false statements made by the Defendant Hunt and a City Council member that the Venice Taxpayers League was costing the city \$40,000.00 in “checking things out”;
 - u. Criticizing the statements by Defendant Hunt that his use of the “\$40,000.00” figure referenced in sub-paragraph (t) above, was not based in fact, but was used for dramatic effect;
 - v. Criticizing the actions by Defendant Hunt in being armed with a firearm at City Hall;
 - w. Criticizing the Defendant Calamaras’ actions in approving of the Defendant Hunt’s possession of a firearm while at City Hall;
- 14) On or about September 24, 2002, Plaintiff was in attendance at a budget meeting

of the Venice City Council.

a. The Defendant Hunt addressed a matter not on the budget meeting agenda, calling the Venice Taypayers League's positions "fallacious," "yellow journalism," and "audacity," over an approximate three minute period;

b. The Defendant Calamaras opened the meeting for public comment, at which time Plaintiff Levine stated in his approximate thirty second response, "I want to comment on Mr. Hunt's brilliant talk about the literature that the Venice Taypayers League put out, and all I can say is that Mr. Hunt has always been a liar, has been caught lying many times, then why would you listen to him now?"

c. After the above statement, Councilwoman Virginia Warren interrupted Plaintiff, and Defendant Calamaras gaveled and spoke up, at which time Plaintiff Levine stated "goodbye," and returned to his seat;

d. As Plaintiff Levine was returning to his seat, councilman Myers stated "Get out, I've had enough of your lies and innuendos;" and called Plaintiff a "hyena";

e. At this time, Councilmember Brown called for called for Plaintiff Levine's arrest;

f. While returning to his seat, or just after arriving at his seat; Plaintiff Levine responded to the "hyena" comment by calling Myers a "drunk," and responded to the call for his arrest by Brown by calling him an "idiot,"

g. Defendant Calamaras directed Defendant Slapp to remove Plaintiff from the room;

h. Defendant Slapp placed Plaintiff Levine under arrest by pulling Plaintiff

from his seat while holding his forearm down to the arm of the seat.

COUNT I

FALSE ARREST

- 15) Paragraphs 1-14, and all sub-paragraphs, are realleged as though set forth herein.
- 16) This count is brought against the Defendant City of Venice, and Defendant Joseph P. Slapp and Defendant Dean Calamaras.

17) Between April 14, 2003 and April 30, 2003, the Defendant City of Venice was provided a written notice of claim, and an amended notice of claim. Defendant City of Venice has denied the written notice of claim and Plaintiff has otherwise complied with all conditions precedent prior to filing this action, including the conditions precedent set forth in FS §768.28.

18) Defendants Slapp and Calamaras, intentionally and proximately caused Plaintiff to be seized, detained, arrested and incarcerated for the alleged criminal offenses of Trespass After Warning, Disturbing Lawful Assembly, and Resisting Arrest without Violence.

19) Defendants Slapp and Calamaras had no probable cause to believe that Plaintiff had committed the alleged criminal offenses of Trespass After Warning, Disturbing Lawful Assembly, and Resisting Arrest without Violence.

20) Said seizure, arrest and incarceration of Plaintiff was against Plaintiff's will.

21) As a direct and proximate result of the acts of the Defendants Slapp and Calamaras, the Plaintiff was unreasonably seized, detained, arrested and incarcerated for the alleged criminal offenses of Trespass After Warning, Disturbing Lawful Assembly, and Resisting Arrest without Violence; and suffered from or incurred injury to his reputation and health, shame, humiliation and embarrassment, mental anguish, hurt feelings, pain and suffering,

physical injury, legal expenses and related expenses, which are either permanent or continuing in nature, and Plaintiff will continue to suffer the same in the future.

22) Plaintiff demands trial by jury on all issues so triable.

WHEREFORE, Plaintiff Herbert L. Levine seeks judgment for damages against the Defendants City of Venice, Joseph L. Slapp and Dean Calamaras.

COUNT II

ASSAULT AND BATTERY

23) Plaintiff realleges all allegations in Paragraphs 1-22, as though set forth herein.

24) This count is against Defendants Slapp and Calamaras, for Assault and Battery.

25) On or about September 24, 2002, Defendant Slapp, at the direction of Defendant Calamaras, made offensive contact with Plaintiff.

26) The actions by Defendants Slapp and Calamaras were intended to cause harmful or offensive contact with Plaintiff which caused Plaintiff to be in imminent apprehension of such contact.

27) Defendant Slapp, at the direction of Defendant Calamaras, used intentional force unlawfully directed toward Plaintiff's person.

28) Defendant Slapp's actions, at the direction of Defendant Calamaras, created a fear of imminent peril and Defendant Slapp had the apparent ability to effectuate injury to Plaintiff.

29) As a result of Defendant Slapp's actions, at the direction of Defendant Calamaras, Plaintiff suffered bodily injury and resulting pain and suffering, disability, mental anguish, loss of the capacity for enjoyment of life, and expense of hospitalization. These losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

30) Plaintiff demands trial by jury on all issues so triable.

WHEREFORE, Plaintiff Herbert Levine demands judgment for damages against Defendants Slapp and Calamaras.

COUNT III

MALICIOUS PROSECUTION

31) Plaintiff realleges all allegations in Paragraphs 1-30, as though set forth herein.

32) This count is brought against Defendants Slapp, Calamaras and Hunt.

33) Defendants Slapp, Calamaras and Hunt intentionally commenced a criminal prosecution against Plaintiff Herbert L. Levine, by intentionally and proximately causing Plaintiff to be arrested for Trespass After Warning, Disturbing Lawful Assembly, and Resisting Arrest without Violence.

34) Defendants Slapp, Calamaras and Hunt commenced the criminal prosecution against Plaintiff, without probable cause to believe that Plaintiff had committed the alleged criminal offenses of Trespass After Warning, Disturbing Lawful Assembly, and Resisting Arrest without Violence.

35) Defendants Slapp, Calamaras and Hunt commenced criminal prosecution against Plaintiff maliciously and with reckless or callous indifference to Plaintiff's rights.

36) The criminal prosecution terminated in favor of Plaintiff when the Office of the State Attorney, Twelfth Judicial Circuit, declined to file charges against Plaintiff.

37) As a direct and proximate result of the acts of Defendants Slapp, Calamaras, and Hunt, Plaintiff was unreasonably seized, detained, arrested, incarcerated and prosecuted for the alleged criminal offenses of Trespass After Warning, Disturbing Lawful Assembly, and

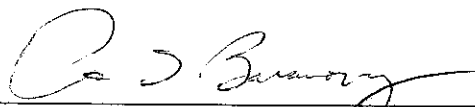
Resisting Arrest without Violence, and has suffered from or incurred injury to his reputation and health, shame, humiliation and embarrassment, mental anguish, hurt feelings, pain and suffering, physical injury and legal expenses. Said losses, damages, or injuries being either permanent or continuing in nature, and Plaintiff will continue to suffer the same in the future.

38) Plaintiff demands trial by jury on all issues so triable.

WHEREFORE, Plaintiff, Herbert L. Levine, seeks judgment for damages against Defendants Slapp, Calamaras and Hunt.

DATE

Oct 29, 2004



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