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January 24, 2017

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VIA E-MAIL

Diaspora*

support@zauberstuhl.de

support@diasp.org

Re: Dr. Shiva Ayyadurai – Demand for Removal of Diaspora* Posts

Dear Diaspora*:

This law firm is litigation counsel for Dr. Shiva Ayyadurai. We write in connection with the numerous libelous statements in three Diaspora* and Joindiaspora* (collectively referred to as “Diaspora” or “you”) posts published by Diaspora user “Dr. Roy Schestowitz (罗伊)” (“Mr. Schestowitz) located at the URLs:

- <https://joindiaspora.com/posts/7a93ced0b61d0134c5790242ac110007>;
- <https://diasp.org/posts/5614892>; and
- <https://joindiaspora.com/p/7117874>.

The three posts are collectively referred to as the “Posts.”

The Posts Violate Diaspora’s Terms of Service

We hereby demand that you immediately remove or block the Posts, or suspend Mr. Schestowitz’s Diaspora account, because the Posts violate your Terms of Service (the “Terms”). The Terms expressly prohibit Diaspora users from posting “[c]ontent that is libelous, defamatory, bigoted, fraudulent or deceptive” and “[c]ontent that is illegal or unlawful, that would otherwise create liability.” The Posts are false, libelous, defamatory and illegal, and we therefore demand that you immediately and permanently remove the Posts.

Ms. Schestowitz is engaged in harassment, character assassination and unlawful conduct against Dr. Ayyadurai, including falsely accusing him of being a “liar” and a “fraud.” The Posts constitute a violation of the Terms, and therefore should be removed.

The Posts Constitute Harassment and Intentional Infliction of Emotional Distress

The falsity of the Posts significantly damages Dr. Ayyadurai’s persona and public image. Moreover, through the Posts, Mr. Schestowitz seeks to incite a wave of harassment against Dr. Ayyadurai on the Internet, as well as to inspire additional false and berating commentary about Dr. Ayyadurai. Mr. Schestowitz has used Diaspora as a platform to wrongfully and unlawfully harm Dr. Ayyadurai’s personal and professional reputation, which he has worked so hard, for decades, to achieve.

The Posts also constitute intentional infliction of emotional distress, and qualify under the law to establish liability against you. Remedies include monetary damages, punitive damages, and preliminary and permanent injunctive relief.

The Posts are Illegal

Mr. Schestowitz’s illegal use of Diaspora not only abuses and harasses Dr. Ayyadurai but also illegally attributes false statements to him in a manner that is actionable by law. Massachusetts law defines libel as a written statement of fact regarding the plaintiff published by the defendant that is false and causes damage to the plaintiff’s reputation. *See Ravnikar v. Bogojavlensky*, 438 Mass. 627, 629–630 (2003); Restatement (Second) of Torts, § 559 (“A communication is defamatory if it tends to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him.”); *Disend v. Meadowbrook School*, 33 Mass. App. Ct. 674, 675 (1992) (A statement is defamatory if it “may reasonably be read as discrediting [the plaintiff] in the minds of any considerable and respectable class of the community.”).

Here, the Posts state false facts about my client, alleging that Dr. Ayyadurai is a “liar” and a “fraud.” Because these false statements of fact have the obvious tendency to subject my client to ridicule and to injure him economically, all elements of a cause of action for libel and libel *per se* are easily met. Indeed, Dr. Ayyadurai has recently filed a lawsuit for defamation, intentional interference with economic advantage, and intentional infliction of emotional distress in the United States District Court, District of Massachusetts, against *Techdirt*, an online publication, for similar false statements of fact made against him (*Ayyadurai v. Floor64, Inc. d/b/a Techdirt, et al.*, Case No. 17-10011).

The Posts expose you to substantial monetary damages and punitive damages. *See Shafir v. Steele*, 431 Mass. 365, 373, 727 N.E.2d 1140 (2000); *See also Ayash v. Dana–Farber Cancer Inst.*, 443 Mass. 367, 404–405 (2005), quoting *Markham v. Russell*, 94 Mass. 573, 575 (1866) (“A plaintiff in a successful defamation case is entitled ... to fair compensation for actual damages, including emotional distress and harm to reputation [and any special damages that have been pleaded and proved].”).

Diaspora*
Dr. Shiva Ayyadurai – Demand for Removal of Posts
January 24, 2017
Page 3

Conclusion

Mr. Schestowitz's Posts are in clear violation of the Terms, and are illegal. As the hosting provider of the Posts, and in light of the foregoing, we hereby demand that Diaspora immediately remove or block access to the Posts. Please confirm in writing within **forty-eight (48) hours** of your receipt of this letter that the foregoing demand will be met.

This letter is not intended, and should not be construed, as a complete expression of my client's factual or legal positions with respect to this matter. Nothing contained in or omitted from this letter is intended, and should not be construed, as a waiver, relinquishment, release or other limitation upon any legal or equitable claims, causes of action, rights and/or remedies available to my client, all of which are hereby expressly reserved.

This letter and its contents are confidential, protected by copyright law, and not authorized for publication or dissemination.

We look forward to your immediate response to this letter.

Very truly yours,



CHARLES J. HARDER Of
HARDER MIRELL & ABRAMS LLP

cc: Dr. Shiva Ayyadurai (via email)