

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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DISTRICT OF FLO
TAMPA, FLORIDA RIDA

JEFFREY J. DEL FUOCO,

Plaintiff

Vs.

ROBERT E. "Bobby" O'NEILL,
In his personal and individual capacity;

Pages 1, 6-9 only

And,

ERIC H. HOLDER, Jr.,
Attorney General of the United States of America
On Behalf of the U.S. Department of Justice

CASE NO. 8:09-Cv-1262-T27MAP

Defendants

SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

JEFFREY J. DEL FUOCO , Plaintiff, a former Assistant United States Attorney in and for the Middle District of Florida, hereby sues **ROBERT E. "Bobby" O'NEILL**, presently an Assistant United States Attorney in and for the Middle District of Florida, in the said **ROBERT E. "Bobby" O'NEILL**'s personal and individual capacity, and **ERIC H. HOLDER, Jr.**, Attorney General of the United States, vicariously on behalf of the U.S. Department of Justice, and alleges:

JURISDICTION AND VENUE

1. This action is brought pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure; under Title 18, United States Code, Section 401(3) (Contempt); under the Privacy Act of 1974 (5 U.S.C. 552a) and, pursuant to the doctrine of supplemental jurisdiction over related state claims, which are set forth herein.

18. In disclosing the false, defamatory *per se* information about the Plaintiff in violation of the Privacy Act and otherwise, Defendant Robert E. O'Neill used his position in the DOJ and the processes, equipment and capabilities of the U.S. Department of Justice, and used his official position and title as a supervisory Assistant U.S. Attorney and employee of the DOJ to give weight and the appearance of credibility to his false and defamatory *per se* statements of and concerning the Plaintiff.

19. In unlawfully disclosing Grand Jury and Privacy Act protected material in violation of the Privacy Act and Rule 6(e) of the Federal Rules of Criminal Procedure, Defendant Eric H. Holder, Jr. (through the wrongful actions of the EOUSA and Rita M. Sampson, Esquire) has bolstered Defendant O'Neill's false and fraudulent assertions about the Plaintiff and has lent additional weight and credibility to those falsehoods, including emboldening enemies of the Plaintiff (among them, Charles B. Wells, a former subject of Plaintiff's criminal investigations as an Assistant United States Attorney) to continue their crusade against Plaintiff through agents such as the said Eric J. Engberg, *inter alia*. This illegal conduct has lent the appearance of partiality to the FFJNC selection process, and gives the appearance that the DOJ is attempting to manipulate the appointment process in order to guarantee Defendant O'Neill appointment by the President as the next U.S. Attorney for this District.

20. As a part of a wrongful, malicious and defamatory *per se* pattern of conduct occurring since on or about June of 2005 up until at least on or about June 5, 2009 and through and including the present time, Defendant O'Neill has issued threats of bodily harm directed at Plaintiff through other Assistant United States Attorneys, including

telling AUSA colleagues of the Plaintiff to tell Plaintiff that he would “whip Del Fuoco’s motherfucking ass”, or words to that effect, among other threats communicated.

FACTS

21. During the week of June 13, 2005, Defendant Robert E. O’Neill threatened to “whip (Plaintiff) Del Fuoco’s motherfucking ass”, among other threats. This threat was issued to Plaintiff through several Assistant United States Attorneys, all during the Federal work day, and in the Office of the U.S. Attorney in Tampa, Florida, where Plaintiff worked as an AUSA. These AUSAs presently work in the office and are witnesses to what occurred. In this regard, AUSAs Jeffrey S. Downing, Robert Mosakowski and former AUSA Ernest F. Peluso are fact witnesses. The threat was issued because Defendant O’Neill harbored admitted “tremendous animosity” toward Plaintiff because Plaintiff had reported his misconduct and apparent self-dealing to proper authority of the DOJ, including the Counterespionage Section and the Office of Professional Responsibility. The misconduct reported included Defendant O’Neill’s apparent connection to illegal fund-raising activities for the foreign political party *Sinn Fein*, which was and is headed up by a member of the British Parliament, Mr. Jerry Adams. This activity appeared to Plaintiff to violate Title 18, United States Code, Section 219, which prohibits employees of the Executive Branch of the Government of the United States from serving as agents of foreign principals.

22. On or about July 12, 2005, Defendant Robert E. O’Neill uttered false statements under oath and otherwise perjured himself while testifying in a deposition in the case of *Del Fuoco v. Charles B. Wells*, No. 8:03-cv-161-T-23TGW and in connection with threats of bodily injury the Said Defendant Robert E. O’Neill uttered to Plaintiff through

AUSAs Jeffrey S. Downing, Ernest F. Peluso and Robert Mosakowski in the Federal workplace and during the Federal work day, all as **underscored in bold type**. The purpose for the said Defendant ROBERT E. O'NEILL's perjury was to conceal and hide the fact that he had uttered terroristic threats of bodily injury to Plaintiff, then an Assistant U.S. Attorney in the Office of the U.S. Attorney, all through subordinates of his, and all during the Federal work day, in violation of Federal criminal law, DOJ regulations and U.S. Government rules providing for a safe and secure Federal workplace:

Defendant O'NEILL: ". . .(Del Fuoco) filed allegations against me with the Department of Justice."

Q. **The OPR Complaint?** (Emphasis supplied).

Defendant O'NEILL: "Yes."

Q. The OPR complaint against you, in your mind, that causes you no animosity?

Defendant O'NEILL: "*It causes me tremendous animosity.*" (Emphasis supplied).

* * *

Q. Did you recently ever make any statements that you would meet Jeff Del Fuoco?

Defendant O'NEILL: "Absolutely. Anywhere, any time."

Q. Give me the context of those statements that you made to people in the office about Jeff.

Defendant O'NEILL: "**I didn't make it to people in the office.**"

Q. You didn't?

Defendant O'NEILL: "**Not in the office, no.**"

Q. Who did you make it to?

Defendant O'NEILL: "To Jeff Downing. **"When we were outside the hearing for Judge Holder. . ."**

* * *

Q. Did you actually say that you would meet him anywhere and kick his fucking ass or something along those lines?

Defendant O'NEILL: "**Probably not like that, but those words could have come up.**"

Q. What words did you use?

Defendant O'NEILL: "**I don't remember. I said I would meet him anywhere.**"

* * *

Defendant O'NEILL: "If he would like to put on boxing gloves, that would be great with me. I would be more than happy. . . Del Fuoco tried to derail my entire professional career. . . . He made allegations that were just absurd. . . ."

Defamatory Per Se Statements and Violations of the Privacy Act of 1974 (5 USC 552a)

23. At the same proceeding on or about July 12, 2005, Defendant Robert E. O'Neill engaged in false, malicious, intentional, willful and defamatory *per se* conduct of and concerning the Plaintiff, all in violation of the Privacy Act of 1974, and all in an obvious effort to harm the Plaintiff's personal and professional reputation in the community, and to cause him to suffer ridicule, scorn contempt and hatred by testifying under oath falsely and with malice in the said deposition about and concerning the Plaintiff as **underscored in bold type** and as follows, *inter alia*: