



- 3) The Plaintiff William H. Kraus is an adult natural person who is a resident and citizen of Nashville and Davidson County in the Middle District of Tennessee.
- 4) The Defendant City of Oak Hill is a municipal corporation organized pursuant to the laws of the State of Tennessee and having its principal place of business in the Middle District of Tennessee.
- 5) The Defendant Thomas C. (Tommy) Alsup, II, is sued in his individual capacity. This Defendant is a resident and citizen of the Middle District of Tennessee and, at all times relevant to this Complaint, has held office as a member of the Board of Commissioners and as Mayor of the City of Oak Hill.
- 6) The Defendant Austin McMullen is sued in his individual capacity. This Defendant is a resident and citizen of the Middle District of Tennessee and since June 2008 has held office as a member of the Board of Commissioners and as Vice-Mayor of the City of Oak Hill.
- 7) The Defendant Robert J. Notestine, III, is sued in his individual capacity. This Defendant is a resident and citizen of the Middle District of Tennessee and, at all times relevant to this Complaint, has been an attorney licensed to practice by the State of Tennessee and has held office as a City Attorney for the City of Oak Hill.
- 8) Venue of this action is proper under 28 U.S.C. § 1391(b)(3), the actions and omissions complained of having occurred in this judicial district.
- 9) As to the events complained of herein, each Defendant acted under color of Tennessee law.

## II. Facts:

- 10) The City of Oak Hill was incorporated in 1952. Since the consolidation of the governments of the former City of Nashville and Davidson County in 1963, Oak Hill has been one of six "satellite cities" that retained many of their governmental functions while consolidating other services into the then-newly formed Metropolitan Government of Nashville and Davidson County.
- 11) Since incorporation Oak Hill has operated under the City Manager-Commission form of government. The municipal charter for Tennessee cities under this form of government is codified in Title 6 of Tennessee Code Annotated, Chapters 18 through 22.<sup>1</sup>
- 12) The appointment and removal of the city manager is authorized by Tenn. Code Ann. § 6-21-101.<sup>2</sup> The city manager serves as "the administrative head of the municipal government under the direction and supervision of the board of commissioners", Tenn. Code Ann. § 6-21-107(a), and the powers and duties of the city manager are

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<sup>1</sup>The former Chapter 23 of this title was repealed in 1988.

<sup>2</sup>**§ 6-21-101. Appointment and removal of city manager.** – (a) The board of commissioners shall appoint and fix the salary of the city manager, who shall serve at the will of the board.

(b)(1) The city manager may not be removed within twelve (12) months from the date on which the city manager assumed the duties of the city manager, except for incompetence, malfeasance, misfeasance, or neglect of duty.

(2) In case of the city manager's removal within that period, the city manager may demand written charges and a public hearing thereon before the board prior to the date on which final removal shall take effect. The decision and action of the board on such hearing shall be final, and pending such hearing, the board may suspend the city manager from duty. [Acts 1921, ch. 173, art. 7, § 1; Shan. Supp., § 1997a157; Code 1932, § 3554; modified; T.C.A. (orig. ed.), § 6-2101.]

listed at Tenn. Code Ann. § 6-21-108.<sup>3</sup>

- 13) The Plaintiff was employed by vote of the Board of Commissioners of the City of Oak Hill as City Manager in 2003. He held that position continuously until occurrence

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<sup>3</sup>§ 6-21-108. **Powers and duties of manager.** – The powers and duties of the city manager are to:

(1) See that the laws and ordinances are enforced, and upon knowledge or information of any violation thereof, see that prosecutions are instituted in the city court;

(2) Except as otherwise provided in this charter, appoint, promote, demote, suspend, transfer, remove, and otherwise discipline all department heads and subordinate employees at any time, subject only to any personnel rules and regulations adopted by ordinance or resolution by the commission. Any hearings on, or appeals from, the city manager's personnel decisions provided for in the personnel rules and regulations shall be exclusively before the city manager or a hearing officer designated by the city manager;

(3) Supervise and control the work of the recorder, the chief of police, the city attorney, treasurer, and all other officers, and of all departments and divisions created by this charter or that hereafter may be created by the board of commissioners;

(4) See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility or franchise are faithfully done, kept and performed, and, upon knowledge or information of any violation thereof, call the same to the attention of the city attorney, who is hereby required to take such steps as are necessary to enforce the same;

(5) Attend all meetings of the board, with the right to take part in the discussion, but not to vote;

(6) Recommend to the board for adoption such measures as the city manager deems necessary or expedient;

(7) Act as budget commissioner and keep the board fully advised as to the financial condition and need of the city;

(8) Act as purchasing agent for the city and purchase all material, supplies and equipment for the proper conduct of the city's business as provided in § 6-19-104;

(9) Execute contracts on behalf of the city when this authority is delegated to the city manager by ordinance; and

(10) Perform such other duties as may be prescribed by this charter or required of the city manager by resolution or ordinance of the board. [Acts 1921, ch. 173, art. 8, § 2; Shan. Supp., § 1997a163; Code 1932, § 3560; T.C.A. (orig. ed.), § 6-2108; Acts 1989, ch. 175, § 12; 1995, ch. 13, § 11, 1999, ch. 270, § 2.]

of the events described hereinbelow.

- 14) The Defendant Alsup has served in elective office on the Board of Commissioners for the City of Oak Hill since 2002. During Mr. Alsup's tenure as a Commissioner and Mayor, municipal politics in Oak Hill has devolved into competing, non-ideological factions as a result of rivalry between Mr. Alsup and another member of the Board of Commissioners, Raymond T. (Chip) Throckmorton, III, both of whom are or have been affiliated with the Republican Party in Nashville and Davidson County.<sup>4</sup>
- 15) An election for one of the three seats on the Oak Hill Board of Commissioners was held on June 10, 2008. The incumbent commissioner whose term was expiring, Tommy Jacobs, was not aligned with either faction. Mr. Jacobs was opposed by the Defendant McMullen.
- 16) During the course of the 2008 election, the Plaintiff contributed two hundred dollars (\$200) to the re-election campaign of Mr. Jacobs, and the Plaintiff sent out postcards bearing Mr. Jacobs' name and campaign logo to various Oak Hill residents, encouraging them to vote in the municipal election.
- 17) Mr. McMullen defeated Mr. Jacobs in the June 10, 2008 election.
- 18) On or about June 16, 2008 the Defendant Alsup verbally summoned the Plaintiff to meet with him at Mr. Alsup's home. This meeting occurred on or about June 17, 2008, with the Plaintiff, the Defendant Alsup and the Defendant Notestine in attendance.
- 19) At this meeting, the Defendants Alsup and Notestine presented the Plaintiff with a

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<sup>4</sup>Municipal elections in the City of Oak Hill are conducted on a non-partisan basis.

memorandum prepared by an outside attorney (copy attached), which memorandum advised that the Plaintiff's political activity on behalf of Mr. Jacobs violated Tenn. Code Ann. § 6-21-106,<sup>5</sup> one of the state statutes which comprise the municipal charter of Tennessee cities which operate under the City Manager-Commission form of government.

- 20) This memorandum discussed the import of § 6-21-106, and the critical portion of the memorandum stated, "... based on Dr. Kraus's knowing violation(s) of Tennessee law, the Board of Commissioners is required to remove Dr. Kraus from his position as City Manager, effective immediately." This memorandum did not discuss any other statute regarding political campaign activities by a municipal employee.
- 21) During the course of this meeting, the Defendant Alsup told the Plaintiff in substance that he had three choices: retire, resign or be terminated from his position as city manager.
- 22) The Defendant Notestine at this meeting expressly concurred in the position taken by the Defendant Alsup that the Plaintiff's only options were to retire, resign or be

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<sup>5</sup>Tenn. Code Ann. § 6-21-106, which was enacted in 1921, states:

**§ 6-21-106. Political activities of officers and employees – Penalties.** – (a) Neither the city manager, recorder, city judge, chief of police nor any person in the employ of the city, under any of such officers, shall take any active part in or contribute any money toward the nomination or election of any candidate for election to the board of commissioners, except to answer such questions as may be put to them and as they may desire to answer.

(b) A violation of this section shall subject the offenders to removal from office or employment, and to punishment by fine of not more than fifty dollars (\$50.00) for each offense. [Acts 1921, ch. 173, art. 22, § 3; Shan. Supp., § 1997a246; 1932 Code, § 3644; § 6-2106.]

terminated. Mr. Notestine stated in substance that Tenn. Code Ann. § 6-21-106(b) mandated the Plaintiff's separation from employment.

- 23) In accordance with this directive or ultimatum from the Defendants Alsup and Notestine—and for no other reason--the Plaintiff prepared a handwritten, unsigned draft of a letter stating in part, "It is with great sadness that I am taking this opportunity to submit my notice of desire to retire as city manager of the City of Oak Hill effective August 1, 2008."
- 24) The Plaintiff on June 17, 2008 placed this handwritten, unsigned draft letter in the in basket on the desk of his assistant, M. C. Sparks, intending that the letter be typed and returned to him for submission to the Oak Hill Board of Commissioners at the June 19, 2008 meeting of the Board of Commissioners.
- 25) The Plaintiff never signed this draft letter and never delivered this draft letter to any person other than Ms. Sparks.
- 26) The Oak Hill Board of Commissioners met on June 19, 2008. The employment status of the Plaintiff was not an agenda item, and the Board took no formal action regarding Mr. Kraus's retirement, resignation or continued employment. In fact, the Oak Hill Board of Commissioners has never voted to terminate the Plaintiff's employment as city manager, nor to accept his purported resignation or retirement, and the Board of Commissioners did not hire a replacement city manager until January of 2009.
- 27) On or before June 20, 2008 the Plaintiff prepared and mailed or hand-delivered a letter to the Defendants Alsup and McMullen and to Commissioner Throckmorton, withdrawing his earlier statement of intention to retire as city manager.

- 28) At about 9:00 a.m. on June 20, 2008 the Plaintiff hand delivered this letter to the Defendant Alsup. Mr. Alsup took the letter, read it, became very angry, and stormed out of the room, slamming the door behind him.
- 29) Later that day the Defendant Alsup caused other employees of the City of Oak Hill to advise the Plaintiff that he had two hours to remove all of his items and belongings from the Oak Hill City Hall.
- 30) The Plaintiff requested of the Board of Commissioners that the withdrawal of his notice of intent to retire as city manager be placed on the agenda of the Board of Commissioner. This request was denied.
- 31) The Plaintiff's salary and benefits as city manager were discontinued as of June 30, 2008.
- 32) The Plaintiff avers on information and belief, pursuant to Rule 11(b)(3) of the Federal Rules of Civil Procedure, that the Defendant McMullen approved or acquiesced in the *de facto* termination of the Plaintiff as city manager, and the Plaintiff avers on information and belief that this contention will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.
- 33) The Plaintiff avers that, to the extent that the Defendants purported to rely upon the municipal charter provision codified at Tenn. Code Ann. § 6-21-106 regarding the Plaintiff's separation from employment, such provision constitutes a policy of the City of Oak Hill for purposes of municipal liability under *Monell v. New York City Department of Social Service*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978), such that the Defendant municipality is liable to the Plaintiff for the actions of the

individual Defendants taken or purportedly pursuant thereto.

- 34) As a matter of Tennessee law, however, the municipal charter provision codified at Tenn. Code Ann. § 6-21-106 was and is inapposite and inapplicable to the Plaintiff's eligibility to continue in his employment as city manager.
- 35) The municipal charter provision codified at Tenn. Code Ann. § 6-21-106 in this case has been superseded by Tenn. Code Ann. § 7-51-1501, which was enacted by the Tennessee General Assembly in 1996. This statute states:

**§ 7-51-1501. Rights guaranteed to local government employees.** – *Notwithstanding the provisions of any county, municipal, metropolitan, or other local governmental charter to the contrary, [italics added,] and notwithstanding the provisions of any resolution or ordinance adopted by any such county, municipality or other local governmental unit to the contrary, every employee of every such local governmental unit shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities; provided, further, the city, county, municipal, metropolitan or other local government is not required to pay the employee's salary for work not performed for the governmental entity; and provided, further, that unless otherwise authorized by law or local ordinance, an employee of a municipal government or of a metropolitan government shall not be qualified to run for elected office in the local governing body of such local governmental unit in which the employee is employed. [Acts 1996, ch. 678, § 1.]*

- 36) The Plaintiff's financial contribution to the re-election campaign of Tommy Jacobs and his mailing of postcards in support of the re-election of Mr. Jacobs to the Board of Commissioners is core political speech or expression on a matter of public concern, which is fully protected by the First Amendment to the United States Constitution, the guaranties of which are made applicable to the states by the

Fourteenth Amendment to the United States Constitution.

- 37) The Plaintiff avers that the facts and circumstances surrounding his separation from employment as city manager in substance amount to a forced resignation or *de facto* termination.
- 38) The Plaintiff avers that his *de facto* termination was motivated by and served as unconstitutional retaliation on the part of the Defendants for the Plaintiff's political support of the re-election of Mr. Jacobs to the Board of Commissioners.
- 39) After the Plaintiff's *de facto* termination from employment by the Defendant Alsup, the Defendants Alsup and McMullen embarked on a public relations campaign designed and intended to denigrate the Plaintiff and to impugn the Plaintiff's personal and professional reputation.
- 40) This endeavor by the Defendants Alsup and McMullen included falsely accusing the Plaintiff of criminal conduct in retaliation or as punishment for his political speech and expression. Such retaliatory conduct by governmental officials violates the First Amendment to the United States Constitution. *See, Barrett v. Harrington*, 130 F.3d 246 (6<sup>th</sup> Cir. 1997), *cert. denied*, 523 U.S. 1075, 118 S.Ct. 1517, 140 L.Ed.2d 670 (1998).
- 41) The Defendant Alsup was reported in the June 26, 2008 edition of the *Green Hills News*, a local newspaper, to have said that the Plaintiff had violated a state law by openly supporting former Vice Mayor Tommy Jacobs in the commissioners election that Mr. Jacobs lost to Mr. McMullen on June 10. The Plaintiff avers on information and belief that the Defendant Alsup in fact made a statement to this effect.
- 42) An online weblog captioned "The Oak Hill Gazette", in an entry dated July 18, 2008,

bearing the readily identifiable photograph of Mr. McMullen, headlined "Oak Hill Vice Mayor McMullen Speaks about Chaos at Oak Hill City Hall", includes the following gratuitous comments, apparently in reference to or in the context of a meeting of the Oak Hill Board of Commissioners on July 17, 2008:

During the meeting, the Board of Commissioners answered questions raised by citizens concerning the status of former city manager Bill Kraus. Every person who wanted to speak was given that opportunity, and two members of the Board of Commissioners stayed to answer citizens' questions until they had all been asked.

Kraus also had an opportunity to address the Board of Commissioners and those present for the meeting. Unfortunately, Kraus chose to make several false statements or claims that were inconsistent with his previous statements.

Kraus, who retired from the position of city manager last month, asserted that he was "forced" to retire based on what he claims is an incorrect interpretation of the law. Yet Kraus, in his letter dated June 21, wrote that he consulted with "five well-known and renowned attorneys" who he says told him that the law he violated did not require his termination. Despite this advice, he chose to retire. A person who consults with five attorneys before acting can hardly claim that he was "forced" to do anything.

There is no question whatsoever that Kraus violated Tennessee law when he openly campaigned for and contributed monetarily to the efforts of a candidate for the Board of Commissioners in last month's election. In tonight's meeting, Kraus claimed that the postcards he wrote for a candidate "specifically said" that they were "not an endorsement." You can read the postcards and decide for yourself: <http://www.oakhilltn.us/clarification.html>. I don't see anything there "specifically" saying that Kraus' signature is "not an endorsement."

Although Kraus' conduct in violation of Tennessee law raises concerns — especially in light of Kraus' previous felony conviction — it probably does not matter in the end because Kraus retired from the position of city manager. Several questions were asked about Kraus' resignation and whether it had to be accepted by the Board in order to be effective. My understanding is that

Tennessee is an "at-will" employment state. This means that a person can terminate his employment "at-will" and without any acceptance by the employer of the employee's decision to quit.

Commissioner Throckmorton falsely claimed that I campaigned on a promise to get rid of Kraus. I walked throughout Oak Hill during the campaign and talked to hundreds of residents. My position on Kraus was always the same — his undisclosed felony conviction raised concerns for me, but I was keeping an open mind because I felt he had done a number of good things for our residents. The fact that the City of Oak Hill would hire a city manager without conducting any background check or even requiring the completion of a job application — all while Commissioner Throckmorton held the position of Mayor — was a serious concern to me, one that I expressed on the campaign trail. The more recent revelation of Kraus' additional violations of Tennessee law raised even more concerns for me, but Kraus ultimately decided to retire. It is noteworthy that during the citizen comment portion of the agenda — long before the end of the meeting — Commissioner Throckmorton walked out of tonight's meeting without any explanation.

It's unfortunate that Kraus chose a course of conduct that violated the law, but the City of Oak Hill is moving forward with important projects that will benefit our residents. If you have any questions that were not answered at tonight's meeting, please feel free to contact me.

- 43) The Defendant McMullen's above-quoted screed still remains available online at <http://oakhillgazette.blogspot.com/2008/07/oak-hill-vice-mayor-mcmullen-speaks.html>
- 44) The above statements by the Defendants Alsup and/or McMullen falsely accuse the Plaintiff of dishonesty and falsely accuse him of having violated Tennessee law. The Plaintiff specifically and vehemently denies having violated applicable Tennessee laws in regard to political campaign activity and contributions.
- 45) The Plaintiff avers that the Defendants Alsup and McMullen acted under color of law in falsely accusing the Plaintiff of criminal conduct in retaliation for his political

speech or expression.

- 46) The Plaintiff acknowledges that he is a public figure for purposes of the law of defamation in Tennessee. *See, e.g., Tomlinson v. Kelley*, 969 S.W.2d 402, 405 n.2 (Tenn.App. 1997). The Plaintiff avers that the Defendants Alsup and McMullen made the false statements identified above with actual malice--knowledge of the falsity of the statements or reckless disregard for the truth of falsity thereof.
- 47) Pursuant to Tenn. Code Ann. § 6-2-202(a)(4), the Defendant Notestine, as city attorney, was charged by statute to “[a]dvice the board and committees, or members thereof, *the city manager*, and the heads of all departments and divisions, as to all legal questions affecting the city’s interest . . .” [Italics added]
- 48) The Plaintiff avers that, on at least two occasions prior to making his financial contribution to and public expression of support for Commissioner Jacobs’ campaign for re-election, the Plaintiff sought advice from the Defendant Notestine as to whether such actions were or were not legally permissible for a city manager to undertake.
- 49) In response to these inquiries, the Defendant Notestine advised the Plaintiff that, to his knowledge, there was no state law prohibiting political contributions by a city manger to a candidate for office, and Mr. Notestine further advised that, to his knowledge, there was no state law prohibiting the kind of political participation in an election campaign that the Plaintiff had inquired about.
- 50) During the Plaintiff’s June meeting with the Defendants Alsup and Notestine at which these Defendants demanded the Plaintiff’s separation from his employment, ostensibly based upon the municipal charter provision codified at Tenn. Code Ann.

§ 6-21-106, the Plaintiff reminded the Defendant Notestine of the advice that Mr. Notestine had previously given.

- 51) The Defendant Notestine replied to the Plaintiff's reminder, indicating, "I didn't know the law at the time."
- 52) The Plaintiff avers that, even though the municipal charter provision codified at Tenn. Code Ann. § 6-21-106 has been superseded by a more recently enacted statute, the failure of the Defendant Notestine to advise the Plaintiff of the existence of the potentially troublesome charter provision (§ 6-21-106) in response to the Plaintiff's inquiry fell below the standard of care for municipal attorneys in the State of Tennessee.
- 53) The Plaintiff avers that, had the Defendant Notestine advised him that a financial contribution to and/or an expression of support for Mr. Jacobs' re-election effort would potentially or arguably have posed a problem under the municipal charter provision codified at Tenn. Code Ann. § 6-21-106, the Plaintiff would not have made such financial contribution or expression of political support.
- 54) The Plaintiff first became aware of any potential problem with the municipal charter provision codified at Tenn. Code Ann. § 6-21-106 when he met with the Defendants Alsup and Notestine during June of 2008.
- 55) As a result of the Defendants' actions and omissions, the Plaintiff has sustained lost wages and salary from his *de facto* termination as city manager.
- 56) As a result of the Defendants' actions and omissions, the Plaintiff has incurred expenses for legal costs and attorney fees.
- 57) As a result of the Defendants' actions and omissions, the Plaintiff has sustained

- mental and emotional distress and loss of enjoyment of life.
- 58) As a result of the Defendants' actions and omissions, the Plaintiff has suffered humiliation and loss of reputation and standing in his community and in his business or profession.
- 59) The Plaintiff avers that the conduct of the natural person Defendants was motivated by evil motive or intent. The Defendants' conduct involves reckless or callous indifference to the federally protected rights of the Plaintiff. The Plaintiff accordingly seeks an award of punitive or exemplary damages against all natural person Defendants.

**A. First cause of action—patronage dismissal  
in violation of First Amendment rights  
(Defendants City of Oak Hill, Alsup, McMullen and Notestine):**

- 60) The Plaintiff reiterates the factual allegations of ¶¶1 through 58, with the same force and effect as if set forth particularly.
- 61) The Plaintiff avers that the individual Defendants Alsup, McMullen and Notestine are liable to the Plaintiff for compensatory and punitive damages for abridgement of the Plaintiff's First Amendment rights arising from their participation in the *de facto* termination of the Plaintiff from his position as city manager because of his political support of a defeated candidate.
- 62) The Plaintiff avers that the actions of the individual Defendants Alsup, McMullen and Notestine were undertaken pursuant to a policy of the Defendant municipality, such that the City of oak Hill is liable to the Plaintiff for compensatory damages.

- 63) Political affiliation is not an appropriate requirement for the effective performance of the duties of a city manager in Tennessee municipalities organized according to the City Manager-Commission form of municipal government.<sup>6</sup>

**B. Second cause of action—unconstitutional retaliation  
for Plaintiff's exercise of First Amendment rights  
(Defendants Alsup and McMullen):**

- 64) The Plaintiff reiterates the factual allegations of ¶¶1 through 58, with the same force and effect as if set forth particularly.
- 65) The Plaintiff avers that the individual Defendants Alsup and McMullen are liable to the Plaintiff for compensatory and punitive damages for publicly and falsely accusing him of unlawful conduct, subsequent to his *de facto* termination from employment as city manager, in unconstitutional retaliation for his exercise of federal First Amendment rights.

**C. Third cause of action—breach of contract  
(Defendant City of Oak Hill):**

- 66) The Plaintiff reiterates the factual allegations of ¶¶1 through 58, with the same force and effect as if set forth particularly.
- 67) The Plaintiff served as an at-will employee of the Board of Commissioners of the City

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<sup>6</sup>Tenn. Code Ann. § 6-21-107(a) expressly provides in relevant part that “[t]he city manager shall be appointed without regard to the city manager’s political beliefs . . .” Tennessee law further confers civil service protection upon the city manager for the first twelve (12) months of a city manager’s tenure. *See*, Tenn.Code Ann. § 6-21-101(b).

of Oak Hill, according to Tenn. Code Ann. § 6-21-101(a).

- 68) The Board of Commissioners of the City of Oak Hill never expressly terminated the Plaintiff from his employment as city manager, although the Plaintiff received no salary or benefits in that capacity after June 30, 2008.
- 69) The Board of Commissioners of the City of Oak Hill did not appoint a replacement for the Plaintiff as city manager until during the month of January of 2009.
- 70) The Plaintiff avers that, by refusing to pay salary and confer benefits upon the Plaintiff between July 1, 2008 and the hiring of a replacement city manager, the Defendant City of Oak Hill breached its contractual obligations to the Plaintiff and that the Defendant municipality is liable in damages for such breach.

**D. Fourth cause of action—libel  
(Defendants Alsup and McMullen):**

- 71) The Plaintiff reiterates the factual allegations of ¶¶1 through 58, with the same force and effect as if set forth particularly.
- 72) The Plaintiff avers that the Defendant Alsup is liable to the Plaintiff for compensatory and punitive damages for the false and defamatory statements attributed to him in the June 26, 2008 edition of the *Green Hills News*.
- 73) The Plaintiff avers that the Defendant McMullen is liable to the Plaintiff for compensatory and punitive damages for the false and defamatory statements written

by him and published online in the Oak Hill Gazette at <http://oakhillgazette.blogspot.com/2008/07/oak-hill-vice-mayor-mcmullen-speaks.html>

**E. Fifth cause of action—attorney malpractice  
(Defendant Notestine):**

- 74) The Plaintiff reiterates the factual allegations of ¶¶1 through 58, with the same force and effect as if set forth particularly.
- 75) The Plaintiff avers that the Defendant Notestine is liable to the Plaintiff for compensatory damages for attorney malpractice.

**III. Demand for relief:**

THE FOREGOING PREMISES CONSIDERED, the Plaintiff respectfully requests the following relief:

- a) That process issue and each of the Defendants be summoned to answer the averments of this Complaint.
- b) That he have judgment against the Defendants.
- c) That he be awarded compensatory damages against all Defendants in an amount appropriate according to the proof in this action.
- d) That he be awarded punitive or exemplary damages against all natural person Defendants in an amount appropriate according to the proof in this action.
- e) That the costs of this action, including reasonable attorney fees under 42 United