

UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA

91 FEB 11 PM 3:05

NORBERT H. EBEL
CLERK

-6

Bonacc'

Plaintiff

vs.

Catholic Archbishop et al

Defendant

PRAECIPE

Case No. CV 91-3037

SUMMONS ISSUED
THIS DATE

To the Clerk of said Court: please issue summons & attach
complaint to following Defendants:

VAN PELT
WADMAN
DOUGLAS COUNTY GRAND JURY
FLANAGAN
KINH
CITRON
Baer
ANDERSON
HOCH
BOUASSO

JL Brandeis & Sons, Inc
Omaha W. Herald Co
NEB Psychological Assoc.
CATHOLIC ARCH BISHOP of Omaha
Omaha Public Schools
City of Omaha

Dated this _____ day of _____, 19____.

Attorney Signature

Attorneys Name

DECAMP LEHAL

Address

Attorney for

PL

521 S. 14 Lincoln 68508
477-3974

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED 242
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA SD
99 FEB 22 AM 8:15

PAUL A. BONACCI,)
)
 Plaintiff,)
)
 vs.)
)
 THE CATHOLIC ARCHBISHOP OF)
 OMAHA, et al.,)
)
 Defendants.)

4:CV91-3037

GARY D. MCFARLAND
CLERK

FINAL JUDGMENT
MEMORIALIZING DISPOSITION
OF ALL CLAIMS, EXCEPT THOSE
AGAINST LAWRENCE E. KING

IT IS ORDERED that judgment be entered for all defendants, except Lawrence E. King, on the following bases:

1. the Catholic Archbishop of Omaha—failure to state a claim upon which relief can be granted in the second amended complaint, as found regarding the first amended complaint in the court’s memorandum and order dated July 18, 1991, filing 53;
2. Peter Citron—dismissed by order, filing 229, on motion of the plaintiff;
3. Harold Anderson—dismissed by order, filing 166, at the request of the plaintiff;
4. Robert Wadman—dismissed by order, filing 203, on motion for summary judgment;
5. Michael Hoch—dismissed by order, filing 218, on motion for summary judgment;
6. Kenneth Bovasso—dismissed by agreement of the parties, filing 194;
7. The City of Omaha—dismissed by order, filing 218, on motion for summary judgment;
8. The Douglas County Grand Jury—no service of process accomplished;
9. Michael Flannagan—dismissed for failure to state a claim upon which relief may be granted in the second amended complaint, as was found regarding the first amended complaint by order, filing 52;
10. Samuel Van Pelt—dismissed by order, filing 52, relating to the first amended complaint for prosecutorial immunity, which is equally applicable to the allegations of the second amended complaint;

Copies mailed on 2/22/99

11. The Omaha Public School District—dismissed by order, filing 64, granting the motion for summary judgment;
12. The Omaha World Herald—dismissed by order, filing 53, granting the motion to dismiss;
13. J. L. Brandeis & Sons, Inc.—dismissed by order, filing 195, on motion for summary judgment and omission of that defendant from the second amended complaint;
14. Alan Baer—dismissed by order, filing 196, on motion for summary judgment; and
15. Nebraska Psychological Associates, f/k/a Nebraska Psychiatric Institute, a non-profit corporation—omitted from second amended complaint, filing 139.

Dated February 19, 1999.

BY THE COURT


United States Senior District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA
91 MAR -4 PM 2:03 - 29
CIVIL NO. 4CV:91-~~20~~ 3037
ROBERT H. EBEL
CLERK *hu*

PAUL A. BONACCI,)
)
 Plaintiff,)
)
 vs.)
)
 THE CATHOLIC ARCHBISHOP OF)
 OMAHA, a Non-Profit Corporation;)
 LAWRENCE KING; PETER CITRON;)
 ALAN BAER; HAROLD ANDERSON;)
 ROBERT WADMAN; MICHAEL HOCH;)
 KENNETH BOVASSO; NEBRASKA)
 PSYCHOLOGICAL ASSOCIATES, f/k/a)
 Nebraska Psychiatric Institute,)
 a Non-Profit Corporation; THE)
 CITY OF OMAHA, a Municipal)
 Corporation; THE OMAHA PUBLIC)
 SCHOOL DISTRICT; OMAHA WORLD-)
 HERALD COMPANY, a Corporation;)
 J.L. BRANDEIS INC. AND SONS,)
 INC., a Corporation; THE)
 DOUGLAS COUNTY GRAND JURY;)
 MICHAEL FLANNAGAN, an)
 Individual; and SAMUEL VAN PELT,)
 an Individual,)
)
 Defendants.)

MOTION TO DISMISS BY DEFENDANT
OMAHA WORLD-HERALD COMPANY

Defendant Omaha World-Herald Company moves the Court to dismiss the First Amended Complaint as to this Defendant, pursuant to Federal Rule of Civil Procedure 12(b)(1), because the Court lacks jurisdiction over the subject matter of the First Amended Complaint with respect to this Defendant and, in the alternative, pursuant to Federal Rule of Civil Procedure 12(b)(6), because the First Amended Complaint fails to state a claim under which relief can be granted against this Defendant.

This Motion is supported by the Brief submitted to the Court on this date.

Dated this 4th day of March, 1991.

OMAHA WORLD-HERALD COMPANY,
Defendant

By Allen E. Daubman

Allen E. Daubman, #15374
KOLEY, JESSEN, DAUBMAN
& RUIPIER, P.C.
One Pacific Place, Suite 800
1125 South 103rd Street
Omaha, Nebraska 68124
(402) 390-9500

Attorneys for Defendant
Omaha World-Herald Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Dismiss was sent by regular United States mail, postage prepaid, this 4th day of March, 1991, to the following:

Counsel for the Plaintiff:

Mr. John W. DeCamp
DeCamp Legal Services, P.C.
521 South 14th Street, Suite 300
Lincoln, NE 68508

Counsel for the Defendants:

Defendant The Catholic Archbishop of Omaha

Mr. Edward D. Hotz
Zweiback, Hotz & Lamberty, P.C.
100 Bozell & Jacobs Plaza
10250 Regency Circle, Suite 300
Omaha, NE 68114

Mr. C. E. Heaney, Jr.
Kennedy, Holland, DeLacy & Svoboda
10306 Regency Parkway Drive
Omaha, NE 68114

Defendant Lawrence King

Counsel unknown at present

Defendant Peter Citron

**Mr. Lyle J. Koenig
Attorney at Law
147 North 4th Street
P.O. Box 48
Hebron, NE 68370**

Defendants Alan Baer and J. L. Brandeis & Sons, Inc.

**Messrs. Steven W. Seline
and Tory M. Bishop
Kutak, Rock & Campbell
The Omaha Building
1650 Farnam Street
Omaha, NE 68102**

**Mr. Edward G. Warin
Gross & Welch
800 Commercial Federal Tower
2120 South 72nd Street
Omaha, NE 68124-2342**

Defendant Harold Anderson

**Mr. Tyler B. Gaines
Gaines, Mullen, Pansing, Hogan
10050 Regency Circle
Omaha, NE 68114**

Defendant Robert Wadman

**Mr. Michael M. O'Brien
Cannon, Goodman, O'Brien & Grant, P.C.
318 South 19 Street
Omaha, NE 68102**

**Defendants Michael Hoch, Kenneth Bovasso, and
the City of Omaha**

**Mr. James E. Fellows
Ms. Wendy E. Hahn
City of Omaha
Legal Department
1819 Farnam Street, Suite 804
Omaha, NE 68102**

Defendant Nebraska Psychological Association, Inc.

Counsel unknown at present

Defendant Omaha Public School District

Mr. David M. Pedersen
Baird, Holm, McEachen, Pedersen, Hamann & Strasheim
1500 Woodmen Tower
Omaha, NE 68102-2069

Defendants Douglas County Grand Jury, Michael Flanagan, and
Samual VanPelt

Ms. Susan M. Ugai
Assistant Attorney General
Department of Justice
2115 State Capitol Building
Lincoln, NE 68509-8920


Allen E. Daubman

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

91 MAR -4 PM 12:13-24

PAUL A. BONACCI,)
)
 Plaintiff,)

CIVIL NO: 91-3037
NORBERT H. EBEL
CLERK *lu*

-vs-

THE CATHOLIC ARCHBISHOP OF OMAHA)
 a non-profit corporation,)
 LAWRENCE KING, PETER CITRON,)
 ALAN BAER, HAROLD ANDERSON,)
 ROBERT WADMAN, MICHAEL HOCH,)
 KENNETH BOVASSO, NEBRASKA)
 PSYCHOLOGICAL ASSOCIATES, f/k/a)
 Nebraska Psychiatric Institute,)
 a non-profit corporation; THE)
 CITY OF OMAHA, a municipal cor-)
 poration; THE OMAHA PUBLIC)
 SCHOOL DISTRICT, OMAHA WORLD)
 HERALD COMPANY, a corporation;)
 J. L. BRANDEIS, INC. AND SONS,)
 INC., a corporation; THE)
 DOUGLAS COUNTY GRAND JURY,)
 MICHAEL FLANNAGAN, an individual)
 and SAMUEL VAN PELT, an)
 individual,)
)
 Defendants.)

ORDER

THIS MATTER came on before the Court on the Motion of defendant Omaha Public School District for leave until March 29, 1991 to plead to plaintiff's Amended Complaint. The Court being fully advised in the premises finds that said Motion should be granted.

IT IS THEREFORE ORDERED that the defendant Omaha Public School District shall have until March 29, 1991 to plead to plaintiff's Amended Complaint.

DATED this 4th day of ~~February~~ ^{March}, 1991.

BY THE COURT:

Norbert H. Ebel, Clerk
By: Kathleen Nelson
~~U. S. District Judge~~ *Deputy Clerk*

4. The letter contained a Notice and Acknowledgement of Receipt of Alias Summons and Complaint directed to "The Douglas County Grand Jury, ATTN: Michael Flanagan, Foreman" and a copy of the petition filed in the above-referenced case which appears to be a civil rights action brought pursuant to 42 U.S.C. § 1983 and a suit for damages.

5. In her position with the Attorney General's Office, affiant is responsible for reviewing assigned litigation that involves the employees of the State of Nebraska.

6. In the complaint, the plaintiff alleges a deprivation of civil rights, slander, and violations of due process associated with the operation of the grand jury.

7. Plaintiff alleges that Michael Flanagan was the Foreman of the Douglas County Grand Jury and sues him as an individual.

8. Plaintiff further makes general allegations against the Douglas County Grand Jury, presumably in their official capacity, since none of the jurors with the exception of defendant Flanagan were named as individuals.

9. For these reasons, it is clear that the plaintiff is attempting to serve the defendant Douglas County Grand Jury by mailing the summons to Michael Flanagan.

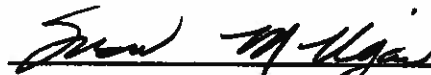
10. In the State of Nebraska grand juries may be called by the district courts or by petition of registered voters pursuant to Neb.Rev.Stat. § 29-1401 (Reissue 1989).

11. The Douglas County Grand Jury convened for the purpose of investigating the allegations included within the petition in this case has completed its duties and is no longer in session.

12. Defendant Flanagan is not currently the Foreman of the Douglas Grand Jury, if any such body presently exists, and has no statutory or legal authority to accept service for the legal entity entitled as the Douglas County Grand Jury.

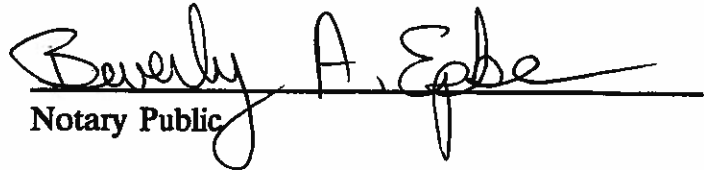
13. For the foregoing reasons, affiant is returning the summons, the original of which is attached to this return of service, to this court unexecuted.

FURTHER, AFFIANT SAYETH NOT.



Susan M. Ugai, #16670
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
Tel: (402) 471-2682

Subscribed and sworn to before me on this 28th day of February, 1991.



Notary Public

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Return of Service upon the plaintiff herein by placing a copy of the same in the United States Mail, first class postage prepaid, addressed to plaintiff's attorney of record, John W. DeCamp, DeCamp Legal Services, P.C., 300 Executive Building, 521 South 14th Street, Lincoln, Nebraska 68508, and upon defendants herein by placing a copy of the same in the United States Mail, first class postage prepaid addressed to defendant Catholic Archbishop of Omaha's attorneys of record, Edward D. Hotz, Attorney at Law, 10250 Regency Circle, Suite 100, Omaha, Nebraska 68114, and C.E. Heaney, Jr., Attorney at Law, 10306 Regency Parkway Drive, Omaha, Nebraska 68114; Peter Citron's attorney of record, Lyle Koenig, Attorney at Law, 147 N. 4th Street, P.O. Box 48, Hebron, Nebraska 68370; defendants Alan Baer and J.L. Brandeis and Sons, Inc.'s attorneys of record Edward G. Warin, Attorney at Law, 800 Commercial Federal Tower, 2120 South 72nd Street, Omaha, Nebraska 68124-2342, and Steven W. Seline and Tory M. Bishop, Attorneys at Law, 1650 Farnam St., Omaha, Nebraska 68102; defendant Harold Anderson's attorney of record Tyler B. Gaines, Attorney at Law, 10050 Regency Circle, Suite 200, Omaha, Nebraska 68114; defendant Robert Wadman's attorney of record Michael M. O'Brien, Attorney at Law, 318 S. 19th Street, Omaha, Nebraska 68102; defendants Michael Hoch, Kenneth Bovasso, and the City

of Omaha, Nebraska's attorneys of record, James E. Fellows, Deputy City Attorney, and Wendy E. Hahn, Assistant City Attorney, 1819 Farnam Street, Suite 804, Omaha, Nebraska 68102; defendant Omaha Public School District's attorney of record, David M. Pedersen, Attorney at Law, 1500 Woodmen Tower, Omaha, Nebraska 68102-2069; and defendant Omaha World Herald Company's attorney of record, Allen E. Daubman, Attorney at Law, One Pacific Place, Suite 800, 1125 S. 103rd Street, Omaha, Nebraska 68124, on this 28th day of February, 1991.



Susan M. Ugai
Assistant Attorney General

27-375