

STATE OF VERMONT  
WINDHAM COUNTY, SS.

WINDHAM SUPERIOR COURT  
DOCKET NO:

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EFFIE MAYHEW, Plaintiff, )  
 )  
 )  
 v. )  
 )  
 DAVID DUNN, and LISA LEPAGE )  
 & CHRISTOPHER GROTKER, )  
 D/B/A MUSEARTS INC., Defendants. )  

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ANSWER TO COMPLAINT

NOW COMES David V. Dunn, a Defendant in the captioned matter (hereinafter “Dunn”), by and through his attorneys, Gale, Corum, Mabie, Cook & Prodan, and answers the complaint dated 8 November 2007 as follows:

1. Upon information and belief, Dunn is not able to admit that at all relevant times Plaintiff was a resident of Brattleboro. Upon information and belief, it is believed that at some relevant times Plaintiff was a resident of Hinsdale, New Hampshire and Putney, Vermont.

2. Admitted.

3. The allegations contained in paragraph 3 do not relate to Dunn and, therefore, no answer is made except to say that the same allegations are not applicable to him. To the extent an answer is required, the allegations are denied and Dunn leaves Plaintiff to her proof.

4. Dunn reasserts the answers in Paragraphs 1-3 above as though fully set forth herein.

5. Dunn admits that a posting was made by him as Executive Director of Rescue Inc. and on its behalf on 26 September 2007 on ibrattleboro.com. Dunn denies all other allegations in paragraph 5. A portion of the statement follows and speaks for itself:

Before the public casts judgment on my ‘no confidence’ vote, I ask that you look at those who signed to see the true motivation and self interest embedded in those signatures.

While many and I do say many have told me they should never have signed it, the deed is done. Nevertheless, if anyone had a doubt about the organizers, the fact that they sent the petition to Select Boards, anonymously to WTSA and the Reformer, shows just how mean spirited and intent they are to harm me and my family.

6. Upon information and belief, Plaintiff did not write the letter that appeared in the 27 September 2007 edition of the Brattleboro Reformer, Letters to the Editor section. The basis for believing so is that Plaintiff had no direct knowledge of many of the facts stated in the letter. Plaintiff does not allege in paragraph 6 that she, in fact, wrote the letter; merely that she “sent” it. Plaintiff had not done duty as a volunteer at Rescue, Inc. in over a year and during that time she had only attended irregularly training sessions for two hours one night a month. Further, Plaintiff had no work contact with Dunn in approximately the last year. The information provided to Plaintiff may have been provided to her by her paramour, Joe Thompson, of Black Mountain Road, Brattleboro, who was at the time on the Board of Trustees of Rescue Inc. and Dunn’s superior. Defendant submits that the letter was over her name and appeared in the 27 September 2007 edition of the Brattleboro Reformer. In part said letter reads:

I’m tired of reading the paper every morning and seeing Rescue slaughtered nearly every day because of the state of disarray due to the inabilities of Mr. Dunn.

In regards [sic] to the petition that Mr. Hazelton supposedly “made people feel obligated to sign,” I for one was a member that could not wait to put my signature on that line.

It irritates me to think that Mr. Dunn is the highest paid EMT working in EMS. Mr. Dunn could have easily learned what it is that we do by observing for several shifts as opposed to taking the lengthy classes it takes to become a nationally registered EMT. Shouldn’t Mr. Dunn have been working on ways to bring in more revenue for Rescue instead of trying to “play EMT?”

How is it that Rescue’s board members can honestly think that Mr. Dunn is doing the job he was hired to do? I guess I can’t answer this, but I will be one of the members at the meeting on Oct. 8, ready to vote “no confidence” in Mr. Dunn. Just to be perfectly clear, I will be doing so of my own accord. I love Rescue Inc, but it saddens me to no end of what Rescue is becoming under the hands of Mr. Dunn.

7. Dunn admits that on 30 September 2007 he authored a factually true and accurate article that appeared on a website known as ibrattleboro.com. As to all other allegations contained in paragraph 7, he has

insufficient information or knowledge to either admit or deny the same. To the extent an answer is required therefore, the same are denied.

8. Dunn admits the first sentence of paragraph 8 of the complaint. The remainder of the allegations of paragraph 8 are denied. The article speaks for itself and the specific language that was used is as follows:

Ms Mayhew was conducting an affair with a married volunteer member of the Rescue Inc. Board of Trustees and using Rescue Inc.'s quarters for the purpose. In fact, there are other affairs – using Rescue Inc. quarters, going on right now – and their names are on the petition as well. Talk about a lack of respect!

Indeed, there were multiple sexual contacts that have occurred at Rescue headquarters. Plaintiff and Joe Thompson were using Rescue Inc. headquarters to hide from the latter's wife. On occasion, Mr. Thompson's spouse would call Rescue to try to locate her husband. Dunn would tell her that he was not there and she would indicate that her husband had told her that he was on duty and Dunn would tell her that he was not on duty. Further, the said Thompson, on occasion, would put himself on call from a Hinsdale number believed to be the apartment of Plaintiff.

9. Dunn denies the materiality of the first half of the allegation contained in the one sentence of paragraph 9. Defendant contends that it is simply irrelevant as to whether or not "the statement was immaterial and irrelevant to the originating issues." Further, Defendant denies that the statement "was unequivocally false." The basis, in part, for this belief follows:

When Dunn first started at Rescue Inc. Plaintiff was having a relationship with one Lou Yelle, a paid paramedic at Rescue Inc., during the approximate 2004/05 time period. Dunn believed that it was nice that there was a couple working at the agency. However, shortly thereafter Dunn was informed that Plaintiff was not married to Lou Yelle, but to someone else and that the same was true of Mr. Yelle. At some point later Dunn learned that Plaintiff and Mr. Yelle were living together. Subsequently, Mr. Yelle advised Dunn that he had left Plaintiff for unspecified reasons.

During the winter of 2006/07 Dunn attended a party at Ms. Ronnie Kaufman's home in West Brattleboro. At that time Ms. Kaufman and Plaintiff were living together and were in a relationship. At the party, Plaintiff became intoxicated, took off all her clothes, paraded around the house in front of multiple children, including her own minor children, and then jumped into the hot tub on the deck.

On or about 29 March to 1 April 2007, the annual Vermont EMS Conference was held in Burlington, Vermont. Dunn witnessed Joe Thompson and Plaintiff driving to the conference together. While on the highway, traveling to the conference on or about 30 March 2007, Joe Thompson passed Dunn's vehicle. Mr. Thompson was driving his pickup truck and Plaintiff was sitting in the middle seat beside him. Dunn, as well as others, directly observed them sharing the same hotel room at the Burlington Sheraton Hotel. Dunn witnessed Joe Thompson and Plaintiff entering and leaving their hotel room several times and they were always together during the times Dunn saw them at the conference – including social events. Upon returning from the conference, Dunn witnessed that Plaintiff had stored her car at the Rescue Inc. parking lot.

Further, in early June 2007, Dunn observed Plaintiff and Joe Thompson in Rescue Inc.'s Day room under covers in embrace. This occurred at about 11:30 p.m. Plaintiff's vehicle and Mr. Thompson's vehicle were in the Rescue Inc. parking lot. Neither Plaintiff nor Thompson was scheduled for duty this particular evening.

A short time after the above incident, Dunn observed Plaintiff sitting in Joe Thompson's lap in multiple locations, within the Rescue Inc. Day Room, kissing him and stroking him. At one point Dunn encountered Plaintiff sitting outside on a picnic table and told her to "take her affair out of here." Plaintiff responded that what she did was "none of [Dunn's] 'f... ing business."

During the summer of 2007 Joe Thompson responded to more than one Rescue Inc. call from Hinsdale as part of a night call backup list. Mr. Thompson also used Plaintiff's Hinsdale phone number for a contact number.

Following the incident in which Dunn requested that Plaintiff remove her affair from Rescue Inc.'s headquarters, Mr. Thompson, unsolicited, went to Rescue Inc.'s business manager and told her he was not having an affair with Plaintiff. This occurred, despite common knowledge that Plaintiff and Mr. Thompson were living together.

On several occasions, during the latter part of the summer of 2007, Dunn saw Plaintiff's car in Joe Thompson's driveway in the late evening.

Dunn reported the relationship between Plaintiff and Joe Thompson to members of the Executive Committee of the Rescue Inc. Board of Trustees.

Upon information and belief, Plaintiff and Joe Thompson are currently living at Mr. Thompson's residence on Black Mountain Road, Brattleboro.

10. Dunn is unable to answer the allegations of paragraph 10 as they do not pertain to him. To the extent an answer is required, Dunn leaves Plaintiff to her proof and denies the same.

11. Dunn is unable to answer the allegations of paragraph 11 as they do not pertain to him. To the extent an answer is required, Dunn leaves Plaintiff to her proof and denies the same.

12. Dunn reasserts the answers in Paragraphs 1-11 above as though fully set forth herein.

13. Upon information and belief, Dunn is unable to admit or deny the allegations contained in paragraph 13. To the extent an answer is required, the same allegations are denied. Further, in response to the allegations, it is believed that Plaintiff only has a cell phone and no land line. Further, the Verizon Brattleboro/Bellows Falls Area phone book dated January 2007 lists only the following individuals under the last name "Mayhew:"

Mayhew, CM, 62 Ledgewood Hts Rd. Bratt.....	254-4616
Mayhew, Dwight, 127 Pleasant Benn.....	442-2400
Mayhew, E & T Vernon.....	258-3041*
Mayhew, Kevin, 2 Morways Pk Cha NH.....	603-826-5863
Mayhew, N L, 66 Lexington Av Brat .....	254-6631
Mayhew, Robt J, 207 Dewey Benn .....	447-7064

\* The “E & T” Mayhew listing is for “Eric” and “Tanya” Mayhew. There does not appear to be a listed number for Plaintiff in the current year’s phone book for the Brattleboro/Hinsdale area.

14. Upon information and belief, Dunn is unable to either admit or deny the allegations contained in paragraph 14. To the extent an answer is required, the same is denied and Dunn leaves Plaintiff to her proof.

15. Dunn denies that his statement was made in any malicious manner. Rather it is a statement simply of truth. Upon information and belief, Dunn is unable to either admit or deny the remaining allegations of the paragraph and leaves Plaintiff to her proof. To the extent an answer is required, the same is denied.

16. Upon information and belief, Dunn is unable to either admit or deny the allegations contained in paragraph 16 and leaves Plaintiff to her proof. In addition, Dunn believes that Plaintiff had shoulder surgery and did not work for a good part of 2007. This is based on the fact that when she came to Rescue Inc.’s headquarters during 2007 she was frequently in a sling. It is believed that Plaintiff has been through multiple jobs and was on disability for a period of time in 2007. To the extent an answer is required, the same is denied.

#### AFFIRMATIVE DEFENSES

1. Complaint fails to state a claim for which relief can be granted.
2. Truth. Any alleged statements made in the complaint which Plaintiff claims are defamatory are, in fact, true.
3. Lack of reckless disregard.
4. Assumption of risk. Plaintiff knew or should have known that when she made allegations in her letter regarding David Dunn’s skills as the Executive Director of Rescue Inc., that statements would be made concerning her and they would be published in a similar manner to those that she published about him.

5. Duress. Plaintiff made statements about Dunn's abilities, etc. in connection with Rescue Inc. and Plaintiff knew or should have known that the situation at Rescue Inc. was a difficult and troubling one, and that Mr. Dunn had been dealing with the situation for many months, trying to effect changes that needed to be made to the organization. Plaintiff knew or should have known that he would respond with information concerning Plaintiff to lessen the impact of her derogatory and tortious statements.

6. Plaintiff's damages, if any, result from acts of others for whom Dunn is not responsible in law or fact.

### COUNTERCLAIM

1. Dunn, Counter-plaintiff, at all relevant and material times, was the Executive Director of Rescue Inc.

2. Plaintiff, Counter-defendant, Mayhew, acted with reckless disregard when she submitted a letter over her signature to the Brattleboro Reformer making untruthful allegations about Dunn.

3. Counter-defendant, Mayhew, knew or should have known that submitting such a letter to the Brattleboro Reformer would interfere with Dunn's dealings with Rescue Inc. as its Executive Director and acted with a motive to cause him to be removed as Executive Director and/or to cause him to remove himself as its Executive Director.

4. Counter-defendant, Mayhew, acted with reckless disregard of the interests of Dunn in submitting the letter to the Brattleboro Reformer.

5. Counter-defendant, Mayhew, believed that her interests would be advanced by having Dunn removed as the Executive Director of Rescue Inc.

6. In fact, Counter-defendant, Mayhew's submission of the letter over her name did, in fact, interfere with Dunn's interests in connection with his position as Executive Director of Rescue Inc.

7. Dunn was damaged economically and otherwise by the actions of Counter-defendant Mayhew.

WHEREFORE, Dunn requests that the Honorable Court:

1. Dismiss Plaintiff's complaint and award him his costs and attorney's fees in defending her civil action;
2. Award judgment to Dunn on his counter-claim in an amount exceeding the jurisdictional limits of this court, inclusive of costs; and
3. Grant such other relief as is just and fair under the circumstances.

Further, Counter-plaintiff Dunn requests jury trial on all issues.

Dated at Brattleboro, Vermont this 3<sup>rd</sup> day of December 2007.

DAVID V. DUNN  
GALE, CORUM, MABIE, COOK & PRODAN

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Jesse M. Corum IV, Esq.  
Counsel for Defendant