

STATE OF INDIANA	)	IN THE HAMILTON SUPERIOR COURT 4
	) SS:	
COUNTY OF HAMILTON	)	CAUSE NO. 29D04-_____

KIM GOOD,	)
	)
Plaintiff,	)
	)
v.	)
	)
SUSAN BYER,	)
	)
Defendant.	)

**COMPLAINT FOR DAMAGES**

Plaintiff Kim Good (“Good,” or “Plaintiff”), by counsel, for her Complaint for Damages against Defendant Susan Byer (“Byer,” or “Defendant”), alleges as follows:

**I. INTRODUCTION**

1. This action arises from the reckless, false, malicious, and defamatory statements made by Byer about Good to various news outlets through Central Indiana. At all relevant times, Good was the Chief Deputy Treasurer of Hamilton County, Indiana. Byer communicated, published, and otherwise made false assertions of facts to third parties which were meant to harm and damage Good’s reputation after Byer had been repeatedly reprimanded for violation of office and county personnel policies. Accordingly, Good brings this action for monetary relief, and to deter Byer and others like her from such misconduct.

**II. PARTIES, JURISDICTION, AND VENUE**

- 2. Good is an individual with her domicile in Cicero, Hamilton County, Indiana.
- 3. Byer is an individual with her domicile in Arcadia, Hamilton County, Indiana.
- 4. This Court has jurisdiction per Ind. Tr. R. 4.4(A)(1), (2), (4), (5), and (8).

5. Venue is proper in Hamilton County per Ind. Tr. R. 75(A)(1), (5), (8), and (10).

### **III. FACTS RELEVANT TO ALL COUNTS**

6. Good was appointed by the Hamilton County Treasurer Jennifer Templeton (“Templeton”) as the Chief Deputy Treasurer of Hamilton County in January 2013.

7. Byer has been an employee of the Hamilton County Treasurer’s Office for approximately thirteen (13) years working in various positions, most recently as a Bankruptcy Lender Clerk

8. From July 2017 through March 2018, Byer was frequently and consistently disciplined for violating office policies and work rules such as distracting the attention of others, shouting, demonstrating/causing a disruption in the workplace, unauthorized overtime, disobeying a reasonable order of a supervisor to perform assigned work, refusing to comply with written or verbal instructions, negligently handling of funds, and falsifying county tax records.

9. Templeton and Good attempted to discipline Byer on numerous occasions which resulted in her attempting to get other employees of the Treasurer’s Office to make life difficult for Templeton and Good by refusing to follow orders, viewing confidential information on Templeton and Good’s desks, and making false complaints.

10. Byer was finally fired on or about March 27, 2018 after numerous written and verbal warnings issued by Templeton, Good, and/or Hamilton County Human Resources.

11. Byer filed a wrongful termination lawsuit on November 14, 2018 which alleged, among other things, that she was fired for threatening to uncover a criminal enterprise, approved by Good, whereby her family members and others she selected had statutorily-required fees waived on late tax payments.

12. Specifically, Byer claimed that Good restricted Treasurer's office employees from marking late tax payments from county employees as "on time" even though Good had commonly asked them to do so for her family's late property tax payments.

13. Byer claims, in her lawsuit, that Templeton and Good fired her to "conceal potentially criminal activities of employees."

14. The case was referred to a special prosecutor for criminal investigation.

15. On or about December 2, 2019, the special prosecutor issued a report which indicated that there was "insufficient evidence to find that Good's parents had been allowed to make late payments without having to pay a late fee."

16. Even had there been sufficient evidence, the report stated, "there is no provision in Indiana criminal law that makes this specific conduct a crime."

17. On January 6, 2020, Good announced her intention to run for Hamilton County Treasurer in 2020.

18. At various times, in furtherance of her actual malice towards Good, Byer made the following false, malicious, and defamatory statements against Good between the dates of November 2018 and April 2019 (collectively the "Statements").

**IndyStar – November 15, 2018**

- A. "Byer acknowledges in the complaint that she and other employees participated in the practice and asserts that when she reminded her supervisor, Chief Deputy Kim Good, that they were doing it at her direction, it angered her boss";
- B. "Among the tax payments that employees were asked to falsify were those of Good's parents, the lawsuit alleges and Byer said in an interview";
- C. "Ever since I had been working there, we were told that it was OK to put county employees through later";

- D. "Byer said after she complained, according to the suit, Templeton and Good waged a campaign of abuse against her and all employees were ordered to remove family photos and other personal items from their desks and were told they could not use their cellphones while in the office."
- E. "Clerks were told in July 2017 they could no longer mark as 'on-time' late payments from county employees and others, even though Good had commonly asked them to do so for her family's property tax payments, the lawsuit alleges."
- F. "They made the working environment awful," Byer said in an interview, adding that she was disciplined three times.
- G. Byer said in an interview that she previously had a good relationship with Templeton and Good and claims she was being groomed to run for treasurer in six years. Templeton is serving her second straight term and is prohibited from seeking a third straight in 2020. Good was a two-term treasurer who preceded Templeton and plans to run in 2020, Byer said.

**IndyStar - December 16, 2018**

- H. "Former employee Susan Byer claims that for years clerks marked late tax payments from family and government employees as "on-time" to allow them to skirt the fine for being tardy, a violation of department rules and, possibly, the law."
- I. "Byer said the practice was approved by Treasurer Jennifer Templeton and Deputy Treasurer Kim Good until suddenly, in mid-2017, they ordered a halt to it and told the staff it would be considered a felony if they continued."
- J. "Byer asserts that she was fired about eight months later because Templeton and Good feared she would tell county oversight officials that it was her supervisors who approved the late filing waivers to begin with."
- K. "Byer said she was fired for allegedly failing to charge the appropriate fees for other types of documents after a series of disciplinary actions for insubordination, which included a suspension."
- L. "Stoesz said Byer saved documents showing that payments were accepted late without penalty, which will help her prove the motivation for her firing after 13 years in the treasurer's office."

**IndyStar – April 4, 2019**

- M. "The workers' allegations corroborate those of Susan Byer, who was fired in March 2018 and is suing the county for wrongful termination. She

claimed that she was fired to prevent her from exposing the existence of the alleged practice involving late fees and to keep others in the office silent."

N. "Byer said in an interview that employees had been directed by the Treasurer Jennifer Templeton and Chief Deputy Treasurer Kim Good to mark late tax payments as "on-time" for certain county employees or relatives so they could avoid paying fines."

O. "But in July 2017, Byer and the employees who spoke to IndyStar said they were told by superiors to stop the alleged practice and warned that to continue it would be considered a crime. When they pointed out that they did so with the approval or request of their supervisors, a pattern of harassing behavior ensued, Byer and the three workers claim."

19. The Statements were published on various media, social media, and other outlets in-and-around Central Indiana.

20. The Statements were willfully false and misleading and/or were made with actual malice towards Good.

21. The Statements were published to hundreds of not thousands of individuals in and around Central Indiana including those who would vote for or against Good in her election to be Hamilton County Treasurer in 2020.

#### **IV. CAUSES OF ACTION**

##### **FIRST CLAIM (Defamation/Defamation Per Se)**

22. Good repeats, re-alleges, and incorporates each and every allegation contained in all of the paragraphs contained above as though fully set forth herein.

23. Good's claim arises out of and are for damages with regard to, each of the false and defamatory statements made by Byer and identified in the paragraphs above and its subparagraphs. All such statements were false, unprivileged, and published.

24. Byer made her defamatory statements for improper purposes, with actual malice, and having knowledge that the statements would be published throughout and outside of the State of Indiana and the United States.

25. The above-pled misconduct by Byer constituted the tort of defamation in that it was a communication which “tends to harm a person’s reputation by lowering the person in the community’s estimation or deterring third persons from dealing or association with the person.” *Baker v. Tremco, Inc.*, 917 N.E.2d 650, 657 (Ind. 2009).

26. Byer intentionally portrayed Good in the above referenced manner knowing that this depiction was false and untrue and with actual malice.

27. The above-referenced false and defamatory statements made by Byer has caused Good damage and has exposed or will expose Good to pre-judgments and false judgments, which have injured her credibility and reputation in her dealings with others.

28. Since Byer’ defamatory statements, both expressly and by implication, are ones that imputes potentially criminal misconduct which is also in Good’s professional or occupational performance, she is presumed to have suffered injury and damages as a natural and probable consequence of such statements, and Byer has committed defamation *per se* under Indiana common law. *Kelley v. Tanoos*, 865 N.E.2d 593, 597 (Ind. 2007).

29. However, as a direct and proximate result of the aforementioned acts by Byer, she has caused harm to Good, which includes, but is not limited to general and specific damages in an amount to be proven at trial including damage to, among other things, her reputation, standing in the community, potential for future political involvement, and business opportunities and employment.

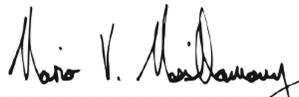
30. Upon information and belief, Good alleges that the aforementioned acts of Byer were done intentionally or with conscious disregard of Good's rights, and with the intent to vex, injure, or annoy Good, such as to constitute oppression, fraud, malice, or wanton and reckless disregard of the truth, thus entitling Good to exemplary and punitive damages in an amount appropriate to punish or set as an example of Byer and to deter such conduct in the future, which amount will be proved at trial.

V. **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment in her favor against Defendant:

1. Awarding Plaintiff general and special damages against Defendant in an amount to be proven at trial, together with interest thereon at the legal rate;
2. Awarding Plaintiff compensatory, exemplary, and punitive damages in an amount sufficient to punish and deter Defendant, the exact sum of which to be determined as appropriate to the Court;
3. Awarding Plaintiff attorneys' fees and the costs of suit incurred herein, to the extent permitted by law;
4. Awarding Plaintiff pre-judgment and post-judgment interest; and
5. Such other relief as the Court deems just and proper.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served this 28th day of January 2020, by depositing a copy of the same in the United States Mail, certified, prepaid, and addressed to the following:

Susan Byer  
10925 East 266th Street  
Arcadia, IN 46030

Tim Stoesz  
211 East Main Street  
P.O. Box 365  
Westfield, IN 46074

  
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