

GEOFFREY K. DAVIDIAN,

Plaintiff,

v.

Case No. 02-CV-9453

Case Code: 30106

30301

30704

STEVE CORDER,  
T. MICHAEL O'MARA,  
JIMMY DALE SHIPLEY and  
JOHN C. DUFFY,

Defendants.

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ANSWER AND AFFIRMATIVE DEFENSES TO  
PLAINTIFF'S FIRST AMENDED VERIFIED COMPLAINT

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The defendants, STEVE CORDER, T. MICHAEL O'MARA, JIMMY DALE SHIPLEY and JOHN C. DUFFY, by their attorneys, CRIVELLO, CARLSON & MENTKOWSKI, S.C., submit the following answer and affirmative defenses to the plaintiff's first amended verified complaint:

1. Answering ¶ 1, admit the defendants are associated with Cookeville, Tennessee, as employees and/or attorneys; deny the existence of violations that create personal jurisdiction or the opportunity for judicial review; as further answer, deny.

2. Answering ¶ 2, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

3. Answering ¶ 3, admit that Steve Corder is employed as the computer systems manager for the City of Cookeville, Tennessee; admit Steve Corder works at the Cookeville

Municipal Building located at 45 E. Broad Street, Cookeville, Tennessee, 38501; as further answer, deny.

4. Answering ¶ 4, admit.

5. Answering ¶ 5, admit.

6. Answering ¶ 6, admit.

7. Answering ¶ 7, lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

8. Answering ¶ 8, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

9. Answering ¶ 9, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

10. Answering § 10, deny the City of Cookeville engaged in a repressive campaign of speech suppression against Mr. Davidian and his website; admit Jim Shipley is the City Manager for the City of Cookeville and Steve Corder is the computer operations manager for the City of Cookeville; lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

11. Answering ¶ 11, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

12. Answering ¶ 12, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

13. Answering ¶ 13, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

14. Answering ¶ 14, deny Shipley's attorneys were behind the actions alleged to constitute hacking into Davidian's website; deny Davidian's website was hacked; as further answer, lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

15. Answering ¶ 15, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

16. Answering ¶ 16, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

17. Answering ¶ 17, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

18. Answering ¶ 17, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

19. Answering ¶ 19, admit the copies attached; deny Steve Corder knew Davidian resided in Shorewood, Milwaukee County, Wisconsin; deny Steve Corder sent duplicated Microsoft software to Davidian at the Shorewood address; as further answer, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

20. Answering ¶ 20, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

21. Answering ¶ 21, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

22. Answering ¶ 22, deny intent to alter the content of the plaintiff's website; as further answer, lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

23. Answering ¶ 23, deny intent to create disruption of the plaintiff's Web page and to cause the plaintiff to spend hours in his Wisconsin home conducting a security audit; deny the existence of efforts to frustrate the plaintiff's investigative journalism; deny the existence an ongoing joint effort to prevent further reporting and to retaliate for past articles written by the plaintiff; as further answer, lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

24. Answering ¶ 24, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

25. Answering ¶ 25, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

26. Answering ¶ 26, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

27. Answering ¶ 27, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

28. Answering ¶ 28, deny.

29. Answering ¶ 29, deny that the defendants are the plaintiff's antagonists, as further answer, lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

30. Answering ¶ 30, deny.

31. Answering ¶ 31, deny.

32. Answering ¶ 32, deny.

33. Answering ¶ 33, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

34. Answering ¶ 34, deny.

35. Answering ¶ 35, deny.

36. Answering ¶ 36, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

37. Answering ¶ 37, deny.

38. Answering ¶ 38, repeat, re-allege and incorporate herein by reference all allegations, averments, denials and affirmative defenses contained within the text of this responsive pleading.

39. Answering ¶ 39, deny.

40. Answering ¶ 40, repeat, re-allege and incorporate herein by reference all allegations, averments, denials and affirmative defenses contained within the text of this responsive pleading.

41. Answering ¶ 41, deny.

42. Answering ¶ 42, repeat, re-allege and incorporate herein by reference all allegations, averments, denials and affirmative defenses contained within the text of this responsive pleading.

43. Answering ¶ 43, deny.

44. Answering ¶ 44, deny.

45. Answering ¶ 45, repeat, re-allege and incorporate herein by reference all allegations, averments, denials and affirmative defenses contained within the text of this responsive pleading.

46. Answering ¶ 46, deny.

47. Answering ¶ 47, repeat, re-allege and incorporate herein by reference all allegations, averments, denials and affirmative defenses contained within the text of this responsive pleading.

48. Answering ¶ 48, deny.

49. Answering ¶ 49, lack knowledge or information sufficient to form a belief as to the truth of the allegations contained therein, therefore deny the same, putting the plaintiff specifically to their proof thereon.

50. Answering ¶ 50, deny.

#### **AFFIRMATIVE DEFENSES**

51. As and for affirmative defenses to the plaintiffs' complaint, the answering defendant submits the following:

- a. the plaintiff's complaint contains claims which fail to state a claim upon which relief may be granted;
- b. the plaintiff may have failed to properly and timely serve the defendants such that this court lacks jurisdiction over them;
- c. the injuries and damages of the plaintiff, if any, were caused by the actions or omissions of the plaintiff and/or persons other than the answering defendants;
- d. the plaintiff has failed to mitigate his damages;
- e. the plaintiff's complaint, seeking a specific amount of money, is in violation of § 802.02(1)(m) Wis. Stats.;
- f. these defendants are immune from suit under the doctrines of judicial, quasi-judicial, legislative and quasi-legislative immunity;
- g. all of the acts of these answering defendants were in good faith and not motivated by malice or the intent to harm;
- h. these answering defendants are protected from suit by immunities including qualified immunity;


- i. the plaintiff's claims are subject to the limitations and immunities in Wis. Stats., Sec. 893.80; further, this section specifically bars the recovery of punitive damages against these answering defendants;
- j. the plaintiff has failed to comply with the notice provisions contained within Wis. Stat. Sec. 893.80, as regards claims against each of these answering defendants;
- k. the plaintiff's injuries or damages, if any, were not caused by a governmental policy or practice of these answering defendants;
- l. No joint and several liability exists for the claims raised by the plaintiffs;
- m. the plaintiff's claims are barred by the doctrines of laches, waiver and estoppel; and
- n. the plaintiff's claims are barred by the doctrine of claim preclusion.

WHEREFORE, the defendants respectfully request judgment as follows:

- a. for a dismissal of the plaintiffs' complaint upon its merits;
- b. for the costs and disbursements of this action; and
- c. for such other relief as this court deems just and equitable.

Dated this 22<sup>nd</sup> day of January, 2003.

CRIVELLO, CARLSON & MENTKOWSKI, S.C.  
Attorneys for defendants

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