



L. Martin Reeder, Jr.

Atherton McAuliffe & Reeder PA
224 Datura Street, Suite 815
West Palm Beach, FL 33401
Tel: 561.293.2530
Fax: 561.293.2593

Martin@AthertonLG.com
www.AthertonLG.com

December 1, 2017

By Federal Express &
Email: hheims@lshlaw.net

Howard K. Heims, Esq.
Littman, Sherlock & Heims, P.A.
618 SE Ocean Blvd., Suite 5
Stuart, Florida 34995

Re: Maggy Hurchalla

Dear Mr. Heims:

My firm and I are counsel to *Sunshine State News* (“SSN”) and its Executive Editor, Nancy Smith, regarding your November 20 letter on behalf of Maggy Hurchalla. SSN received the letter November 27.

SSN and Ms. Smith disagree with much of your letter and thus reject most of your demands (as we will explain), but we agree that the November 14 news report headlined “*Martin County Settles with Rock Mine for \$12 Million*,” could have been worded better and we have therefore corrected that report and published the following correction and apology on SSN’s website:

Correction and Apology: This story includes a link to a September 28 story which reported that the State Attorney was investigating potential criminal violations arising from the public records litigation between Lake Point and Martin County. In the original version of this story, we referenced the September 28 story and said that “A criminal investigation of Heard, Hurchalla and others by the grand jury ... is currently under way.” We have revised this story to delete Ms. Hurchalla’s name because we have no information that she is the target of the investigation and we did not intend to imply otherwise. We regret the error and apologize

to Ms. Hurchalla. On November 29 and 30, we reported on the arrests of Commissioner Ed Fielding and former Commissioner Anne Scott, who are charged with criminal public records law violations, and on the charging of Commissioner Sarah Heard with a non-criminal public records violation.

We strongly disagree with your assertion that *SSN*, Nancy Smith or Barbara Clowdus have “demonstrated animus and personal malice” toward Ms. Hurchalla either in the reporting your letter complains of or at any time in the past. *SSN*’s Executive Editor, Nancy Smith, is a veteran, highly awarded journalist who has covered the news in Martin County for almost four decades. She lived and worked here for *The Stuart News/Port St. Lucie News* for 28 years as City Editor, Managing Editor and Associate Editor, and also served as President of the Florida Society of Newspaper Editors. Nancy has been *SSN*’s Executive Editor since 2010 and is responsible for building *SSN* into one of Florida’s best sources of news about politics and business. In these capacities, Nancy has covered Ms. Hurchalla for most of her 20 years as a Martin County Commissioner and as a leading environmental and “slow growth” activist in the decades since. Nancy has authored or edited literally hundreds of news reports and editorials about Ms. Hurchalla over the course of her career and, to the best of Nancy’s recollection, this is the first time Ms. Hurchalla has accused her of defamation and “animus and personal malice.”

Similarly, Barbara Clowdus, who wrote the November 14 news report Ms. Hurchalla has complained of, is the Publisher of *Martin County Currents* (“*MCC*”), a print and online newspaper that focuses on Martin County news and business. Barbara has lived and worked in Martin County for 10 years and her family here goes back another 35. She is a veteran journalist with decades of experience in Florida and West Virginia where her work won journalism awards. She also has managed a printing plant and taught college level classes in crisis communications.

SSN has an informal relationship with *MCC* pursuant to which *SSN* sometimes publishes news reports written by Barbara, many of which first appeared in *MCC*. Like Nancy, Barbara has written or edited numerous news reports and editorials about Ms. Hurchalla over many years and, to the best of our knowledge, Ms. Hurchalla has never previously accused Barbara of defaming her or of harboring personal animus or malice toward her.

The main point of the November 14 news report was to inform *SSN*’s readers that Martin County had finally settled with Lake Point for \$12 million after four and a half years of litigation and after incurring more than \$5 million in legal fees. The report also informed readers that Lake Point’s tortious interference claim against Ms. Hurchalla was not settled and reminded them that a grand jury investigation was ongoing. With regard to the latter, the report included a link to an earlier, longer and more detailed news report (also written by Barbara Clowdus), which had focused on the grand jury probe and information disclosed about it at a September 27 court hearing. Although *SSN* firmly believes that Ms. Hurchalla’s email correspondence with certain Martin County commissioners via their private email accounts is central to the grand jury’s investigation, *SSN* and Nancy Smith do not have information that Hurchalla is a target of

the investigation and thus should have either omitted her name or said that that the investigation “involved” her emails with commissioners rather than that the investigation was “of Heard, Hurchalla and others.” This error was not the product of any malice toward Ms. Hurchalla on the part of Barbara or Nancy, but was merely an innocent error in wordsmithing what was intended as a shorthand reference to *SSN*’s prior reporting, to which readers were pointed by the link.

We find no merit whatsoever to your assertion that Ms. Hurchalla was defamed by Nancy Smith’s October 19 editorial headlined “*Public Records from SFWMD-Lake Point Settlement? Really, Maggy Hurchalla?*” In the first place, your letter challenges the truth of the statement that “Hurchalla, who called herself “Deep Rockpit” in an email to commissioners she allegedly advised, is central to the case.” You argue that “Maggy Hurchalla is not and has never been a central figure in a grand jury investigation.” But *SSN* did not say that. It said she was “central to the case” and this statement immediately followed the sentence “The lawsuit also accuses county commissioners of denying they conducted public business on private email accounts, then holding mail back once it had been discovered, and in the case of Commissioner Sarah Heard, destroying the record trail.” Clearly, this sentence describes the public records case and Ms. Hurchalla certainly was “central to [that] case.” In the unlikely event that some *SSN* readers understood “central to the case” to mean “central to the grand jury investigation,” that statement is also true. Ms. Hurchalla’s email communications to county commissioners, the content of those communications, the commissioners’ denials that the emails existed, and the alleged destruction of emails all make Ms. Hurchalla “central” to the investigation even if she is not a target. Finally, it is important to remember that the statement was made in the context of an editorial. Readers know and expect editorials to reflect the opinions of the author, and it is most definitely Nancy’s opinion that Ms. Hurchalla is “central” to the entire Lake Point controversy, including both civil cases and the grand jury investigation. Ms. Hurchalla has never been shy about voicing her own opinions, so she can hardly begrudge others for expressing theirs’.

Likewise, we find no merit to your assertion that Ms. Hurchalla was defamed by the October 19 editorial to the extent that any readers understood it to have expressed the opinion that Hurchalla bears some responsibility for the millions of dollars of public funds Martin County has spent on the Lake Point litigation. Every fact in the portion of the editorial quoted in your letter is true and the statement that “The more time that passes, the worse the news gets for the figure who lead Martin County’s shadow government until the last election” is Nancy Smith’s sincere opinion. Ms. Hurchalla is, without question, one of the most influential public figures in Martin County (if not in all of south Florida) when it comes to environmental preservation, protection and conservation. Clearly, she injected herself into this public controversy by instigating several Martin County commissioners to take the actions which resulted in Lake Point suing the county, the SFWMD and Ms. Hurchalla herself. From this litigation arose the public records lawsuit, which is all about certain commissioners and former commissioners hiding from Lake Point their email communications with Ms. (“Deep Rockpit”) Hurchalla, and the grand jury investigation.

Howard Heims, Esq.

December 1, 2017

Page 4

As you know, one sitting commissioner and one former commissioner were arrested this week and charged with criminal public records violations. And another sitting commissioner was charged with a non-criminal public records violation. It is our understanding that the grand jury investigation is ongoing. Where it will end, we do not know, but we respectfully submit that Ms. Hurchalla would be better advised to focus on defending herself from Lake Point's tortious interference claim and on cooperating with the State Attorney, rather than attacking the journalists and newspapers who are doing their best to accurately report to their readers on this public controversy.

Very truly yours,

By: /s/ L. Martin Reeder, Jr.

L. Martin Reeder, Jr.

LMR/tld

cc: Nancy Smith, Executive Editor, *Sunshine State News*
Barbara Clowdus, Publisher, *Martin County Currents*