

WARD & HAGEN LLP

440 STEVENS AVENUE, SUITE 350
SOLANA BEACH, CA 92075
TELEPHONE (858) 847-0505
FAX (858) 847-0105

July 1, 2009

VIA U.S. CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Gene Hoffman, Jr.
Agent for Service of Process and Chairman
The Calguns Foundation
3200 Bridge Parkway, Suite 202-C
Redwood City, CA 94065

Bill Wiese
Vice Chairman
The Calguns Foundation
3200 Bridge Parkway, Suite 202-C
Redwood City, CA 94065

Re: Demand to Cease and Desist in Libelous Statements Regarding Kathy Lynch, and to Issue an Apology.

Dear Mssrs. Hoffman and Wiese:

We represent Kathy Lynch, Lynch & Associates, whose clients include California Association of Firearms Retailers ("CAFR"). It was brought to the attention of Ms. Lynch and her client that a number of outrageously false statements were written about Ms. Lynch by Calguns Vice Chairman Mr. Wiese and published on the weblog "forum" of your organization The Calguns Foundation ("Calguns") between July and December 2008. Mr. Hoffman, participating in the web dialogue, referenced and condoned Mr. Wiese's statements. The statements went well beyond statements of opinion, contained factual misstatements of a libelous nature, and were intentionally insulting in nature. The statements may be reasonably construed to have been made with actual malice and an intention to damage Ms. Lynch and her business, which she founded and has developed for over twenty years. Your publication of Ms. Lynch's clientele list with statements that were false and insulting, together with insulting epithets (referencing her at one point as a "tumor"), can only be construed as having been made with malicious intent to harm her professional character and business.

The false statements published by the Vice Chairman Wiese included but were not limited to the following:

1. Statements that Ms. Lynch's representation of CAFR was hampered by "'cross-subject' entanglements" and that she engaged in 'trading games' in her representation of CAFR and other clients.
2. That Ms. Lynch was responsible for the "'safe handgun' Roster" and SB15's passage into law.
3. That Ms. Lynch supported a mail-order ammunition ban (AB2731 (2006), Torrico).

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4. That Ms. Lynch had “a host of entanglements and bad history.”
5. That Ms. Lynch “supported antigun legislation in the past several years.”
6. That Ms. Lynch supported SB489 and AB1471.
7. That Ms. Lynch made compromises leading to bad gun legislation such as handgun rostering requirements.
8. That Ms. Lynch shares “coffee pots, staplers and file cabinets” with [former] CRPA lobbyist Gerry Upholt.

Mr. Wiese published a number of additional defamatory statements attacking Ms. Lynch, insinuating she did not have her client’s best interests in mind, made misleading statements that Ms. Lynch worked for Mr. Gerry Upholt and/or CRPA, and insinuated she sold out the pro-gun community. The insults and statements are all the more outrageous due to the fact that Ms. Lynch does not know and has not met either of you.

With two attorneys listed as fellow members of the Board of Directors of The Calguns Foundation, you will be able to corroborate the working definition of trade libel as “*any intentional false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard, or confidence in which a person is held; or induces disparaging, hostile, or disagreeable opinions or feelings against a person.*”

Mr. Wiese’s defamatory statements can reasonably be seen to fit into that definition. Mr. Wiese’s postings freely disparage Ms. Lynch and expressly seek to damage her relationship with CAFR and her other clients. The unprivileged and false statements were published to third persons in the gun ownership rights community in which Ms. Lynch has worked and continues to work. The false statements were clearly intentional and are not protected speech. Ms. Lynch is a private individual, and there is no constitutional interest protecting Calguns’/Wiese’s false statements.

Mr. Wiese’s occasional byline that his views are his own and not those of The Calguns Foundation does not shield Calguns from liability. The false statements are posted by Calguns on its website, Calguns hosts the weblog, and Mr. Wiese serves on Calguns’ Board. Hoffman acknowledged and condoned Wiese’s statements, referring in later posts to “entanglements.” Calguns will be a rightful defendant to any legal action necessary, along with Mr. Wiese. Despite references in webmail discussions that Mr. Wiese was “banned,” Calguns continued to publish Mr. Wiese’s unprivileged, false and injurious statements. This will establish Calguns’ malicious intent to damage Ms. Lynch and support a claim for punitive damages against both Calguns and Wiese.

Ms. Lynch demands the following occur within five (5) business days of your receipt of this letter:

1. Calguns and Mr. Wiese agree to immediately cease and desist making and publishing derogatory and/or false statements regarding her.

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2. Calguns and Mr. Wiese shall provide the persons and/or sources of the false and defamatory statements referenced above.
3. The Calguns Foundation shall post a retraction and apology to Ms. Lynch on the weblog site on which the defamatory statements were posted. This apology shall remain posted for the same period of time as the defamatory statements have been posted. This retraction and apology shall be posted in the same section as the weblog advertisers.
4. The retraction and apology shall be mailed, first class U.S. mail, to those advertisers appearing on your website during the time that the defamatory statements regarding Ms. Lynch were posted to present.
5. A retraction and apology to Ms. Lynch shall be published in a one-third page advertisement by the Calguns Foundation in NRA's magazines, the American Rifleman and The American Hunter, and in California Rifle and Pistol Association" magazine, The Firing Line.

Should each enumerated portion of Ms. Lynch's demand not be accepted, Ms. Lynch is prepared to take all appropriate measures necessary to protect her personal and business reputation, including the filing of a lawsuit. She will pursue recovery of all monetary damages, including general damages, special damages to be proven at trial, and exemplary damages based on the actual malice demonstrated by your organization and Mr. Wiese in publishing these patently false statements.

Please feel free to contact me to discuss the manner and content of a suitable retraction and apology.

Sincerely,
WARD & HAGEN LLP

/s/ Kirk Yake

Kirk D. Yake