

Cause No.: 380-00674-2023

AARON VANN, as Next Friend of A.V., and
ASHER VANN.

§ IN THE DISTRICT COURT

Plaintiffs,

380th JUDICIAL DISTRICT

V.

KIM T. COLE, SUMMER SMITH, and JANE DOE,

§ COLLIN COUNTY, TEXAS

VANNS' FIRST AMENDED PETITION

TO THE HONORABLE COURT:

COMES NOW the Plaintiffs, AARON VANN, as Next Friend of A.V., and ASHER VANN, and files this first amended petition, and will show:

I. DISCOVERY

1. This suit seeks damages of more than \$1,000,000. Discovery is intended to be conducted under Level 3 of Tex. R. Civ. P. 190.4.

II. PARTIES

Plaintiffs

2. **AARON VANN** ("Aaron") is an individual, Colin County, Texas resident, who brings this suit in his capacity as next friend of his son, A.V. The last three digits of Aaron's social security number are [REDACTED], and the last three digits of his Texas driver's license number are [REDACTED]. Aaron only continues to assert claims on behalf of A.V. to the extent he may be able to recover for damages on Asher's behalf while Asher was a minor. Aaron asserts no new or independent claims of relief beside those already asserted.

3. **ASHER VANN** ("Asher") is an individual, Collin County, Texas resident, who has reached the age of majority while this suit has been pending and now elects to ratify the claims previously asserted by Aaron on his behalf, and prosecute the claims in his own name. The last three digits of Asher's social security number are [REDACTED], and the last three digits of his Texas driver's license number are [REDACTED]. Asher ratifies the claims previously asserted by Aaron, and does not assert any new claims at this time.

Third-Party Defendants

4. **SUMMER SMITH** ("Smith") is an individual, Collin County, Texas resident, who is sued in her individual capacity. She has entered an appearance in this case.
5. **KIM T. COLE** ("Cole") is an individual, Denton County, Texas resident, who is sued in her individual capacity. She has entered in appearance in this case.
6. **JANE DOE** ("Doe") is an individual and daughter of Smith. Her name, identifying information, and location are unknown, but Plaintiffs believe they will obtain the information through discovery in this suit.

III. JURISDICTION & VENUE

7. This Court has jurisdiction to hear this case because the amount in controversy is within the jurisdictional limits of the Court.
8. Venue is proper in Collin County, Texas, because at least one defendant is a resident of Collin County, Texas, and the events giving rise to this suit occurred in Collin County

IV. FACTUAL BASIS OF SUIT

9. Asher and Smith's son, S[REDACTED] H[REDACTED] (S.H.) were long-time friends in middle school. Smith spent many weekends away and she was often unable to care for S.H., and S.H. would stay with Aaron and Asher from time to time.

10. The weekend of February 13, 2021, was Asher's birthday weekend. It was also another weekend Smith was not able to care for S.H., and so Asher asked Aaron if he could spend the weekend at the Vann home. Aaron agreed.

11. The Vann family, along with S.H., went out to celebrate the birthday on Friday, February 12, 2021. The boys had a great time, and were looking forward to Saturday, February 13th, when they planned a sleepover with their friends, P.H., J.S., and M.Y.

12. As teenage boys do, they made all sorts of plans amongst themselves. They planned to go frog hunting, to stay up late, and play pranks on whoever went to bed first.

13. As planned, the other boys joined Asher and S.H. on Saturday night for the sleepover. The boys brought bb guns and went frog hunting by a nearby creek. Coincidentally, this was the same weekend as the infamous "snow-pocalypse," with record cold temperatures. So, the boys were all bundled up in heavy coats and gear. In their collective lack of wisdom, they decided to see if they could feel the bb guns through their thick clothing. *All* the boys, including S.H., took turns shooting bb's at each other. No one was singled out, everyone participated, and no one was hurt at all.

14. Later that night, the boys stayed up, watched movies, told jokes, and had a good time. Ultimately, S.H. went to sleep first. The group, as they had planned for *whoever* fell asleep first, decided to play a childish and immature prank on their friend.

15. In short, the boys filled a cup with apple juice, and (to the extent they could), one or more boys dribbled a bit of urine into the juice. They then woke up their cohort, offered him the icky brew, which he appeared to take a brief sip (swallowing none). S.H. somewhat chuckled, then nodded back off. Unbeknownst to Asher, one of the boys used their cellphone and recorded the prank.

16. The next morning, the boys returned home. S.H. expressed he had a good time, everyone was in good spirits, and they all left as friends.
17. Some two weeks later, two of the boys, S.H. and M.Y., were playing video games online. A.V. was not participating in the video game. S.H. and M.Y. got in a dispute, and M.Y. revealed he had videoed the prank. M.Y. apparently sent the video one or more persons, which set off a domino of events.
18. Word spread at the boys' school, and eventually S.H. reported the argument he had with M.Y. to school officials, who informed Smith. Smith, seeing an opportunity, decided to capitalize on the situation to the maximum extent possible.
19. Smith engaged Cole in a non-adversarial context,¹ and the two, with the help of Doe, embarked on a campaign, all of a sudden claiming the events were racially motivated, that the boys had invited S.H. to the party for the purpose of playing out some sadistic racist fantasy, whereby the boys intentionally pelted S.H. with guns, physically abused him, and forced him to drink urine. In reality, Smith, Cole, and Doe severely and intentionally twisted the events to fit a false narrative, in an effort to garner publicity, raise money, and elevate Cole's professional and Doe's social media profiles.
20. What's more, Smith, Cole, and Doe began linking the events with wholly unrelated events from years prior, claiming the school intentionally ignored racially motivated

¹ This is to say, Cole took no formal adversarial posture towards Vann or A.V. Cole's actions all related to the school district, raising money, and garnering publicity for the benefit of herself and Smith. It wasn't until exactly two years later that Cole filed the instant civil suit against Vann and others. None of the conduct complained of in this claim relate to Cole's actions involving the filing of this lawsuit; instead, the complained of conduct relates entirely to Cole's actions years prior to the filing of this suit. Cole has a history of filing last-minute lawsuits in the name of civil rights, only to have them dismissed because they are late or defective.

bullying. At all times, Defendants knew the prior grievances had nothing to do with the recent events, but they linked them just the same to bolster their grievances.

21. Smith and Cole began contacting the school, demanding disciplinary action be taken against the boys. The school initially declined. Unsatisfied, Smith and Cole escalated their campaign, causing and leading protests at the boys' school and homes. Eventually, bowing to public pressure, the school district decided to discipline the boys. In a separate suit, Vann and A.V. sued the school district in federal court, alleging the district violated A.V.'s constitutional rights. The federal district court ultimately found in A.V.'s favor, and wrote a scathing opinion to the same effect.
22. Smith, Cole, and Doe also embarked on a media and social media campaign. They revealed information regarding the boys, their names, addresses, their parents, and their parents' businesses. They made posts to social media, comments to the media, participated in press conferences, issued press releases, much of which revealed information either explicitly or impliedly identifying the boys and their families, and falsely stated or implied this was a group of white boys who intentionally targeted a black boy, with racist motivations. Nothing could have been further from the truth.
23. Defendants knew this wasn't the truth. The school district thoroughly investigated the matter, and found absolutely no racist motivations. The vice principal, school principal, and district superintendent have all testified there were no racial motivations found at all, and the same was communicated to Smith and Cole. But boys being stupid doesn't raise money. Smith and Cole decided to ride the coattails of other, legitimate efforts to combat racism, and make bank in the process.

24. Cole set up a GoFundMe on Smith's behalf, entitled 'Justice for S [REDACTED]', which provides:

S [REDACTED] endured horrific bullying from football teammates at a Plano middle school. Plano ISD did nothing to curtail the bullying. It became so bad that S [REDACTED] had no choice but to eventually quit the team. A couple of weeks ago S [REDACTED] was ecstatic when a former teammate invited him to a sleepover. But little did he know what had been planned for him. While at the sleepover several white students shot S [REDACTED] with BB guns. When he was asleep they slapped him, all while calling him racial slurs. And worse yet, they forced S [REDACTED] to drink their urine.

<https://www.facebook.com/1277289881/posts/10225304431059264/?d=n>

S [REDACTED] has been subjected to the unthinkable. He is in need of therapy and is planning to change to a private school. Please donate what you can to help with the expenses of therapy and private schooling. Even if you cannot donate, please share this link.

25. Cole claims funds are needed for S.H. to obtain counseling and attend private school.

To date, the effort raised a whopping \$119,353, remains active to this day, and received donations as recently as three months ago.

26. Upon information and belief (and upon testimony of Plano ISD's superintendent), S.H. was never enrolled in private school. He transferred to an adjacent public school district the following school year. Further, upon information and belief, the funds were never used to provide S.H. with counseling. Instead, it's believed Smith and Cole used the money for their own benefit, with Smith even posting in the weeks and months following lavish trips to Hawaii and Las Vegas. It was all just a scam.

27. In the weeks and months that followed, S.H. reached out directly to A.V., apologizing for the uproar caused by Defendants.

28. Cole's actions, including her media endeavors and setting up the GoFundMe do not constitute the provision of legal services, and none of the actions complained of require the unique office, professional skill, training, or authority of an attorney. In fact, until the filing of this lawsuit (two years after the events), none of Cole's actions

were related to the provision of legal services; instead, she was merely acting as an agent and surrogate of Smith's with the added benefit of getting exposure and free publicity for her law firm. What's more, Smith and Cole's lawsuit is glaringly devoid of any allegation of racism or racial motivations, and there's a reason: because they know race never played a role in anything that happened at the sleepover.

29. The results of the knowingly false narrative pushed by Smith, Cole, and Doe were dire and traumatic. Defendants intentionally and knowingly embarked on a fraudulent campaign to ruin these boys' lives so they could raise money, and they didn't care that they caused the boys to be subject to overwhelming and unwarranted public hatred, disdain, and ridicule, and suffer extreme physical and psychological distress – all based on false allegations and a false narrative. This resulted in Asher suffering from intense feelings of social isolation, fear, depression, anxiety – manifesting themselves multiple physical ways, including insomnia, nervousness, racing heartbeat, headaches, muscle tension, and digestive issues.

30. No one condones the boys' behavior on February 13, 2021. They all acted stupidly by playing with bb guns, and playing gross pranks on each other. And all seemed well until an unrelated argument two weeks later. And it certainly wasn't right for M.Y. to distribute the video (or take it in the first place). But for Smith, Cole, and Doe to exploit the situation, link it to wholly unrelated events, knowingly and falsely portray the event as racially motivated, and to repeatedly out the boys and their families to the public in a deliberate attempt to fan the flames of outrage to promote a fundraising campaign, is far more despicable.

31. In these times, there are great efforts and strides being made to correct past racial injustices and strive for racial equality. The Vanns applaud these efforts. What is not applauded, is taking events which were, in no way, racially motivated, and embarking on a malicious campaign making false allegations of racism to cause mass outrage and raise money. By that, the Vanns cannot abide.

32. All conditions precedent have occurred.

V. CAUSES OF ACTION

33. Vann incorporates all facts alleged above, below, and herein, and sues Defendants for the following cause of action:

Count # 1 – Invasion of Privacy (Public Disclosure of Private Facts)

34. Vann sues Defendants for invasion of privacy by public disclosure of private facts. Defendants publicized information regarding A.V.'s private life – namely, his name and address, or otherwise disclosed information so that the same information could be easily ascertained – with the express purpose of causing humiliation, public ridicule, and inspiring public hatred and harassment of A.V. The information publicized was not of legitimate public concern. Defendants were free to air their grievances to school officials, or even file a lawsuit like they've done here.² But, they are not free to create an outrageously false narrative for the purposes of raising money and garnering attention, at the expense of children's privacy. The publication would be highly offensive to any reasonable person. As a direct and proximate result of Defendants' disclosure, A.V. suffered damages.

² Cole continues her public disclosure of private facts, having filed documents containing the unredacted names and addresses of minors, in direct violation of Tex. R. Civ. P. 21c(a)(3) and Collin Cnty. Loc. R. 2.5.

Count # 2 – Intentional Infliction of Emotional Distress

35. Plaintiff sues Defendants for intentional infliction of emotional distress. Asher is a person. Defendants acted intentionally and/or recklessly, when they knowingly and intentionally launched a crusade of false facts, allegations, and narratives to create a social media and public outrage designed to torment Aher and subject him to intense ridicule, hatred, embarrassment, and fear – all based on facts Defendants knew to be false. Defendants' conduct was extreme and outrageous and went beyond all possible bounds of decency. It was atrocious and utterly intolerable in a civilized community. The emotional distress suffered by Asher was severe as described above, and Defendants' conduct proximately caused (and was intended to cause) Asher's emotional distress. No alternative cause of action would provide a remedy for the severe emotional distress caused by Defendants.

36. Defendants conduct began in March 2021, and continue to this day, by way of the ongoing fraudulent GoFundMe, and multiple continued media efforts and endeavors, including one on October 17, 2021, and perpetrated by Defendants to ensure the saga for these boys never comes to an end.

VI. DAMAGES

37. Plaintiff sues Defendants for the following damages:

- a. Actual damages which may be proven at trial, including:
 - i. Past mental pain and anguish;
 - ii. Further mental pain and anguish;
 - iii. Past physical pain and suffering;
 - iv. Past medical expenses;

- v. Future medical expenses;
- vi. Loss of society;
- vii. Loss of earning capacity;
- viii. Injury to reputation; and

- b. Exemplary damages which may be awarded for Defendants' intentional and malicious conduct.

38. Vann sues Defendant for total liquidated damages in excess of \$1,000,000.

VII. PLEADINGS IN THE ALTERNATIVE

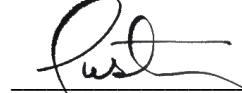
39. Pursuant to Tex. R. Civ. P. 48, all pleadings herein are in the alternative to each other.

VIII. PRAYER

WHEREFORE, Vann prays the Third-Party Defendants be cited to answer herein, for judgment against Defendants as sought herein, and further prays for general relief.

Respectfully submitted,

THE NICHOLS LAW FIRM, P.L.L.C.



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Certificate of Service

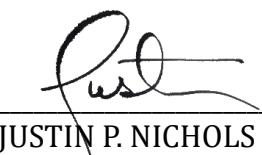
I certify a true and correct copy of the foregoing instrument was served upon all parties/attorneys of record in accordance with Tex. R. Civ. P. 21a on March 27, 2025.

Via E-File

Kim T. Cole Esq.
Pro Se Defendant

Via E-File

Laura Sherry, Esq.
Attorney for Defendant Summer Smith



JUSTIN P. NICHOLS

Automated Certificate of eService

This automated certificate of service was created by the efilng system. The filer served this document via email generated by the efilng system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Filing Code Description: Amended Petition

Filing Description: Vanns' First Amended Petition

Status as of 3/28/2025 11:07 AM CST

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