

law claims pursuant to 28 U.S.C. § 1367. Plaintiff also seeks declaratory and injunctive relief pursuant to 28 U.S.C. § 2201 and 2202.

3. Venue lies in this District under the provisions of 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district.

4. Plaintiff has no adequate remedy at law. Unless the Defendants and their agents, representatives and employees are preliminarily and permanently restrained, Plaintiff will continue to suffer immediate and irreparable harm from the conduct complained of.

5. Plaintiff has exhausted all administrative procedures, is threatened with irreparable harm, and is challenging policies and practices of general applicability that are contrary to Federal and State laws.

II. PARTIES

6. Plaintiff Edward E. Kramer is a resident of Gwinnett County, Georgia with his address at 2480 Honeycomb Way, Duluth, Georgia 30096.

7. Defendant Christa Kirk for Superior Court, Inc. is a domestic non-profit corporation located in Gwinnett County, Georgia with its principal address at 3445 Lawrenceville Suwanee Road, Suite D, Suwanee, GA, 30024.

8. Defendant Christa Kirk is a resident of Gwinnett County, Georgia with her address at 3445 Lawrenceville Suwanee Road, Suite D, Suwanee, GA, 30024.

III. FACTUAL ALLEGATIONS

9. Defendant Christa Kirk formed Defendant Christa Kirk for Superior Court Judge, Inc. on or around November 18, 2019 to pursue a judgeship on the Gwinnett County Superior Court.

10. During her campaign, Defendants produced an advertisement that featured Plaintiff's booking photograph and labeled him as a "convicted" sex offender, attempting to link Plaintiff with Defendants' opponent, Judge Kathryn Schrader. (**EXHIBIT A**, *Advertisement*).

11. Defendants sent this advertisement to thousands of Gwinnett County, Georgia voters.

12. It is public record, discoverable by a mere online search of the Gwinnett County Clerk of Court's website, that Plaintiff is not a "convicted" sex offender.

13. A criminal defendant who is sentenced under Georgia's First Offender statute, O.C.G.A. § 42-8-60, is not "convicted," because adjudication is withheld.

14. Plaintiff, who has always maintained his innocence, was sentenced under this First Offender statute in 2013 and has been, and is still, serving a First Offender sentence.

15. Consequently, Plaintiff is not “convicted” and has never been “convicted.”

16. Despite this readily available information regarding Plaintiff’s case, Defendants maliciously published and disseminated false information regarding Plaintiff causing him damage.

17. While Plaintiff has suffered economic loss in the form of missed business opportunities and has been exposed to public hatred, contempt and ridicule, he has also suffered grave prejudice in a jurisdiction where he has pending criminal matters that may go to trial.

18. This act by Defendants was not only a violation of civil rights, defamatory, and libelous, it was a highly unethical act in the pursuit of a seat on the Gwinnett County Superior Court bench.

IV. CAUSES OF ACTION

COUNT ONE (42 U.S.C. § 1983, Civil Rights Violation)

19. All paragraphs are repeated and realleged as if fully set forth herein.

20. By reason of the foregoing acts, circumstances and events, Defendants, acting under color of state law, have deprived the Plaintiff of a substantial right secured to the Plaintiff under the United States Constitution and protected under the due process provisions of the Fourteenth Amendment thereto, as well as the

violation of the first article of the Georgia Constitution and the Civil Rights Act, 42 U.S.C. § 1983.

21. Plaintiff, as a Georgia citizen whose criminal case has been taken under the First Offender statute, O.C.G.A. § 42-8-60, possesses a statutory right to be free from a “conviction” or being labeled “convicted” by an individual acting under color of State law.

22. Having created this right, the State cannot arbitrarily deny such rights without violating an individual’s due process rights. *See Goss v. Lopez*, 419 U.S. 565, 574 (1975) (the State cannot deprive a person of a property right, created through a statutory scheme, without due process of law).

23. In the present case, Defendants, in a public campaign for the Gwinnett County Superior Court bench, have violated this statutory right by labeling Plaintiff as “convicted” in its widely disseminated campaign advertisement, which violated 42 U.S.C. § 1983.

24. In addition to money damages, Plaintiff is seeking an order enjoining Defendants from violating Plaintiff’s rights further and to redress the existing violation, including the disclosure of any and all parties who received the campaign advertisement.

COUNT TWO (42 U.S.C. § 1983, Civil Rights Violation)

25. All paragraphs are repeated and realleged as if fully set forth herein.

26. By reason of the foregoing acts, circumstances and events, Defendants, acting under color of state law, have deprived the Plaintiff of a substantial right secured to the Plaintiff under the United States Constitution and protected under the due process provisions of the Fourteenth Amendment thereto, as well as the violation of the first article of the Georgia Constitution and the Civil Rights Act, 42 U.S.C. § 1983.

27. Plaintiff possesses a recognized and established constitutional right to privacy, which was violated by Defendants in labeling Plaintiff “convicted” in its widely disseminated campaign advertisement, which then violated 42 U.S.C. § 1983.

28. In addition to money damages, Plaintiff is seeking an order enjoining Defendants from violating Plaintiff’s rights further and to redress the existing violation, including the disclosure of any and all parties who received the campaign advertisement.

COUNT THREE (O.C.G.A. § 51-5-1, Defamation-Libel)

29. All paragraphs are repeated and realleged as if fully set forth herein.

30. In the aforementioned advertisement, Defendants’ made a false and malicious statement intended to injure the reputation of Plaintiff and expose Plaintiff to public hatred, contempt or ridicule by falsely labeling Plaintiff “convicted.”

31. This advertisement, which included the defamatory and libelous statement that Plaintiff was “convicted,” was published to thousands of individuals as defined by O.C.G.A. § 51-5-5.

32. The defamatory and libelous statement cannot be excused under any subsection of O.C.G.A. § 51-5-7.

33. Plaintiff has suffered damage in the form of missed business opportunities and has been exposed to public hatred, contempt and ridicule.

34. Plaintiff has also suffered grave prejudice in a jurisdiction where he has pending criminal matters that may go to trial.

35. In addition to money damages, Plaintiff is seeking an order enjoining Defendants from making defamatory and libelous statements against Plaintiff and to redress the defamatory and libelous statement already made, including the disclosure of any and all parties who received the defamatory and libelous statement.

LITIGATION EXPENSES AND ATTORNEY’S FEES

36. All paragraphs are repeated and realleged as if fully set forth herein.

37. Plaintiff is entitled to recover his expenses of litigation, including reasonable attorney fees, pursuant to 42 U.S.C. § 1988 and state law, and his costs under O.C.G.A. § 9-4-9

V. RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court:

- (a) Assume jurisdiction over this action;
- (b) Grant Plaintiff a trial by jury;
- (c) Declare that the acts and omissions described herein violated Plaintiff's rights under the Constitution and laws of the United States and Georgia;
- (d) Grant the injunctive and declaratory relief requested; and
- (e) Enter a monetary and punitive judgment in favor of Plaintiff and against each Defendant.

Respectfully submitted, this 4th day of June, 2020.

/s/ Stephen M. Reba
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Georgia Bar No. 532158
Counsel for Plaintiff

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EXHIBIT A

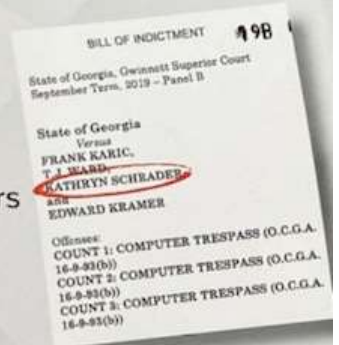
Advertisement

CHRISTA KIRK

A New Judge We Can Trust.

INDICTED.

Superior Court Judge Kathryn Schrader was indicted in September for a case a newspaper called a "hacking saga," involving county-issued computers, private investigators and a convicted sex offender. Now more than ever, Gwinnett taxpayers deserve a new judge.



It's time to restore trust in Gwinnett.



"STATE PANEL SUSPENDS JUDGE AT CENTER OF GWINNETT HACKING SAGA"

-- AJC, Oct. 16, 2019

It will take a great deal of effort to restore the trust between our community and this judicial office. Christa Kirk will lead to restore that trust to our bench.

Christa will use her 15 years of experience handling cases before the Superior Court to establish equality and fairness in the courtroom.

EXPERIENCE YOU CAN TRUST.

Christa is a practicing attorney in Suwanee, Georgia, and has significant experience practicing family law and criminal law. She previously served as a Senior Assistant District Attorney and has experience as a prosecutor, criminal defense attorney and family law attorney. As Superior Court Judge, Christa will work to ensure the safety of our children and guarantee victims and their families have

