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May 6, 2014

VIA US CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John J. Fisher
2501 Roughrider Road
New River, AZ 85087-8265

Dear Mr. Fisher:

This firm represents Gerald Freeman. I write to you today to tell you to immediately cease and desist all defamatory activity against Mr. Freeman and that failing to cease and desist will result in legal action against you.

As you may know, in the United States, our right to free speech is protected by the Constitution. However, the right to free speech does not embody a right to lie about someone publicly.

At a January 27, 2014 Cave Creek Town Council meeting, you claimed that Gerald Freeman hit the mule you were riding on with his truck:

I was out riding...on my 1,000 pound mule and I had a 7,000 pound truck run into the back of my mule for no apparent reason...you might be concerned for your life. It's justifiable deadly force after talking to the Sheriff...[Mr. Freeman] wanted to run his truck into the back of my mule...and by the grace of God and a good mule I can stand her today, I didn't get knocked over that cliff....[I did not know if I was] going to live or die.

<https://cavecreek.civicweb.net/Documents/DocumentList.aspx?ID=19533>

All of these statements are false, outrageous, and intended to harm the reputation of Mr. Freeman. By claiming these things, you have committed an actionable civil wrong. That is, the tort of defamation and you are liable for damages. *Turner v. Devlin*, 174 Ariz. 201, 848 P.2d 286 (1993) (stating that tort of defamation requires a false statement that "bring[s] the defamed person into disrepute, contempt, or ridicule, or...impeach[es] plaintiff's honesty, integrity, virtue, or reputation."



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Here are the actual facts.

You created a confrontation to entrap Mr. Freeman despite numerous signs that Mr. Freeman's driveway was private. And you did so with the full knowledge you would be trespassing because you have done so repeatedly.

In an attempt to justify your actions, you cited the reason for your trespassing as "riding to scout an area suitable for a horse trail for the Town of Creek." And you told the Maricopa County Sheriff's deputy they were riding on Morning Star Road on Sorchych's property, for which they had permission, and then on the way back were riding eastbound on the south side of the road just east of the power pole but west of Sorchych's driveway.

<http://www.sonorannews.com/archives/2012/120425/frontpage-Freeman.html>

By your own admission, you were trespassing. Under Arizona law, no shared easement holder may grant any third party the right to use an easement for any purpose other than to visit that residence as a business or personal invitee. *DND Neffson Co. v. Galleria Partners*, 155 Ariz. 148, 745 P.2d 206 (App. 1987) ("It is elementary law that an easement cannot be extended...beyond the land to which it is appurtenant, for such an extension would constitute an unreasonable increase of the burden of the servient tenement.")

Mr. Freeman had served the Town a legal Notice of Trespass which was one of the many grounds for the Restraining Order that was granted for just such contrived events that you helped organize.

As to your claim that Mr. Freeman hit your mule, this is false. Mr. Freeman did not hit your mule. Your mule hit his truck. In particular, Mr. Freeman came down to serve the Notice of Trespass. He stopped his truck when he was even with you. In a blatant attempt to create a confrontation, you deliberately swung your mule into the right front of Mr. Freeman's truck and then claimed he hit you! This is like punching someone in the face and claiming that the person you punched broke your hand.

Efforts by you and others, who hate Mr. Freeman, to have him prosecuted fell apart because what you claimed is not true.

In addition, these false statements clearly are intended to and in fact bring Mr. Freeman into disrepute and impeach his honesty, integrity, virtue and reputation.



**TIFFANY
& BOSCO**
P.A.

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You must cease and desist all defamatory conduct against Mr. Freeman. If you say anything else false about Mr. Freeman, we will take legal action against you, and you will be subject to damages, including potential punitive damages. *Smith v. Wade*, 461 U.S. 30, 53-54, 103 S.Ct. 1625, 1639 (1983) (discussing the legal standard for awarding punitive damages in defamation cases).

To avoid future litigation, cease and desist telling people lies about Mr. Freeman. If you continue to make false, disparaging remarks about Mr. Freeman, you will face civil legal consequences.

Sincerely,

TIFFANY & BOSCO, P.A.



Timothy A. La Seta

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