

**IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

**JOSEPH MICHAEL ARPAIO, an individual
Fountain Hills, Arizona**

Plaintiff,

v.

**MARCELO EBRARD CASAUBON, an individual
Mexico City, The Republic of Mexico**

COMPLAINT

Plaintiff Joseph Michael Arpaio (“Plaintiff Arpaio”) hereby files this Complaint against Marcelo Ebrard Casaubon (“Defendant Ebrard”) for defamation per se, defamation, defamation by implication, intentional infliction of emotional distress and civil assault under Florida law.

JURISDICTION AND VENUE

1. This action is for defamation per se, defamation and defamation by implication for damages in excess of \$7,000,000.
2. Jurisdiction and venue lie in this judicial circuit as the acts and practices occurred in substantial part in this judicial circuit and Defendant Ebrard has minimum contacts in this judicial circuit.

THE PARTIES

3. Plaintiff Arpaio is an individual, natural person who is a citizen of the state of Arizona.
4. Defendant Ebrard is an individual, natural person who is a citizen of Mexico City, the Republic of Mexico.

STANDING

5. Plaintiff Arpaio has standing to bring this action because he has been directly affected by the unlawful conduct complained herein. His injuries are proximately related to the conduct of Defendant Ebrard in his individual capacity.

THE FACTS

6. Plaintiff Arpaio is a long-time, accomplished and distinguished member of the law enforcement community who served as a Washington, D.C. and Las Vegas, Nevada police officer following his honorable army discharge in 1953.

7. In November of 1957, Plaintiff Arpaio was appointed as a special agent with the Federal Bureau of Narcotics, which later became part of the U.S. Drug Enforcement Administration (“DEA”), which is headquartered in Washington, D.C.

8. Plaintiff Arpaio lived in Mexico for many years, where he served as a Regional Director for the DEA and diplomatic attaché and was even recognized in the history of the U.S. Senate after he “praised the hard work of Mexican judges and public security elements in their fight against drug trafficking,” according to the parliamentary session of June 1, 1970.

9. Plaintiff Arpaio served thirty-four (34) years as a top law enforcement official in Mexico and the U.S.-Mexican border area. When serving as the Regional Director for the DEA, while living in Mexico, Plaintiff Arpaio had numerous meetings with presidents and top officials, and he earned many awards by the U.S. and Mexican governments for his service.

10. Plaintiff Arpaio championed the cause to stop the illegal drug trade, illegal immigration and crime coming across the U.S. border. He fought the illegal drug trafficking and immigration problems on *both* sides of the border and received many threats from drug cartels.

11. Indeed, in 1989, Plaintiff Arpaio testified in Washington, D.C. before then-Senator, Joe Biden, when he was Chairman of the Judiciary Committee. Then-senator Joe Biden praised Plaintiff Arpaio for his achievements fighting the drug trafficking in foreign countries, including Mexico.

12. Following his career with the DEA, Plaintiff Arpaio was elected Sheriff of Maricopa County, Arizona in 1993. He held that position for almost twenty-five (25) years or until January 1, 2017.

13. Despite Plaintiff Arpaio's war on crime in Mexico, on October 5, 2022, Defendant Ebrard publicly accused and published in this circuit and Florida, nationally and internationally that Plaintiff Arpaio had promoted and was advocating the murder of migrants and of gun smuggling. Defendant Ebrard made the comments regarding the filing of a lawsuit by Mexico against American firearm companies.

14. Defendant Ebrard published with actual malice that Plaintiff Arpaio "*promueve el asesinato de migrantes.*"

15. Defendant Ebrard published with actual malice [translated in English] that in "*the famous county of Maricopa, Mr. [Joseph] Arpaio, who promotes the murder of migrants. That is, from our point of view, a criminal sir, 1,482 weapons have been sold that we have secured in Mexico, only in that county.*"

16. The comments were widely reported in the Spanish and other media the following day both in Florida in this judicial circuit, Florida, nationally and internationally.

17. On October 13, 2022, just eight (8) days after Defendant Ebrard maliciously defamed Plaintiff Arpaio, National Security Advisor Jake Sullivan met with Defendant Ebrard at

the White House. The purpose of the meeting was to discuss disrupting transnational criminal organizations responsible for human smuggling, and trafficking drugs and firearms.

18. On October 19, 2022, then counsel for Plaintiff Arpaio, John “Jack” D. Wilenchik, wrote a letter to Defendant Ebrard demanding an apology and informing him that Plaintiff Arpaio offered to travel to Mexico city to meet with him and in person.

19. On October 27, 2022, Plaintiff Arpaio contacted the U.S. Ambassador to Mexico, Ken Salazar, asking him to intercede on his behalf and ask Defendant Ebrard to issue an apology in writing, retracting the remarks made accusing him of promoting murder and of gun trafficking. The Ambassador never contacted Plaintiff Arpaio or his team regarding the request for help.

20. Plaintiff Arpaio also contacted U.S. Senator Kyrsten Sinema from Arizona after she switched from being a Democrat to being independent to refute the defamatory remarks from Defendant Ebrard or to help facilitate an apology from him. Plaintiff Arpaio never heard anything from the Senator or her office.

21. Plaintiff Arpaio also contacted Arizona State Senator Wendy Rogers, serving as a member of the Arizona State Senate from the 7th Legislative District, to help facilitate an apology from Defendant Ebrard. She responded that she was too busy in her involvement with the voter fraud investigation.

22. Plaintiff Arpaio contacted Congressman Andy Biggs, who represents Arizona’s 5th congressional district in the U.S. House of Representatives, and he took action on behalf of Plaintiff Arpaio.

23. On February 3, 2023, Congressman Andy Biggs wrote a letter to National Security Advisory Jake Sullivan, advising him that his meeting with Defendant Ebrard took

place after Defendant Ebrard addressed the Senate of Mexico accusing Plaintiff Arpaio of “*promote[ing] the murder of migrants*” and that he was a “*criminal man.*” Congressman Biggs also informed Sullivan that Defendant Ebrard alleged that Plaintiff Arpaio had participated in the trafficking of “*1,482 weapons [that] have been sold that [the Mexican government] have secured in Mexico*” from Maricopa county.

24. Congressman Biggs advised Sullivan in the same February 3, 2023 letter that these malicious allegations were patently false and as a National Security Advisor, he was in a unique position to be aware of these false remarks and he had a duty to refute them in his meeting with Defendant Ebrard.

25. Congressman Biggs also advised Sullivan in the same February 3, 2023 letter that he failed to present Defendant Ebrard with the fact that it was the U.S. Department of Justice under President Barack Obama – to whom Joe Biden served as Vice President – who was proven to have illegally smuggled thousands of weapons across the southern border under Operation Fast and Furious, resulting in the death of U.S. Border Patrol Agent Brian Terry in 2010.

26. Fifteen (15) Spanish news media outlets have covered Defendant Ebrard’s false and defamatory remarks where Plaintiff Arpaio was accused of promoting murder and of gun smuggling. This places Plaintiff Arpaio in serious danger since the majority of migrants crossing the border does not speak English and is watching Spanish news media. It is reasonable to assume that these migrants will actually believe their own Spanish news media that Plaintiff Arpaio promotes murder, gun smuggling and even other serious crimes.

27. In June of 2023, Defendant Ebrard resigned from his post to run for President of Mexico in 2024.

28. Defendant Ebrard in essence called on persons to severely harm, injure and/or kill Plaintiff Arpaio, who is ninety-one (91) years old and thus intentionally placed Plaintiff Arpaio in imminent fear of serious body injury and/or death.

29. An apology was critical here because beyond the increased threats Plaintiff Arpaio have faced, are the border implications for Mexico's and the United States' political system.

30. Plaintiff Arpaio has received death and other threats since Defendant Ebrard's malicious and defamatory statements.

31. As one example, on November 24, 2022, after Defendant Ebrard's malicious and defamatory statements, an anonymous caller left several voice messages advocating for the suffering and death of Plaintiff Arpaio and his political supporters. The calls were made right after the Fountain Hills, Arizona Thanksgiving Day parade, just over a month after Defendant Ebrard publicly and maliciously accused Plaintiff Arpaio of promoting the murder of migrants and of gun smuggling.

32. Defendant Ebrard was not authorized by any governmental authority in Mexico or elsewhere to defame, intentionally inflict emotional distress, and civilly assault Plaintiff Arpaio, as pled herein, but instead did so in his individual capacity.

CAUSES OF ACTION

First Cause of Action *Defamation*

33. Plaintiff Arpaio repeats and re-alleges all of the previous allegations of the entirety of this Complaint with the same force and effect, as if full set forth herein again at length.

34. Defendant Ebrard published malicious, false, misleading and defamatory statements of and concerning Plaintiff Arpaio in this judicial circuit, nationwide and worldwide.

35. These defamatory statements were published, opened, read and viewed by third parties in this judicial circuit.

36. Defendant Ebrard made the false statements of fact of and concerning Plaintiff Arpaio when he published that Plaintiff Arpaio promotes the murder of migrants, is a criminal and a gun smuggler.

37. Defendant Ebrard published these false and misleading statements with actual malice, as he knew or had reason to know that they were false and misleading, or at a minimum acted with a reckless disregard for the truth, particularly given Plaintiff Arpaio's prior awards and accolades from the Mexican and U.S. governments.

38. Plaintiff Arpaio has been severely harmed and damaged by these false and misleading statements because they have subjected him to hatred, distrust, ridicule, contempt and disgrace.

39. Plaintiff Arpaio has been damaged by these false and misleading statements because they severely injured him in his profession and businesses, as well as severely injured and damaged him personally, financially, and politically, since he may run for Fountain Hills, Arizona Mayor in 2024, and in terms of his good will and reputation.

Second Cause of Action
Defamation Per Se

40. Plaintiff Arpaio repeats and re-alleges all of the previous allegations of the entirety of this Complaint with the same force and effect, as if fully set forth herein again at length.

41. Defendant Ebrard published false, misleading and defamatory statements to severely harm and damage Plaintiff Arpaio, which published false statements evidence characteristics or a condition incompatible with the proper exercise of his lawful business, trade, profession or office, as well as personally.

42. These defamatory statements were published, opened, read and viewed by third parties in this judicial circuit.

43. Defendant Ebrard published the false statements of fact of and concerning Plaintiff Arpaio when he publically represented that Plaintiff Arpaio promotes the murder of migrants, is a criminal and a gun smuggler.

44. These false, misleading and defamatory statements were published in this judicial circuit and elsewhere, domestically and internationally for the entire world to hear and in so doing, Defendant Ebrard published false and misleading facts that Plaintiff Arpaio's conduct, characteristics or a condition are incompatible with the proper exercise of his lawful business, trade, profession or office, as well as personally.

45. These false and misleading statements were published with actual malice, as Defendant Ebrard knew that his statements were false and misleading and/or at a minimum acted with a reckless disregard for the truth, particularly given Plaintiff Arpaio's prior awards and accolades from the Mexican and U.S. governments.

46. A statement is defamatory per se "if, when considered alone without innuendo: (1) it charges that a person has committed an infamous crime; (2) it charges a person with having an infectious disease or moral turpitude; (3) it tends to subject one to hatred, distrust, ridicule, contempt, or disgrace; or (4) it tends to injure one in his trade or profession." *Richard v. Gray*, 62 So.2d 597, 598 (Fla. 1953).

47. Defamation per se gives rise to the presumption that severe harm and damage have arisen by virtue of the malicious, false and misleading statements.

48. When a statement is defamatory per se, damages are presumed. *Matthews v. Deland State Bank*, 334 So.2d 164, 166 (Fla. Dist. Ct. App. 1976).

49. These malicious, false, misleading and defamatory statements are defamatory per se and these false and misleading statements severely damaged Plaintiff Arpaio in his profession as a former Sheriff, Regional Director for the DEA, mayoral candidate, and general expert on border control. Plaintiff Arpaio's reputation and good will were damaged as was his financial well-being and ability to earn a living for himself and his family.

Third Cause of Action
Defamation by Implication

50. Plaintiff Arpaio repeats and re-alleges all of the previous allegations of the entirety of this Complaint with the same force and effect, as if fully set forth herein again at length.

51. Defendant Ebrard published malicious, false, misleading and defamatory statements of and concerning Plaintiff Arpaio in this judicial circuit, nationwide and worldwide.

52. These defamatory statements were published, opened, read and viewed by third parties in this judicial circuit.

53. Defendant Ebrard made the false statements of fact of and concerning Plaintiff Arpaio when he represented that Plaintiff Arpaio promotes the murder of migrants, is a criminal and a gun smuggler.

54. These false and misleading statements were published with actual malice, as Defendant Ebrard knew that his statements were false and misleading and/or at a minimum acted

with a reckless disregard for the truth, particularly given Plaintiff Arpaio's prior awards and accolades from the Mexican and U.S. governments.

55. Defamation by Implication is recognized under Florida law. “. . . it also works in reverse, to impose liability upon the defendant who has the details right but the ‘gist’ wrong.” Simply put, “if the defendant juxtaposes a series of facts so as to imply a defamatory connection between them, or creates a defamatory implication by omitting facts, he may be held responsible for the defamatory implication, unless it qualifies as an opinion, even though the particular facts are correct. *Jews for Jesus, Inc. v. Rapp*, 997 So.2d 1098, 1108 (Fla. 2008).

56. Defendant Ebrard published false and misleading statements of fact of and concerning Plaintiff Arpaio. He did not publish an opinion and the published statements held Plaintiff Arpaio out to extreme ridicule and contempt by persons in this judicial circuit, Florida, nationally and internationally who read or heard the published statements.

57. These malicious, false, misleading and defamatory statements severely harmed and damaged Plaintiff Arpaio in his profession and personally. Plaintiff Arpaio's reputation and good will were damaged as was his financial well-being to earn a living for himself and his family.

Fourth Cause of Action
Intentional Infliction of Emotional Distress

58. Plaintiff Arpaio repeats and re-alleges all of the previous allegations of the entirety of this Complaint with the same force and effect, as if fully set forth herein again at length.

59. Defendant Ebrard engaged in extreme and outrageous conduct by publicly and maliciously defaming Plaintiff Arpaio by accusing him of promoting the murder of migrants and of gun smuggling.

60. Defendant Ebrard knowingly and intentionally published false and defamatory statements of and concerning Plaintiff Arpaio and knew or had reason to know that his defamatory comments could cause severe imminent bodily injury and/or death to Plaintiff Arpaio.

61. Plaintiff Arpaio did not consent to Defendant Ebrard's malicious and defamatory statements and outrageous conduct.

62. Defendant Ebrard's extreme and outrageous conduct directly caused Plaintiff Arpaio severe emotional distress and resulting severe harm and damage, as alleged in the preceding counts of this Complaint.

Fifth Cause of Action
Civil Assault

63. Arpaio repeats and re-alleges all of the previous allegations of the entirety of this Complaint with the same force and effect, as if fully set forth herein again at length.

64. Defendant Ebrard placed Plaintiff Arpaio in apprehension of an imminent harmful or offensive contact and severe physical harm and/or death, by publicly accusing him of promoting the murder of migrants and of being a gun smuggler.

65. The malicious, false and defamatory statements made by Defendant Ebrard were intended to destroy Plaintiff Arpaio professionally and personally.

66. Plaintiff Arpaio did not consent to Defendant Ebrard's malicious, hateful and outrageous conduct.

67. As a direct and proximate result of Defendant Ebrard's wrongful and malicious conduct, Plaintiff Arpaio suffered conscious pain, suffering, severe emotional distress and the fear of imminent serious bodily injury and/or death.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Arpaio prays for judgment against Defendants as follows:

- a) Awarding Plaintiff Arpaio compensatory damages including actual, consequential, incidental for malicious and tortious conduct, in an amount to be determined by a jury at trial in an amount in excess of \$7,000,000 including costs, which damage was caused to Plaintiff Arpaio's personal and professional reputation and good will in his trades and professions, as well as past and prospective financial losses, both personally and professionally.
- b) Granting such other relief as the Court deems appropriate and necessary.

Dated: July 12, 2023

Respectfully Submitted,

/s/ Larry Klayman
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