



IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

STRAX REJUVENATION AND
AESTHETICS INSTITUTE, INC.,

CASE NO.:

Plaintiff,

11-12340

vs.

NBC UNIVERSAL MEDIA, LLC, f/k/a
NBC UNIVERSAL, INC.; WILLARD
SHEPARD and TODD WRIGHT,

03

Defendants.

COMPLAINT

STRAX REJUVENATION AND AESTHETICS INSTITUTE, INC., hereinafter
("STRAX"), sues the Defendants, NBC UNIVERSAL MEDIA, LLC, NBC UNIVERSAL,
INC.; which does business as NBC Miami, and broadcasts over the public airways on Channel 6, in
the South Florida area. STRAX also sues NBC Miami's reporters WILLARD SHEPARD and
TODD WRIGHT, jointly and severely for libel and in furtherance thereof states

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BROWARD COUNTY, FL
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INTRODUCTION

1. This is a cause of action which exceeds the jurisdictional limits of the Circuit Court.
2. STRAX has been in the practice of providing affordable and safe cosmetic surgery in Broward County, Florida for a number of years. STRAX's record for safety in the delivery of cosmetic surgery to its patients, greatly exceeds that of the national average. STRAX has performed, conservatively, 90,000 cosmetic surgical procedures. In the course of those 90,000 procedures, STRAX has compiled a record for safe and successful outcomes that is second to none in the world.

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3. The Defendant, NBC UNIVERSAL MEDIA, LLC, f/k/a NBC UNIVERSAL, INC., which does business as NBC Miami, has disregarded its obligation to the public and specifically to STRAX in reporting the news. Instead, NBC Miami, in regard to STRAX, has opted for sensational tabloid type reporting because truthful reporting with regard to STRAX does not make for good ratings driven television. Instead of reporting facts in a fair and unbiased manner with regard to STRAX, NBC Miami has made up a narrative that makes for sensational television. In its so-called reporting, NBC Miami has slanted all of its reporting to this false narrative and sensational television. They have gone so far as to have published false stories about STRAX.

LIBEL

4. NBC 6 Miami employs, as reporters, the Defendants, WILLARD SHEPARD and TODD WRIGHT. All of the acts and omissions of WILLARD SHEPARD and TODD WRIGHT, have been committed in the course and scope of their employment with the Defendant, NBC UNIVERSAL MEDIA, LLC.

5. On May 18, 2011, the Defendants, through their reporter, WILLARD SHEPARD, broadcast a story on its 6:00 p.m. newscast into Broward County, Florida, in reference to the Plaintiff, STRAX. Taken as a whole, this story was false, libelous and defamatory and was part of the on-going course for false narrative mentioned above.

6. Specifically, in that story, NBC Miami, falsely attributed statements to the attorney of STRAX, Jay P. Chimpoulis, which were never made.

7. In addition to making false statements, the methods used by the reporter, WILLARD SHEPARD, were unethical and improper and reflected his desire not to print the truth but rather to perpetuate a narrative that created sensational television. In this regard, WILLARD SHEPARD

specifically represented to STRAX's attorney, Jay P. Chimpoulis, that he himself was a lawyer. Upon investigation, it has been discovered that WILLARD SHEPARD misrepresented this fact and is not a member of the Florida Bar, nor is he licensed to practice law in any state in the United States.

8. In a related story, on May 18, 2011, NBC Miami posted a story on the Internet under the by-line of the Defendants, WILLARD SHEPARD and TODD WRIGHT. This story was accessed in Broward County, Florida, by members of the public and, therefore, this cause of action arose in Broward County, Florida.

9. In the Internet story, Defendants stated, "a Broward County medical examiner's report classified the death as an accident and concluded that Zelaya died because the physician pumped too much fat back into her body, causing her lungs to flood with fat." This was in reference to a cosmetic procedure at STRAX.

10. This statement is false and defamatory.

11. The reporter involved either failed to check this fact, or in the alternative, checked the fact and knew it was false but published it anyway. In either case, the reporter's conduct and that of the Defendant, NBC Miami, was of such an egregious character and nature as to constitute actual malice. In the alternative, they were reckless in their disregard of their duty to determine the truth of the story before reporting it.

12. Prior to the filing of this lawsuit, on May 23, 2011, the Plaintiff perfected its right to sue NBC Miami, by providing it with a notice pursuant to Florida Statute §770.01. This notice called to the attention of NBC Miami and its corporate parent, as well as the employed reporters, that both of these stories were false. As such, the Plaintiff has perfected its right to bring this lawsuit and

has complied with all conditions precedent for the maintenance of this claim.

13. On Friday, May 27, 2011, NBC Miami posted, without a by-line, a retraction of the story that appeared on the Internet on May 18, 2011.

14. In that retraction, NBC acknowledges the falsity of its story and states:

"In an NBC Miami story posted May 18, 2011, entitled "Officials: Broward Strax Patient Hospitalized," a Broward County medical examiner's report was erroneously cited as concluding that the cause of death of Lidvian Zelaya was "because the physician pumped too much fat into her body, causing her lungs to flood with fat."

The Broward County medical examiner's report did not make this conclusion regarding Mrs. Zelaya's death. In addition, the report did not state that Mrs. Zelaya's death was a result of any wrongdoing by any physician or Strax personnel.

NBC Miami regrets the error and apologizes for its mistake."

15. While the sentiment set forth in this purported retraction, may say that the corporate Defendant regrets its error, it is clear that its actions speak otherwise.

16. More importantly, the retraction is inadequate and insufficient. Specifically, it has written and broadcast a number of stories that are unfair and biased and have only a sensational slant to them.

17. They have yet to inform the public in any of their reporting of STRAX's extremely admirable safety record which, as stated above, is well above the national average making STRAX not only a venue for affordable cosmetic surgery, but one which is among the safest cosmetic surgery centers in the world.

18. NBC Miami has never published this, either as a result of never investigating it, or, simply as a result of a desire to continue with sensational broadcasts that have nothing to do with the

facts.

19. The retraction in question was posted at 2:50 p.m. Eastern Daylight Time on May 27, 2011. This was nine days after the original article on the internet was posted. More importantly, the original internet article was posted on a Wednesday, at approximately 6:00 p.m. Eastern Daylight Time. The retraction was posted on the Friday afternoon prior to the Memorial Day weekend, 2011. This timing was intentional as reports on a Friday afternoon, particularly at the start of a holiday weekend, draw very little attention.

20. Moreover, there is no reason that NBC Miami had to wait four days to print the retraction. This intentionally half hearted attempt at a retraction evidences malice on the part of NBC Miami toward STRAX.

21. What has emerged from NBC's so-called reporting is a picture that is not an appropriate or ethical picture from a journalistic standpoint. Journalism ethics and basic fairness dictate that all articles must be fair and must give factual information and no false information.

22. All of the foregoing actions by NBC UNIVERSAL MEDIA, LLC, and by WILLARD SHEPARD and TODD WRIGHT constitute the publication of malicious and libelous falsehoods about the Plaintiff.

23. As a direct and proximate result of these actions by the Defendants, STRAX has suffered damages.

24. The retraction listed above is inadequate to provide NBC Miami with any immunity it might have pursuant to Florida Statute §770.01 and said retraction should be disregarded.

WHEREFORE, STRAX REJUVENATION AND AESTHETICS INSTITUTE, INC., moves

this Court for a judgment for damages plus any and all other relief this Court deems just and proper.

DEMAND FOR JURY TRIAL

The Plaintiff further demand a trial by jury of all issues so triable as a matter of right.

Dated this 31st day of May, 2011.

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