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November 4, 2021

Suzanne Downing
Must Read Alaska
200 W. 34th Ave. #200
Anchorage, AK 99503
suzanne@mustreadalaska.com

Dear Ms. Downing,

I write on behalf of Elizabeth “Libby” Bakalar to ask that you cease and desist referencing her employment with the City of Bethel on your blog, “Must Read Alaska”.

Your ongoing mining and re-publication of Ms. Bakalar's personal social media in tandem with repeated references to her position as the City Attorney of Bethel is clearly intended to provoke requests and actions to end that employment. You engaged in similar critiques of her while she was an Assistant Attorney General and continued those after her wrongful termination by the Dunleavy Administration. Your resumption of these efforts constitutes “tortious interference” with an employment contract, for which you and your business may face significant liability and damages.

Alaska courts recognize the tort of intentional interference with contractual relations. *Waldroup v. Lindman*, 28 P.3d 293, 296 (Alaska 2001). This cause of action promotes an individual's security and integrity in their contractual relations by protecting those relations from wrongful intermeddling by third parties. *Ellis v. City of Valdez*, 686 P.2d 700, 707 (Alaska 1984).

When considering claims of tortious interference with a contract, the Alaska Supreme Court recognizes a clear distinction between persons who interfere with the contracts of competitors and those who interfere with contracts in which they have a direct interest themselves. Even when there is a direct financial interest involved, “the essential question in determining if interference is justified is whether the person’s conduct is motivated by a desire to protect his economic interest, or whether it is motivated by spite, malice, or some other improper objective.” *Burton v. Fountainhead Development, Inc.*, 393 P.3d 387 (Alaska 2017).

My client is a hobby blogger and litigant against the Dunleavy administration, for which you are a widely-known and vocal supporter. You utilize your blog to attack what you perceive as its foes and write frequently about the “Deep State”. You have attacked Ms. Bakalar in your

blog for years. You have no business relationship with or financial interest in my client, her hobby blog, or her job. Your continued harassment of Ms. Bakalar and the goading of your supporters to harass and threaten her—both at work and at home—is rooted exclusively in political disagreement, malice, and spite.

Indeed, you and your supporters have been harassing my client for years, both on and offline. In 2019, you implied that you would use your leverage with the Dunleavy administration to send the Office of Children's Services for her children, and legislators had to intervene on her behalf. Around the same time, one of your supporters who linked to your blog had as his banner photo on Twitter a photo-shopped picture of Ms. Bakalar and several elected officials being shot to death with an assault rifle. I understand that the FBI became involved in that incident. You have also accused Ms. Bakalar of “playing the Jewish card” in her articles, posts, and tweets calling out anti-Semitism.

Your attacks on Ms. Bakalar’s blog and her politics are not the problem here. It is the wrapping of your criticisms of her with repeated references to her employment as a contracted employee of the City of Bethel which appear to be targeted to cause her either the loss of her job or the threat of job loss because of her protected speech. While you are not a lawyer, you know that as a government employee, she has a constitutional right to freedom of expression. Your ongoing mining and re-publication of her social media in conjunction with references to her job is a clear attempt to illegally interfere in her employment relationship, and indeed her employer has already received several “complaints” from your readers referencing your articles.

Fortunately, Ms. Bakalar is a valued employee of the City of Bethel who has done impeccable work for her client, as evinced by her excellent public personnel reviews reported on in the media. Nevertheless, it is also obvious that your criticisms of her that intentionally identify her work for the City of Bethel are intended to interfere with her employment. You are free to criticize her ideas and politics but face significant legal liability when you tether those criticisms with an effort to interfere with her employment.

Finally, as you are also aware, a federal judge in the *Blanford* case recently found former employees of the Dunleavy administration had been illegally fired for their personal speech. Your blog confirms you were very vocal in your support of those unconstitutional practices. We will hold the governor and Mr. Babcock accountable for their unconstitutional actions. We have no problem doing the same with your efforts to interfere with Ms. Bakalar’s employment.

Please cease and desist from including with your criticisms of Ms. Bakalar *any* references to her work as the contract attorney for the City of Bethel. Those references are clearly intended to cause her emotional distress and to interfere with her employment. A reasonable jury could conclude that your inclusion of that information is consistent with a long-term desire to see that Ms. Bakalar lose her job, suffer economic harm and otherwise be punished for her protected speech. A reasonable jury could find that your conduct is motivated by actual malice and award Ms. Bakalar significant damages.

I strongly suggest that if you have any questions regarding the potential economic risks that you face should you ignore this request to cease and desist, you should immediately consult with an attorney.

Finally, please consider this letter our formal request that you preserve from loss, destruction or spoliation any and all communications to, from or copied to you regarding Ms. Bakalar since 2017. This would include text messages, emails, postings on social media, and of course, any letters or other similar communications.

Sincerely,

Mark Choate

Mark Choate
Trial Lawyer
Choate Law Firm LLC

Cc: Client