

Jim Taylor, Legal Director  
ACLU of Montana  
P. O. Box 9138  
Missoula, MT, 59807  
406-203-3375  
jimt@aclumontana.org

Attorney for Plaintiff

GALLATIN COUNTY CLERK  
OF DISTRICT COURT  
JENNIFER L. HARRIS

2017 APR 13 AM 9:54

FILED

BY lp DEPUTY

MONTANA EIGHTEENTH JUDICIAL DISTRICT, GALLATIN COUNTY

Dr. GILBERT KALONDE,

Plaintiff,

v.

WAL-MART STORES, INC.,  
a Delaware Corporation,

Defendant.

Cause No. DV-17-295C

COMPLAINT

Ø Summons Issued

Complaint

For this Complaint against Defendant, Plaintiff Dr. Gilbert Kalonde alleges the following:

Parties

1. Plaintiff Dr. Gilbert Kalonde is a resident of Gallatin County, Montana. He was born in Zambia, and is of African descent. He has a Ph.D. in Curriculum and Instruction from Southern Illinois University, a Master of Science in Education from Southern Illinois University, a Bachelor of Science in Liberal Studies from Excelsior College, an Associate of Science in

Liberal Arts from Los Angeles Southwest College, and an Advanced Diploma in Secondary School Art Education from Evelyn Hone College of Applied Arts and Commerce.

2. Defendant Wal-Mart Stores, Inc. is a Delaware Corporation, doing business at a number of locations in the State of Montana. One of those locations is Walmart Store # 2084, which is located in Gallatin County, Montana.

#### Jurisdiction

3. This Court has jurisdiction over this case, pursuant to Mont. Code Ann. §§ 3-5-302 and 27-1-802.

#### Venue

4. Venue is appropriate with this Court pursuant to Mont. Code Ann. § 25-2-122, as the primary acts complained of took place in Gallatin County, at the Walmart Store #2084, a place of business of the Defendant.

#### COUNT I

##### Libel

5. Plaintiff re-alleges paragraphs 1 through 4 as fully set forth herein.

6. Defendant Walmart operates on a contract with the Montana Department of Fish, Wildlife, and Parks ("FWP") to sell hunting and fishing licenses as an authorized agent for the State of Montana pursuant Mont. Code Ann. §87-2-901, et seq.

7. Plaintiff first purchased a Montana resident fishing license at the Bozeman Wal-Mart Store #2084 on or about April 17, 2015. As a necessary part of the licensing process, Defendant through its agent was required to ask Plaintiff for identification, and also for his occupation, pursuant to Mont. Code Ann. § 87-2-106.

8. Plaintiff told Defendant's agent that Plaintiff was employed at Montana State University, and provided Defendant's agent with his identification from Plaintiff's employer.

9. Plaintiff's identification from Montana State University identifies his employment status as "Faculty/Professional."

10. Plaintiff is employed at Montana State University, as an Assistant Professor, teaching Technology Education in the Department of Education, College of Education, Health and Human Development.

11. Despite seeing Plaintiff's identification listing him as Faculty/Professional, Defendant's agent did not accurately and truthfully record Plaintiff's occupation, as required by Montana law, and as required by the contract that Defendant has signed with FWP.

12. Instead, Defendant's agent entered into the computer terminal, and therefore the database of FWP, that Plaintiff's occupation was "CLEAN TOILETS."

13. The computer software used to enter the information into the FWP database does not have a drop-down menu for the "Occupation" field. The person doing data entry has to manually enter an occupation for each individual.

14. The entry of "CLEAN TOILETS" as Plaintiff's occupation into the FWP database was a deliberately false and unprivileged publication of information about Plaintiff. Defendant's agents, and therefore Defendant, knew this statement to be false.

15. This publication was done by Defendant's agent with the purpose to expose Plaintiff to hatred, contempt, ridicule, or obloquy.

16. This publication was also done to cause Plaintiff to be shunned or avoided.

17. This publication was something with the tendency to injure Plaintiff in his occupation.

18. Defendant then printed Plaintiff's fishing license. The printing of Plaintiff's fishing license is a second publication of libelous materials, within the meaning of Mont. Code Ann., §27-1-802.

19. At no time did Defendant's agent inform Plaintiff that he should immediately review the accuracy of the information on the license.

20. The printed fishing license is a document that Plaintiff was required by law to show to any Montana game warden or law enforcement officer requesting to see it, pursuant to Mont. Code Ann. §87-6-304 (4).

21. On February 24, 2016, Plaintiff purchased and renewed his FWP license for 2016-2017 season at Defendant's Bozeman Walmart's store #2084.

22. Plaintiff had a conversation with Defendant's agent on February 24, 2016, about his position as a professor at Montana State University. The agent did not enter any updated information about Plaintiff's occupation, and left the occupation as "Clean Toilets." The agent did not require Plaintiff to review the accuracy of the information on the license, or require him to sign the license.

23. Renewing this information into the database of FWP on February 24, 2016, by the agent of Defendant, constitutes a third publication of false and unprivileged publication of information about Plaintiff that exposed him to hatred, contempt, ridicule, or obloquy, was done to cause Plaintiff to be shunned or avoided, or that had a tendency to injure Plaintiff in his occupation.

24. Printing Plaintiff's fishing license on February 24, 2016, by the agent of Defendant constitutes a fourth publication of false and unprivileged publication of information

about Plaintiff that exposed him to hatred, contempt, ridicule, or obloquy, was done to cause Plaintiff to be shunned or avoided, or that had a tendency to injure Plaintiff in his occupation.

25. On February 25, 2016, during a lunch break from his teaching, Plaintiff showed his license to his Teaching Assistant ( [REDACTED] ), in the presence of some of Plaintiff's other students.

26. [REDACTED] looked at the license and asked Plaintiff if he changed his job. [REDACTED] then showed Plaintiff that his fishing license listed his occupation as "CLEAN TOILETS." Plaintiff was very shocked and embarrassed by this disclosure before his students, and the actions of Defendant's agents caused him significant emotional distress. In Plaintiff's home country of Zambia, the people that do this work are of the lowest social class, and are shunned and avoided by society.

27. The actions of Defendant's agents have caused injury to Plaintiff's reputation and good name, and injury to his occupation.

28. On February 26, 2016, Plaintiff returned to the Bozeman Walmart store #2084, and requested a written apology. Defendant Walmart issued Plaintiff a new fishing license with the correct occupation. Defendant Walmart never provided a written apology.

29. Defendant is legally responsible for the actions of its agents.

30. As a corporation, Defendant can only act through agents.

31. Defendant has a legal responsibility to properly train and monitor the actions of its agents to prevent and avoid the kind of actions its agents took in this case, as recited above.

///

**Requested Relief**

Wherefore, Plaintiff prays that this Court:

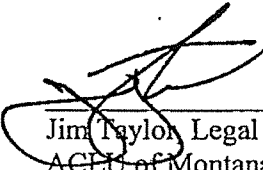
1. award damages against Defendant for its libelous statements about Plaintiff, for damages to his good name and reputation, and such other damages as he may be entitled to;
2. award punitive damages against Defendant, pursuant to Mont. Code Ann. §27-1-220, et seq., in an amount to be established;
3. award Plaintiff his costs in this action; and
4. grant such other relief as the Court may deem just and proper.

**Jury Demand**

Plaintiff demands a trial by jury on all issues triable by jury.

Dated: April 12<sup>th</sup>, 2017

Respectfully submitted,



---

Jim Taylor, Legal Director  
ACLU of Montana  
P.O. Box 9138  
Missoula, MT, 59807  
406-203-3375  
Email: jimt@aclumontana.org