

ORIGINAL

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CENTRAL DIVISION

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CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 JOHN D. MARTIN, Bar No. 92832  
2 KATHY J. McCORMICK, Bar No. 101083  
3 MARTIN & McCORMICK  
4 319 Harvard Avenue  
5 Claremont, California 91711  
6 Telephone: (909) 626-7894  
7 Facsimile: (909) 626-7815

8 Attorneys for Plaintiff Julio Fonseca

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN DIEGO

11 JULIO FONSECA, an individual,  
12 Plaintiff,

13 vs.

14 RODOLFO LINARES, an individual; and  
15 DOES 1 through 20,  
16 Defendants.

CASE NO. 37-2018-00034274-CU-DF-CTL

COMPLAINT FOR:

- 1. Defamation; and
- 2. Intentional Infliction of Emotional Distress.

17  
18  
19 Plaintiff Julio Fonseca complains and alleges as follows:

20 GENERAL ALLEGATIONS

21 1. Plaintiff is informed and believes and thereon alleges that Defendant Rodolfo Linares  
22 is an individual residing in the County of San Diego, State of California.

23 2. Plaintiff is presently unaware of the true names and capacities, whether individual,  
24 corporate, associate or otherwise of Defendants Does 1 through 20. Such fictitious Defendants are  
25 sued pursuant to the provisions of *Code of Civil Procedure* Section 474. Plaintiff is informed and  
26 believes and thereon alleges that each fictitious Defendant was in some way responsible for,  
27 participated in or contributed to the matters and things of which Plaintiff complains and alleges  
28 herein, and has legal responsibility for same.

BY FAX

MARTIN & McCORMICK  
319 HARVARD AVENUE  
CLAREMONT, CALIFORNIA 91711

1           3.       Plaintiff is informed and believes and thereon alleges that each of the Defendants is,  
2 and at all material times was, the agent and employee of each of his, its or their co-Defendants, and  
3 in committing the acts herein alleged, was acting in the scope of his, its, or their authority as such  
4 agents and employees, and with the permission and consent of his, its, or their fellow Defendants.

5           4.       On or about July 1, 2015, Plaintiff began working as the Superintendent of the San  
6 Ysidro School District in San Diego County, California.

7           5.       On or about September 1, 2017, Plaintiff and the San Ysidro School District entered  
8 into an agreement whereby Plaintiff's employment with the School District ceased and he received  
9 certain compensation and benefits thereafter.

10          6.       Plaintiff is informed and believes and thereon alleges that in or about September  
11 2017, Defendant implemented a campaign of defamation against Plaintiff.

12          7.       Plaintiff is informed and believes and thereon alleges that said campaign was  
13 malicious, despicable and intended to harm Plaintiff's reputation both publicly and privately.

14          8.       Plaintiff is informed and believes and thereon alleges that on or about November 4,  
15 2017, Defendant stated to the media that Plaintiff conspired with another individual in furtherance  
16 of an illegal scheme where Plaintiff and the other individual "cashed out excessive vacation days and  
17 illegally took District money in exchange for life term insurance policies. Defendant further stated  
18 that Plaintiff and the third party "engaged in a scheme to enrich themselves by working together to  
19 each cash out more vacation days than they were entitled to, and that they both illegally took  
20 hundreds of thousands of dollars instead of a life insurance policy offered in their contracts." He  
21 further stated that "the Board never voted to approve those expenditures" He further stated that  
22 Plaintiff had violated the law with respect to said conduct.

23          9.       The statements made by Defendant were and are false.

24          10.       Plaintiff is informed and believes and thereon alleges that Defendant knew that these  
25 statements were false and/ or that he had no reason to believe that said statements were true and  
26 acted in reckless disregard of the truth in making said statements.

27          11.       Further, Plaintiff is informed and believes and thereon alleges that Defendant made  
28 these statements for the specific purpose of harming Plaintiff and causing him severe emotional

1 distress.

2 12. Plaintiff is informed and believes and thereon alleges that on or about November 1,  
3 2017, Defendant made representations to the media which included comments that “with the  
4 information I have put together, I now have to be the whistle-blower on the illegal actions of both  
5 Julio Fonseca and [the third party]”. Defendant further stated that Plaintiff and the third party had  
6 “purposely confused and manipulated the board discussion to deceive the board about the deferred  
7 term life insurance how it could be cashed out”.

8 13. The statements made by Defendant were and are false.

9 14. Plaintiff is informed and believes and thereon alleges that Defendant knew that these  
10 statements were false and/or that he had no reason to believe that said statements were true and that  
11 he acted in reckless disregard of the truth in making said statements.

12 15. Further, Plaintiff is informed and believes and thereon alleges that Defendant made  
13 these statements for the specific purpose of harming Plaintiff and causing him severe emotional  
14 distress.

15 16. Plaintiff is informed and believes and thereon alleges that on or about November 4,  
16 2017, Defendant stated to the media that Plaintiff stole money from the school district’s students.

17 17. The statement made by Defendant was and is false.

18 18. Plaintiff is informed and believes and thereon alleges that Defendant knew that this  
19 statement is false and/or that he had no reason to believe that said statement was true and that he  
20 acted in reckless disregard of the truth in making said statement.

21 19. Further, Plaintiff is informed and believes and thereon alleges that Defendant made  
22 this statement for the specific purpose of harming Plaintiff and causing him severe emotional  
23 distress.

24 20. Plaintiff is informed and believes and thereon alleges that on or about November 1,  
25 2017, Defendant stated to the media that Plaintiff covered up a \$113,000 payment to a former district  
26 employee.

27 21. The statements made by the Defendant was and is false.

28 22. Plaintiff is informed and believes and thereon alleges that Defendant knew that this

1 statement is false and/or that he had no reason to believe that said statement was true and that he  
2 acted in reckless disregard of the truth in making said statement.

3 23. Further, Plaintiff is informed and believes and thereon alleges that Defendant made  
4 this statement for the specific purpose of harming Plaintiff and causing him severe emotional  
5 distress.

6 **FIRST CAUSE OF ACTION**

7 **(Defamation against All Defendants)**

8 24. Plaintiff realleges and incorporates by this reference the allegations contained in  
9 paragraphs 1 through 25, inclusive, of this Complaint as though set forth in full.

10 25. The statements set forth herein are false and libelous and clearly exposed Plaintiff to  
11 hatred, contempt, ridicule and obloquy because Defendant stated that Plaintiff had committed  
12 crimes, that he was unethical and was abusing his position.

13 26. Plaintiff is informed and believes and thereon alleges that Defendant knew said  
14 comments were false when he made them and that he made them for the purpose of causing harm  
15 to Plaintiff.

16 27. Further, Plaintiff is informed and believes and thereon alleges that said comments  
17 were related to Plaintiff's employment and profession.

18 28. As a proximate result of the comments described herein, Plaintiff has suffered loss  
19 of her reputation, shame, mortification and emotional distress all to his general damage.

20 29. The comments were despicable and were published by Defendant with malice,  
21 oppression and fraud and, thus, entitling Plaintiff to an award of punitive damages.

22 **SECOND CAUSE OF ACTION**

23 **(Intentional Infliction of Emotional Distress against All Defendants)**

24 30. Plaintiff realleges and incorporates by this reference the allegations contained in  
25 paragraphs 1 through 25, inclusive, of this Complaint as though set forth in full.

26 31. In engaging in the conduct described herein Defendant acted with the knowledge that  
27 he could manipulate and damage Plaintiff's interest, peace of mind, and well being.

28 32. Through Defendant's outrageous conduct as described herein and above, he acted

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1 with the intent to cause, or with a reckless disregard for the probability of causing, Plaintiff to suffer  
2 humiliation, mental anguish, and severe physical and emotional distress.

3 33. As a direct and proximate result of the aforementioned conduct, Plaintiff has suffered  
4 humiliation, mental anguish and emotional and physical distress.

5 34. As a further, direct and proximate result of the aforementioned acts, Plaintiff has  
6 been damaged in an amount to be proved at time of trial.

7 35. The aforementioned acts of Defendant were willful, wanton, malicious, and  
8 despicable, thereby justifying an award of exemplary and punitive damages against Defendant in an  
9 amount according to proof at time of trial.

10 WHEREFORE, Plaintiff prays for Judgment against the Defendants and each of them,  
11 jointly and severally, as follows:

12 AS TO THE FIRST AND SECOND CAUSES OF ACTION:

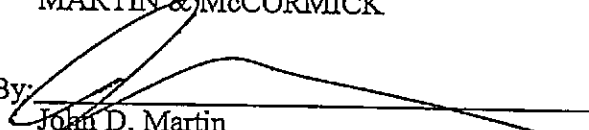
- 13 1. For an award of damages in an amount to be proved at time of trial;  
14 2. For an award of punitive damages;

15 AS TO ALL CAUSES OF ACTION:

- 16 3. For costs of suit; and  
17 4. For such other and further relief as may be just and appropriate.

18 DATED: June 19, 2018

MARTIN & McCORMICK

19  
20 By:   
21 John D. Martin  
22 Kathy J. McCormick  
23 Attorneys for Plaintiff Julio Fonseca  
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