

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

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JUDITH R. NEDEARIS, CLERK

WILLIAM FOXWORTH, FOX WASTE  
SYSTEMS, INC. and HYDRO-VAC INC.

Plaintiff,

v.

RICHARD GREG KUM, MIKE LEE  
TRUELOVE, and TENNESSEE WASTE  
HAULERS, INC.

Defendants.

DOCKET NO:

JW  
00C1724

DIVISION: \_\_\_\_\_

**COMPLAINT**

Plaintiffs William Foxworth ("Foxworth"), Fox Waste Systems, Inc. ("FWS"), and Hydro-Vac, Inc. ("Hydro-Vac"), for their Complaint against Defendants Richard Greg Kum ("Krum"), Mike Truelove ("Truelove"), and Tennessee Waste Haulers, Inc., state as follows:

**I. PARTIES**

1. Foxworth is a resident of Catoosa County, Georgia.

2. At times pertinent herein, FWS was a Tennessee corporation with its principal place of business located in Hamilton County, Tennessee. At times pertinent herein, Foxworth was the President and majority shareholder of FWS.

3. Hydro-Vac is a Tennessee corporation with its principal place of business located in Hamilton County, Tennessee. Foxworth is the President and majority shareholder of Hydro-Vac.

4. Defendant Krum is a resident of Hamilton County, Tennessee

5. Defendant Truelove is a resident of Bradley County, Tennessee.

6. Defendant Tennessee Waste Haulers is a Tennessee corporation with its principal place of business located in Hamilton County, Tennessee. Upon information and belief, Tennessee Waste Haulers is owned and operated by Krum and Truelove.

## II. JURISDICTION AND VENUE

7. Jurisdiction and venue are proper in this Court because Defendants are Tennessee residents, and a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this judicial district.

## III. GENERAL ALLEGATIONS

8. Krum and Truelove are former FWS employees. Foxworth is the former President and majority shareholder of FWS, and was so during the time in which Krum and Truelove were employed by FWS.

9. Foxworth sold FWS to Browning Ferris Industries, Inc. ("BFI") on or about February 17, 2000. Shortly thereafter, Krum and Truelove each claimed entitlement to separation pay as a result of the sale.

10. Although FWS disputed owing Krum and Truelove any money, in the form of separation pay or otherwise, Krum and Truelove each executed and entered into mutual Settlement Agreements and Releases with FWS in exchange for the payment of certain sums of money by FWS. In those Agreements, Krum and Truelove released all claims against Foxworth and FWS and made additional promises, including the respective promises to not accept employment with any company engaged in the business of transporting garbage and refuse, other than BFI, for a period of ninety (90) days commencing February 18, 2000. In addition, Krum and Truelove agreed that they would

not discuss any allegations or claims they had or might have against Foxworth and FWS with any person, company or agency unless subpoenaed to do so, and that they would keep the existence and terms of the Settlement Agreement confidential. The Settlement Agreements provide that if Krum and Truelove breach that portion the Agreements, they will be required to pay a stipulated sum of \$5,000 as liquidated damages.

11. Tennessee Waste Haulers was formed as a Tennessee limited liability company on or about June 30, 2000. Krum is an incorporator and officer of Tennessee Waste Haulers. Tennessee Waste Haulers is engaged in the business of transporting garbage and refuse in Hamilton County, Tennessee and the surrounding area. Truelove is an employee of Tennessee Waste Haulers.

12. Since the termination of their employment with FWS, Krum and Truelove have engaged in a systematic pattern of defamatory conduct, which is libelous and slanderous, toward Foxworth, FWS and Hydro-Vac. Krum has actively sought out members of the news media and made unsubstantiated, spurious and false allegations relating to purported illegal actions and other allegedly improper and illegal conduct by FWS, Foxworth and Hydro-Vac.

13. The false and defamatory statements made by Krum and Truelove were made with full knowledge that the statements are false and defaming to the character of Foxworth, and Hydro-Vac, or with reckless disregard for the truth of the statements, or with negligence in failing to ascertain the truth of the statements, and with malicious intent to cause injury and harm to Hydro-Vac and Foxworth.

14. The statements have caused Foxworth great distress, embarrassment, humiliation and harm to his reputation in the community, generally, and in his business circles.

15. The false statements made by Krum and Truelove also have caused significant economic harm to Hydro-Vac with respect to its good will and reputation in the community and loss of business.

16. Hydro-Vac had an agreement with Wal-Mart, Inc. to clean compactors at Wal-Mart stores on a regular basis. This contract extended to Wal-Mart stores in several states in the southeastern United States. Hydro-Vac had been performing this service satisfactorily for Wal-Mart for more than three years with no complaints from Wal-Mart. The gross income to Hydro-Vac for the service was approximately \$500,000 annually.

17. Upon information and belief, Plaintiffs allege that Krum, individually and as a representative of Tennessee Waste Haulers, approached Wal-Mart personnel who were in control of the Hydro-Vac contract. Krum made the false and defamatory allegations that Hydro-Vac and Foxworth were violating environmental laws and regulations in Tennessee in connection with the work being performed for Wal-Mart as well as other unrelated work. As a result of these false and defamatory accusations against Hydro-Vac and Foxworth, Wal-Mart cancelled its contract with Hydro-Vac.

18. Hydro-Vac had a separate contract with Wal-Mart to remove used motor oil from Wal-Mart Auto Centers in approximately 350 stores throughout the Southeastern United States.

19. As a result of false and defamatory statements made to Wal-Mart personnel by Krum, Wal-Mart also has suspended that contract. The annual value of that contract to Hydro-Vac is approximately \$1,500,000.

#### **IV. COUNTS**

##### **COUNT ONE: TORTIOUS INTERFERENCE WITH CONTRACT**

20. Plaintiffs re-allege the allegations contained in paragraphs 1 through 19 of this Complaint as if fully stated here.

21. Krum, Truelove and Tennessee Waste Haulers interfered with the contracts between Wal-Mart and Hydro-Vac and induced Wal-Mart to breach those contracts, all in violation of Tennessee TCA § 47-50-109 and the common law. As a result of Wal-Mart's breach of the contracts at the inducement of Krum and Truelove, Hydro-Vac has lost annual revenue of more than \$2,000,000.

22. Defendants owe Hydro-Vac treble damages under the provisions of TCA 47-50-109.

##### **COUNT TWO: BREACH OF SETTLEMENT AGREEMENTS**

23. Plaintiffs re-allege the allegations contained in paragraphs 1 through 22 of this Complaint as if fully stated here.

24. Krum and Truelove each promised they would keep their respective Settlement Agreements and the amounts paid under the respective Settlement Agreements strictly confidential. Both Krum and Truelove have violated that portion of the Agreements repeatedly. The Agreements provide for the award of \$5,000 as liquidated damages for the violation of that provision.

**COUNT THREE: SLANDER**

25. Plaintiffs re-allege the allegations contained in paragraphs 1 through 24 of this Complaint as if fully stated here.

26. As set forth previously herein, Krum's oral statements to Wal-Mart personnel were slanderous and defamatory when made. Krum's oral statements to the Wal-Mart personnel were made maliciously with knowledge of the falsity and defamatory nature of the statements, or with reckless disregard for the truth of the statements, or with negligence in failing to ascertain the truth of the statements.

27. As a direct and proximate result of Krum's defamatory and slanderous conduct, Foxworth and Hydro-Vac have been injured, both in terms of injury to reputation and loss of business, in an amount exceeding \$3,000,000, the precise amount to be proven at trial.

**COUNT THREE: LIBEL**

28. Plaintiffs re-allege the allegations contained in paragraphs 1 through 27 of this Complaint as if fully stated here.

29. As set forth previously herein, Krum and Truelove made false and defamatory statements about Foxworth, Hydro-Vac and FWS to the local media with full knowledge and intent that the statements would be published and circulated by the media. Krum's and Truelove's statements to the media were made, maliciously, with knowledge of the falsity and defamatory nature of the statements, or with reckless disregard for the truth of the statements, or with negligence in failing to ascertain the truth of the statements.

30. As a direct and proximate result of Krum's and Truelove's defamatory and libelous conduct, Foxworth and Hydro-Vac have been injured, both in terms of injury to reputation and loss of business, in an amount exceeding \$3,000,000, the precise amount to be proven at trial.

WHEREFORE, based upon the foregoing, Plaintiffs request the following:

1. That Summons issue and Defendants be served with this Complaint;
2. That a jury be empanelled to hear these claims;
3. That judgment be entered against Krum, Truelove and Tennessee Waste Haulers, Inc. in the amount of at least \$3,000,000.00, the precise amount to be proven at trial;
4. That damages be trebled under the provisions of TCA § 47-50-109;
5. That all costs to this matter be assessed against the Defendants;
6. Any other general and further relief to which Plaintiffs may be entitled.

Respectfully submitted,

CHAMBLISS, BAINNER & STOPHEL, P.C.

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