

PUBLIC CITIZEN LITIGATION GROUP

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BY TELECOPIER: (212) 935-0141

January 23, 2013

Alan Garten, Esquire
Trump Organization
725 Fifth Avenue
New York, New York 10022

Dear Mr. Garten:

Thanks for chatting with me this past Friday about your December 27, 2012 demand letter to Angelo Carusone on behalf of Donald Trump. You threaten a “major multi-million dollar lawsuit” against Carusone unless he stops calling for a boycott of Macy’s because of its association with Trump and its promotion of his fashion brand. Your letter repeatedly asserts, without providing any factual basis, that Carusone has exaggerated the extent to which members of the public have endorsed his boycott efforts; you also contend, again without being specific, that Carusone casts Trump in a false light. During our call, you said that Trump is itching to proceed with litigation, that Macy’s wants him to file a lawsuit, and that you could identify several respects in which Carusone’s statements about Trump are false. You said that you would send that listing to me, but I have not yet received it.

There is a well-established First Amendment right to advocate a boycott over policy-related objections. *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 907-15 (1982); *Connell v. Signoracci*, 153 F.3d 74, 82 (2d Cir. 1998). *See also Whitby Operating Corp. v. Schleissner*, 117 Misc.2d 794, 459 N.Y.S.2d 203 (N.Y. Sup. 1982). Consequently, the contention that Carusone can be held liable plainly rests on your purported “false light” claims.

I have no reason to believe that there is a tort of exaggerating the public support for a political campaign. If there were such a tort, I imagine that most candidates for public office, no doubt including your client, would be liable at one point or another.

I look forward to receiving the letter in which you provide the specifics of your claims of falsity, so that Carusone can evaluate your threatened litigation.

Sincerely yours,


Paul Alan Levy

cc: Partha Chattoraj, Esquire