

STATE OF INDIANA            )  
                                  ) SS: IN THE MARION COUNTY SUPERIOR COURT  
COUNTY OF MARION        ) CAUSE NO.

KENNETH STOPKOTTE,                    )  
  )  
                  Plaintiff,                )  
  )  
                  v.                         )  
  )  
HAMILTON SOUTHEASTERN SCHOOL        )  
CORPORATION AND MEL GOLDSTEIN,        )  
  )  
                  Defendants.                )

49D11 13 01 CT 00330 5

FILED

(115)

JAN 28 2013

*Elizabeth L. White*  
CLERK OF THE MARION CIRCUIT COURT

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**COMPLAINT FOR DAMAGES**

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COMES NOW PLAINTIFF Kenneth Stopkotte, by counsel, and makes his Complaint for Damages as follows:

**PARTIES**

1. Plaintiff Kenneth Stopkotte (hereinafter Mr. Stopkotte or Plaintiff) is a former resident of Hamilton County, Indiana. He currently resides in Franklin County, Tennessee.
2. Defendant Hamilton Southeastern School Corporation (hereinafter HSSC) is a business entity headquartered at 13485 Cumberland Road, Fishers, Hamilton County, Indiana 46038.
3. Mel Goldstein is a resident of Marion County, Indiana residing at 5735 Carrolton Avenue Indianapolis, Indiana 46220

## JURISDICTION

5. A Tort Claim Notice (attached hereto as Exhibit "A") was timely sent to the Hamilton County School Corporation.

6. Jurisdiction is proper under trial Rule 75 as Defendants Goldstein resides in Marion County.

## FACTS

7. Sometime in the fall of 2010 all Defendants falsely and publically accused Mr. Stopkotte of stealing funds from the Hamilton County School Corporation. On November 19, 2010, Mr. Stopkotte was charged with eight counts of D felony fraud under cause number 29D06-1011-FD-005906 due to false allegations made by Mr. Goldstein that Mr. Stopkotte had misappropriated funds.

8. Those charges were dismissed without conditions by the Hamilton County Prosecutor's Office on March 6, 2012.

9. Mr. Stopkotte was the swim coach at Fishers High School from June 2006 to September 2010.

10. Mr. Stopkotte was also the coach of the USA Swimming sanctioned Swim Club the Fishers Area Swim Tigers ("FAST"), which was the official feeder club for the high school swim team.

11. FAST money was used to pay salaries of Fishers High School coaches and to purchase equipment for the high school swim team including, but not limited to: fast skin suits, the school performance record board, and timing equipment.

12. As part of his job duties and responsibilities Mr. Stopkotte was in charge of renting the Fisher's High School pool to community groups.

13. One of the groups Mr. Stopkotte collected rent from was the YMCA based Indy Swim Fit, a program run by Defendant Goldstein.

14. Indy Swim Fit paid the FAST swim club for the use of the Fisher's High School Pool. Mr. Goldstein reported to school officials that Mr. Stopkotte had misappropriated funds for pool rental.

15. The board of the FAST Swim Club consisted of Mr. Stopkotte, John Miles Athletic Director at Fishers High School, Gretchen Shafer Head of the Physical Education Dept., Fishers HS, and Julie Roach, Treasurer Fishers High School. and Jim Brown Athletic Director at Fishers High School.

16. Mr. Stopkotte deposited the rent checks from Indy Swim Fit into the FAST account.

17. The November 19, 2010 charging information did not accuse Mr. Stopkotte of using Indy Swim fit money for personal use.

18. The November 19, 2010 criminal charging information accused Mr. Stopkotte of depositing the money into the FAST account instead of the School's account.

19. Mr. Stopkotte was one of two signers on the FAST account; the other was Julie Roach, Fishers High School Treasurer.

20. The charging information filed by the state implies that Mr. Stopkotte stole from the school.

21. Statements from school officials in the media, including Superintendent Brian Smith, echo these sentiments.

22. As a direct result of the false allegations made by Defendants against him, Mr. Stopkotte was arrested in his hometown of Franklin, Tennessee on or about November 19, 2010.

23. As a direct result of the false allegations made by Defendants against him, Mr. Stopkotte spent eight days in solitary confinement in the Franklin County, Tennessee jail awaiting extradition to Hamilton County, Indiana. Further Mr. Stopkotte spent at least two days in custody in Hamilton County, Indiana.

24. As a direct result of the false allegations made by Defendants against him, Mr. Stopkotte incurred legal fees to defend his criminal case, posted bail money, and lost future income.

25. As a direct result of the false allegations made by Defendants against him, Mr. Stopkotte has suffered emotional and mental injuries as well as injuries to his reputation.

26. As a direct result of the false allegations made by Defendants against him, Mr. Stopkotte's ability to work in his chosen profession of coaching has been negatively impacted.

27. As a direct result of the false allegations made by Defendants against him, Mr. Stopkotte has encountered difficulty in obtaining any sort of employment with an arrest for theft on his record.

COUNT I  
MALICIOUS PROSECUTION: ALL DEFENDANTS

28. Plaintiff repeats and incorporates by reference, as though fully reproduced herein, all allegations above and below this count.

29. Defendants' conduct and false statements to the police and court instituted or caused to be instituted a prosecution against Mr. Stopkotte in the form of eight counts of D-felony fraud.

30. Defendants acted maliciously in doing so.

31. The prosecution was instituted without probable cause.

32. The prosecution terminated in Mr. Stopkotte's favor.

33. As a result of Defendants' actions, Mr. Stopkotte was damaged in an amount to be determined at trial

COUNT II  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS: ALL DEFENDANTS

34. Plaintiff repeats and incorporates by reference, as though fully reproduced herein, all allegations above and below this count.

35. All Defendants were negligent in commencing and continuing the criminal prosecution of Mr. Stopkotte

36. Defendants negligence in commencing and continuing the prosecution of Mr. Stopkotte was the direct cause of the emotional, mental, reputational, and financial injuries suffered by Mr. Stopkotte

37. These injuries were reasonably foreseeable and were directly caused by Defendants negligence.

38. As a result of Defendant's action Mr. Stopkotte was damaged in an amount to be determined at trial.

COUNT III  
DEFAMATION: HSSC

39. Plaintiff repeats and incorporates by reference, as though fully reproduced herein, all allegations above and below this count.

40. Defendants HSSC and Dr. Smith made statements that were published in local and national media that accused Mr. Stopkotte of committing a crime.

41. These statements were untrue and made with malice and/or without reasonable care or investigation.

42. These statements caused injury to Mr. Stopkotte in an amount to be determined at trial.

COUNT IV  
NEGLIGENCE: ALL DEFENDANTS

43. Plaintiff repeats and incorporates by reference, as though fully reproduced herein, all allegations above and below this count.

44. Defendants acted negligently without reasonable care when commencing and continuing the criminal prosecution of Mr. Stopkotte.

45. The actions of Defendant cause injury to Mr. Stopkotte in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE PLAINTIFF Kenneth Stopkotte, prays for the following relief: (a) That judgment be entered in his favor and against Defendants; (b) For compensatory damages; (c) For punitive damages; and (d) For all other relief just and proper in the premises.

JURY DEMAND

Plaintiff respectfully requests a jury trial on the counts presented above.

Respectfully submitted,



Jonathan Little, No. 27421-49  
Attorney for Plaintiff, Kenneth Stopkotte

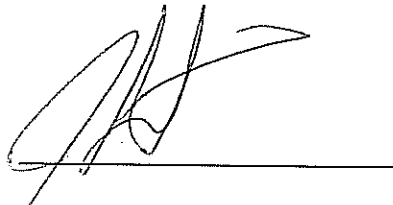
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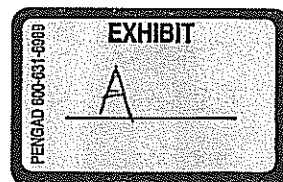
CERTIFICATE OF SERVICE

On or before the date of filing a true and accurate copy of the above was sent to all Defendants and their representatives at the address below by first class mail postage pre-paid.

Mel Goldstein  
5735 Carrolton Ave  
Indianapolis, IN 46220

Hamilton Southeastern School Corporation  
C/O DAVID R DAY,  
938 CONNER STREET, NOBLESVILLE, IN 46060





SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <i>x Camille Scott</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: <i>Mr. David Day, General Counsel for HSGC Church, Clowson, Little &amp; Anthony 10745 Lantern Road Fishers, IN 46038 525</i>		B. Received by (Printed Name) <i>Camille Scott</i> C. Date of Delivery	
2. Article Number (Transfer from s) <i>7011 0110 0002 0573 8075</i>		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
PS Form 3811, February 2004		Domestic Return Receipt	
102595-02-M-1540			

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<input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <i>x Deborah Taylor</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: <i>Mr. Brian Smith, Superintendent Hamilton Southeastern School Corp. 13485 Cumberland Road Fishers, IN 46038</i>		B. Received by (Printed Name) <i>Deborah Taylor</i> C. Date of Delivery <i>8-2-12</i>	
2. Article Number (Transfer from s)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
PS Form 3811, February 2004		Domestic Return Receipt	
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