

FILED
2010 DEC -3 PM 4:5
GARY L. SIMMONS
DISTRICT CLERK
DALLAS COUNTY, TEXAS
IN THE DISTRICT COURT
For Matthew
DALLAS COUNTY, TEXAS

www.wiley.com

DALLAS COUNTY, TEXAS

193RD JUDICIAL DISTRICT

www.elsevier.com/locate/jmb

Defendants.

**PLAINTIFF'S FIRST AMENDED PETITION AND
DEMAND FOR TRIAL BY JURY**

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW Jeanette Hawkins, as Plaintiff herein, and respectfully submits this her first amended petition and demand for trial by jury, stating the following causes of action against Marcus D. Lamb and Word of God Fellowship, Inc., doing business as Daystar Television Network, as Defendants.

Discovery Level

1. Pursuant to TEX. R. CIV. P. 190, the Plaintiff states that discovery in this case is intended to be conducted under Level 2 of that Rule.

The Parties and Service of Process

2. Jeanette Hawkins, Plaintiff herein, is an individual and a citizen of the State of Texas. The last three digits of her driver's license number are 377. The last three digits of her Social Security number are 865.

3. Marcus D. Lamb is an individual and a citizen of the State of Texas. Marcus D. Lamb may be served through his attorney, Marshall M. Searcy, Jr., at Kelly Hart & Hallman LLP, 201 Main Street, Suite 2500, Fort Worth, Texas 76102, fax number 817.878.9280.

4. Word of God Fellowship, Inc., doing business as Daystar Television Network, is or purports to be a corporation organized and existing under the laws of the State of Georgia and maintaining its principal place of business in the State of Texas. Word of God Fellowship, Inc., doing business as Daystar Television Network, may be served through its attorney, Marshall M. Searcy, Jr., at Kelly Hart & Hallman LLP, 201 Main Street, Suite 2500, Fort Worth, Texas 76102, fax number 817.878.9280.

Jurisdiction

5. Pursuant to Article V, Section 8, of the Texas Constitution and Section 24.007 of the Texas Government Code, the Court has jurisdiction over the subject matter of this civil action. The amount in controversy exceeds the minimum jurisdictional amount in controversy for civil actions in the district courts of this State.

6. Upon proper service of a copy of this petition, together with a copy of a citation issued in compliance with TEX. R. CIV. P. 99, or upon waiver of such service, the Court will

have *in personam* jurisdiction over each Defendant. As explained more fully below, general personal jurisdiction exists because Defendants have had continuous and systematic contacts with the State of Texas, and specific personal jurisdiction exists because this action specifically arises out of contacts by Defendants with the State of Texas.

Venue

7. Pursuant to Section 15.002(a) of the Texas Civil Practice and Remedies Code, the venue of this civil action is proper in Dallas County, Texas. As explained below, a substantial part of the events or omissions giving rise to the claims occurred in Dallas County, Texas. In addition, pursuant to Section 15.017 of the Texas Civil Practice and Remedies Code, the venue of this civil action is proper in Dallas County, Texas. As explained herein, this is a suit for damages for libel and slander (among other causes of action). Plaintiff resided in Dallas County, Texas, when some of her causes of action for libel and slander accrued. In addition, according to Defendants themselves, at the time when Plaintiff filed her original petition herein, and at the time when this amended petition is being filed, Defendant Marcus D. Lamb, an individual, resided in Dallas, Texas. In addition, according to Defendants themselves, at the time when Plaintiff filed her original petition herein, and at the time when this amended petition is being filed, Defendant Word of God Fellowship, Inc., doing business as Daystar Television Network, was domiciled in Dallas County, Texas (among other venues).

Respondent Superior

8. Whenever it is alleged that either Defendant acted or communicated in any fashion, then such allegation should be taken to mean:

a. That Defendant himself or itself took such action or made such communication; or, in the alternative,

b. That a duly authorized agent of Defendant took such action or made such communication on behalf of Defendant and in the course and scope of the agency; or, in the alternative,

c. That such action or communication was by one having apparent authority to do so on behalf of Defendant; or, in the alternative,

d. That Defendant ratified and adopted such action or communication as his or its own and thereby became legally responsible for it.

Conditions Precedent

9. All conditions precedent to Plaintiff's rights to commence and to prosecute this civil action, and to recover the relief requested herein, have occurred or been fulfilled.

Facts Applicable to All Causes of Action¹

10. At all relevant times, Defendant Word of God Fellowship, Inc., doing business as Daystar Television Network (herein, "Daystar") has publicly represented itself to be a Christian television network, a Christian ministry, and even a Christian church.

¹ This petition does not recite every fact on which Plaintiff's claims are based. It is intended only to be "a short statement of the cause of action sufficient to give fair notice of the claim involved," as provided in Rule 47 of the Texas Rules of Civil Procedure.

11. Daystar was founded by Defendant Marcus D. Lamb and his wife, Joni Lamb. In 1984, they founded WMCF-TV 45 in Montgomery, Alabama. In 1990, the Lambs relocated to Dallas, Texas and began KMPX-TV 29. In 1997, the operation officially became The Daystar Television Network.

12. At all relevant times, Defendant Marcus D. Lamb has been the Chief Executive Officer of Daystar.

13. Defendant Marcus D. Lamb and Joni Lamb are the faces of Daystar. They host a daily, one-hour talk show entitled *Celebration*, which is later re-broadcast repeatedly and also made available for viewing on the Daystar website. In addition, Joni Lamb is the host and executive producer of another show, entitled *Joni*.

14. Through aggressive and relentless appeals to its viewers for financial donations and sales of airtime, Daystar grew rapidly. As of June 30, 2005, Daystar had *net* assets of approximately \$107,000,000.

15. On or about June 13, 2005, Plaintiff Jeanette Hawkins was hired by Defendant to serve as its Director of Marketing.

16. In the process of applying for the job, Plaintiff was interviewed by Defendant Marcus D. Lamb and by Janice Smith, who was identified as the Vice President of Programming, Marketing, and Affiliate Relations of Daystar, and the individual to whom Plaintiff would report if she became Director of Marketing.

17. Before accepting the employment with Daystar, it was very important to Plaintiff, who was and is a Christian, to determine the moral integrity of the organization and especially the individuals under whose authority she would be placing herself.

18. Indeed, in an employment brochure, Daystar encouraged job-applicants to do exactly that, quoting 1 Thessalonians 5:12, "And we beseech you, brethren, to know them which labor among you, and are over you in the Lord, and admonish you."

19. Accordingly, Plaintiff asked both Defendant Marcus D. Lamb and Janice Smith about the moral standards with which Daystar was managed and the moral climate of the workplace there.

20. Both Defendant Marcus D. Lamb and Janice Smith replied and represented to Plaintiff that Daystar was operated in conformity to the highest standards of Christian behavior, making specific reference to chastity, modesty, and purity, and that conformity to those standards was required of all employees. Written information provided to Plaintiff by Daystar made similar representations. These representations were made by officers of Daystar in the course and scope of their employment with Daystar.

21. When Defendant Marcus D. Lamb and Janice Smith made these representations to Plaintiff, they were themselves in the midst of an illicit sexual affair which, at that point, had been ongoing for approximately five years. They did not disclose this fact to Plaintiff.

22. Daystar offered to Plaintiff the position of Director of Marketing, and in reliance upon the false representations by Defendant Marcus D. Lamb and Janice Smith on

behalf of Defendant Daystar, Plaintiff accepted the employment and began work, reporting directly to Janice Smith and indirectly to Defendant Marcus D. Lamb.

23. Thereafter, Defendant Daystar and Defendant Marcus D. Lamb himself continued to make representations about Daystar, and about the marriage between Defendant Marcus D. Lamb and Joni Lamb, that were false, in light of the ongoing affair between Marcus D. Lamb and Janice Smith.

24. Plaintiff was an excellent employee of Daystar, performing her duties with skill and professionalism. Daystar repeatedly acknowledged these facts.

25. In August 2007, an employee of Daystar named Terry Germany, who reported to Plaintiff, advised Plaintiff and another employee named Greg Brondo, who was in charge of information systems, that he had found emails clearly proving that Defendant Marcus D. Lamb and Janice Smith were having an illicit sexual relationship and that it had been going on for about seven years. In addition to many lewd statements, Defendant Marcus D. Lamb wrote in one of his emails to Janice Smith that he could not wait to make her the next Mrs. Marcus Lamb. The emails also revealed that financial resources of Daystar had been used to facilitate trysts in other locations. Mr. Germany provided copies of the emails to Plaintiff and to Mr. Brondo, and promptly thereafter tendered a two-week notice of his resignation.

26. The revelation of the ongoing and longstanding affair between two senior officers of Daystar – and indeed the two people who interviewed Plaintiff and to whom she reported – was utterly devastating to Plaintiff.

27. The illicit sexual relationship between Defendant Marcus D. Lamb and Janice Smith obviously violated the published “Statement of Core Values” of Daystar. Plaintiff and Mr. Brondo did not know what they should do, so they consulted Fred and Anna Kendall, who were experienced marriage-counselors and who often had appeared on *Celebration*. The Kendalls advised Plaintiff and Mr. Brondo that Defendant Marcus D. Lamb should step down from his leadership position, and that he and Joni Lamb should seek marriage counseling. They refused, however, to confront Defendant Marcus D. Lamb themselves, and left to Plaintiff and Mr. Brondo the decision as to exactly how to present the information to the management of Daystar.

28. Plaintiff and Mr. Brondo decided to explain the situation to Bill Trammell, who is the father of Joni Lamb and who then occupied a management position at Daystar. They did so and provided a copy of the emails to him. He thanked them and told them that he would provide a copy of the emails to Joni Lamb. Almost immediately thereafter, Joni Lamb called Plaintiff and thanked her for bringing the affair to light – although this may also have been misleading, as the emails contain information suggesting that Joni Lamb already knew of the affair before it was discovered by Plaintiff.

29. After Plaintiff and Mr. Brondo spoke with Bill Trammell, Joni Lamb insisted that Janice Smith leave Daystar immediately. Daystar hastily agreed to purchase her home and entered into a sham consulting agreement under which Daystar paid substantial sums of hush-money to her. Thereafter, Janice Smith moved out-of-state and did not render to Daystar services of equivalent value to the substantial sums she was paid.

30. Daystar then actively deceived people – both within and outside the Daystar organization – about the reason for Janice Smith’s departure. Janice Smith had been in a high-profile position and had herself appeared frequently on *Celebration*, but suddenly she was gone. Many people asked what had happened.

31. Daystar, and Joni Lamb in particular, directed Plaintiff to participate in the cover-up and deception concerning the departure of Janice Smith. This, coupled with the flagrant breach of trust described above, was intolerable to Plaintiff, so she resigned her position with Daystar. The last day of her employment there was on or about May 31, 2008.

32. Both before and after her departure from Daystar, Plaintiff experienced severe emotional trauma because of the egregious misrepresentations made to her by persons whom she loved and respected, and because of the improper instructions to lie about the affair and the fraudulent financial transactions that ensued. Eventually, Plaintiff’s depression was so severe that she became suicidal, and was involuntarily committed to a mental institution.

33. As a direct and proximate result of these events, Plaintiff sustained compensable injuries, including but not limited to severe mental anguish and emotional distress, as well as lost income and benefits.

34. On November 18, 2010, the undersigned attorney delivered to a lawyer named John Terrell Lynch IV, who has a longstanding professional relationship with Daystar, a letter stating that he is representing Jeanette Hawkins, as well as two other former employees of Daystar.

35. On November 30, 2010, at 11:00 a.m. Daystar broadcast a new episode of *Celebration* in which Defendant Marcus D. Lamb admitted that he had been unfaithful to his wife. Various guests, including the Kendalls, appeared on the program and praised Defendant Marcus D. Lamb for his “transparency” and the manner in which he had conducted himself. The descriptions of the affair and the ensuing events were completely misleading. The “inappropriate” relationship was incorrectly described as lasting “a brief period of time.” It was falsely represented that the other participant in the affair bore no responsibility for what happened, despite the fact that she had been a senior officer of Daystar and fully aware that the company’s resources had been used improperly, both to arrange secret meetings and to cover-up the affair. Defendant Marcus D. Lamb falsely represented that he had “stepped down for an extended period of time from preaching.”

36. During the same broadcast of *Celebration*, multiple references were made to three, unnamed persons. It was falsely stated that these three persons had informed Daystar that unless Daystar paid them \$7,500,000, they were going to take to the media the story of the affair. This was described as a work of “the Devil.” Defendant Marcus D. Lamb falsely stated that these three persons “are trying to take our pain and turn it into their gain,” and stated that they were “not going to take God’s money and pay to keep from being humiliated or exploited.” He urged his viewers to “pray that the Enemy will not be victorious.”

37. Many employees of Daystar knew that the three persons to whom these references were made were the three former employees identified in the letter to Mr. Lynch dated November 18, 2010, and specifically they knew that one of them was Jeanette

Hawkins. This information apparently was disseminated by employees or other representatives of Daystar to persons not currently employed there. Moreover, it was obvious that, as soon as the three former employees filed their pleadings in courts of law, the pleadings would become public records and the viewers of *Celebration* would readily conclude that the three plaintiffs were the three persons referenced during the broadcast on November 30, 2010.

38. Members of the news media were invited to the studio to watch the production of *Celebration* which was broadcast on November 30, 2010. In addition, off-the-air statements apparently were made to them. It was clearly communicated to them that the three persons were attempting to commit extortion. This was reported – with the specific use of the word “extort” attributed to Defendant Marcus D. Lamb – in stories published on that same day, and thereafter, in Dallas County, Texas, and nationwide.

39. The above-described episode of *Celebration* has been re-broadcast by Daystar multiple times. It has been and still is available for downloading on Daystar’s website. On one or more subsequent episodes of *Celebration*, Defendants have encouraged their viewers to watch the November 30, 2010, episode on the Daystar website.

40. On December 2, 2010, Defendant Marcus D. Lamb and Joni Lamb appeared on the television program *Good Morning America*. In the introduction, journalist Robin Roberts referred to Defendant Marcus D. Lamb and, in his hearing, stated that “he says he’s going public because blackmailers are threatening to tell all unless he hands over millions of dollars.” Then, in her first question, Ms. Roberts asked: “Let’s talk about the extortion

first. Can you tell us when you were first approached, and how you were approached? Did you get a phone call, was it an email, a letter, how?" Defendant Marcus D. Lamb dodged the question – evidently he did not want the viewers to learn that the supposed "extortion" took place in a meeting with *two of Daystar's lawyers*, in *their* office, and that the person communicating the supposed threat was not the three supposed extortionists, but a licensed attorney with 29 years of experience and a spotless record. Instead of answering the question, Defendant Marcus D. Lamb said: "Well, a couple of weeks ago, the information came to us that these three people were demanding seven and a half million dollars in order to keep from going to the media." This statement was false and defamatory. The segment concluded with Ms. Roberts asking: "And Marcus, a final question about the extortion case – are you working with police in trying to find these three people?" Obviously, he had led her to believe that the identities and location of the three supposed extortionists were unknown and that a man-hunt was underway. Instead of correcting this misconception and telling the truth – that the attorney for the three women had *named* them in a letter delivered to Daystar's lawyer on November 18, 2010, and that their whereabouts were well known – Defendant Marcus D. Lamb lied: "Yes, both [sic] federal, state, and local officials are in investigation right now."

41. On a subsequent episode of the *Celebration* program and on the Daystar website, Defendants have encouraged their viewers to watch the interview broadcast on *Good Morning America*.

First Set of Causes of Action
Fraud

42. Plaintiff repeats and incorporates by reference all of the foregoing allegations.

If any allegation in this petition is inconsistent with this cause of action, the allegation is pleaded in the alternative, as authorized by Rules 47 and 48 of the Texas Rules of Civil Procedure.

42. Defendants Marcus D. Lamb and Daystar committed the tort of fraud against Plaintiff Jeanette Hawkins. With the intent to induce Plaintiff to accept employment with Daystar, and to continue her employment there, they misrepresented how Daystar was being managed and they failed to disclose that the persons to whom she would report were engaged in an ongoing, longstanding, illicit sexual relationship. Under Texas law, Defendants had an affirmative duty to disclose to Plaintiff the existence of the affair because they voluntarily disclosed to her information about the standards of conduct to which employees of Daystar were expected to conform, triggering an obligation to disclose the whole truth, including their own longstanding deviation from those standards. In addition, under Texas law Defendants had a duty to disclose to Plaintiff the existence of the affair because they made a partial disclosure which conveyed a false impression.

43. Plaintiff relied on the false representations by Defendants and on their failures to disclose that which they were legally obligated to disclose. As a direct and proximate result of her reliance on the fraudulent statements and omissions, Plaintiff sustained damages which are compensable under Texas law. Accordingly, Plaintiff is entitled to, and hereby

requests, judgment against Defendants, awarding actual damages in amounts to be determined by the trier of fact in accordance with Texas law.

44. The wrongful conduct of Defendants, as described herein, constitutes “fraud” as defined in Chapter 41 of the Texas Civil Practice and Remedies Code. Accordingly, Plaintiff is entitled to, and hereby requests, judgment against Defendants, awarding exemplary damages in amounts to be determined by the trier of fact in accordance with Texas law.

Second Set of Causes of Action Defamation

45. Plaintiff repeats and incorporates by reference all of the foregoing allegations. If any allegation in this petition is inconsistent with this cause of action, the allegation is pleaded in the alternative, as authorized by Rules 47 and 48 of the Texas Rules of Civil Procedure.

46. Defendants Marcus D. Lamb and Daystar committed the tort of defamation against Plaintiff Jeanette Hawkins, who is a private figure and is neither a public figure nor a public official. During the initial broadcast and numerous re-broadcasts of *Celebration*, first aired on November 30, 2010, Plaintiff was falsely described as, among other things, doing a work of the Devil, trying to take others’ pain and turn it into her gain, threatening to go to the media with humiliating information if money was not paid to her, and improperly trying to induce Defendants to pay “God’s money” to her. These statements, and apparently additional statements made to reporters, were intentionally calculated to be, and were in fact,

taken by the listeners as, affirmative statements that Plaintiff Jeanette Hawkins was attempting to commit extortion. All of the statements are false and defamatory. As originally uttered, they constitute slander. As broadcast in the form of *Celebration* re-runs and through publication on the Daystar website, they constitute libel. Defendants continued to publish the defamatory statements up to and including the date of this amended petition.

47. Defendant Marcus D. Lamb also committed the tort of defamation against Jeanette Hawkins on December 2, 2010, when he told Ryan Owens and Robin Roberts that the three unnamed persons – whom he knew would, in all probability, be understood to include Jeanette Hawkins – were “blackmailers” who attempted to commit “extortion,” and when he said that they “were demanding seven and a half million dollars in order to keep from going to the media.” Defendant Marcus D. Lamb knew that these statements were being broadcast nationwide and that they would be published and available to the general public on the *Good Morning America* website for a long period of time thereafter. Indeed, in a subsequent episode of *Celebration* and on the Daystar website, Defendants encouraged the public to watch the interview.

48. The statements described in the two preceding paragraphs tended to injure Plaintiff’s reputation and thereby expose Plaintiff to public hatred, contempt, ridicule, or financial injury. In addition, the statements tended to impeach Plaintiff’s honesty, integrity, virtue, or reputation. Consequently, the statements constitute libel *per se* under Section 73.001 of the Texas Civil Practice and Remedies Code, and proof of the injurious character of the statements is required.

49. Moreover, the statements described in Paragraphs 46 and 47 were defamatory *per se* under the common law, because those statements falsely charged Plaintiff with a crime punishable by imprisonment. Therefore, no proof of the injurious character of the statements is required.

50. As a direct and proximate result of the slander and libel committed by Defendants, Plaintiff sustained damages which are compensable under Texas law. Accordingly, Plaintiff is entitled to, and hereby requests, judgment against Defendants, awarding actual damages in amounts to be determined by the trier of fact in accordance with Texas law.

51. The wrongful conduct of Defendants, as described herein, was committed with “malice” as defined in Chapter 41 of the Texas Civil Practice and Remedies Code, or, in the alternative, with “gross negligence” as defined in Chapter 41 of the Texas Civil Practice and Remedies Code. Accordingly, Plaintiff is entitled to, and hereby requests, judgment against Defendants, awarding exemplary damages in amounts to be determined by the trier of fact in accordance with Texas law.

Demand for Trial by Jury

Plaintiff Jeanette Hawkins hereby demands trial by jury. The requisite fee is tendered with this petition.

Prayer

WHEREFORE, Plaintiff Jeanette Hawkins prays that upon due notice and trial, or upon hearing on motion for entry of default judgment or motion for summary judgment, the Court render judgment for Plaintiff and against Defendants, awarding the following relief:

(1) an award of actual damages, in amounts to be determined by the trier of fact, for each cause of action against each Defendant, with a decree that, where appropriate, the liability of the Defendants is joint and several;

(2) an award of prejudgment interest on all actual damages at the highest rate authorized by law to the date of judgment;

(3) an award of all costs incurred by Plaintiff in the course of preparing and prosecuting this civil action;

(4) an award of exemplary damages from each Defendant, the amount of which should be determined in accordance with Texas law;

(5) an award of postjudgment interest on all monetary relief at the highest rate authorized by law from the date of judgment until paid;

(6) all writs and processes necessary to collect the judgment; and

(7) all other relief to which Plaintiff is entitled or which the Court may deem appropriate under the circumstances and the applicable law.

Any inconsistent allegations or prayers for relief are pleaded in the alternative, as expressly authorized by TEX. R. CIV. P. 47 and 48.

Reservation of Rights To Amend and To Supplement This Pleading

Because Plaintiff does not know all of Defendants' acts and omissions, or all of the circumstances surrounding Defendants' acts and omissions, Plaintiff anticipates that it may be necessary to plead additional causes of action after discovery is conducted. Accordingly, Plaintiff hereby reserves the rights to amend and to supplement this petition.

DATED: December 3, 2010.

Respectfully submitted,

A handwritten signature in black ink, reading "James Austin Fisher", written over a horizontal line.

James Austin Fisher

State Bar Number 07051650

Shannon L.K. Welch

State Bar of Texas Number 90001699

FISHER & HOLMES

A Professional Corporation

2800 Lincoln Plaza

500 North Akard Street

Dallas, Texas 75201

Telephone 214.661.9400

Telecopier: 214.661.9404

ATTORNEYS FOR PLAINTIFF

JEANETTE HAWKINS

CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2010, a true and correct copy of this document was served on Defendants by telephonic document transfer to their attorney, Marshall M. Searcy, Jr., at Kelly Hart & Hallman LLP, 201 Main Street, Suite 2500, Fort Worth, Texas 76102, fax number 817.878.9280, in compliance with Rules 21 and 21a of the Texas Rules of Civil Procedure.

A handwritten signature in black ink, reading "James Austin Fisher", written over a horizontal line.

James Austin Fisher