

NOAH B. TENNYSON

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June 2, 2021

**VIA CERTIFIED MAIL RETURN
RECEIPT REQUESTED AND
VIA US MAIL**

The New York Times Company
Attn: Diane Brayton, EVP & General Counsel
620 Eighth Avenue
New York, New York 10018

Re: Demand for Retraction of New York Times Article by Mike Isaac

Dear Ms. Brayton:

We represent the Babylon Bee in this matter and write on its behalf. Please direct any related correspondence to the undersigned.

As you should be aware, Mike Isaac, a reporter at the New York Times, authored a defamatory article in which he stated:

Facebook often dealt with far-right misinformation sites that used "satire" claims to protect their presence on the platform, Mr. Brooking said. For example, The Babylon Bee, a right-leaning site, sometimes trafficked in misinformation under the guise of satire.

This article was published by the New York Times. After its publication, the Babylon Bee, in an effort to protect its business, character and reputation against such defamatory attack, made an online post describing Mr. Isaac's false and defamatory assertions made in his article. Though this same article was "updated" by Mr. Isaac thereafter, the update remains defamatory because it nevertheless maintains that the Babylon Bee is a "far-right misinformation site[] that use[s] 'satire' claims to protect their presence on the [Facebook] platform." See article published March 19, 2021 by Mike Isaac.

Both versions of this article constitute defamation by libel, libel *per se*, and the tortious interference with business and contractual relations. As to the original version of your article, to ostensibly support its casted aspersions, it ironically links to another New York Times article from October 11, 2020 which is essentially a profile piece about the Babylon Bee being a legitimate satire website, and it contains no mention of "misinformation" whatsoever.

The "updated" version is no better because it names only the Babylon Bee as a purported far-right misinformation site in its discussion about sites which label themselves as satirical. Further, it insinuates that the Babylon Bee "has feuded with Facebook and the fact-checking site Snopes over whether site published misinformation or satire." Yet, and as you should know, the Babylon Bee at that time was not feuding with Snopes as to whether it publishes satire or misinformation. To the contrary, at the time of your "update", Snopes had already retracted any such insinuations with an editor's note saying it was never

their intent to call into question the Babylon Bee's motives or legitimacy. In other words, Snopes denies that it ever intended to ascribe any such motives to the Babylon Bee, and therefore it is entirely misleading and malicious for you to characterize Snopes' retraction as constituting a "feud", for Snopes never stood by, nor does it stand by now, the claim that the Babylon Bee is a misinformation website as opposed to a satirical one. Further, as to Facebook, Facebook has actually issued a written apology to the Babylon Bee for mistakenly characterizing its content as "false news" instead of satire, and thus there is no "feud" with Facebook either.

New York law defines libel as a written statement of fact regarding the plaintiff published by the defendant that is false and causes injury to the plaintiff. *Meloff v. N.Y. Life Ins. Co.*, 240 F. 3d 138 (2d Cir. 2001); *See also, Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (U.S. 1990) (holding that a statement or publication containing provably false factual assertions constitutes defamation). Further, a written statement that "tends to disparage a person in the way of his office, profession or trade" is libel *per se*. *Zeevi v. Union Bank of Switz.*, 1993 WL 148871, at 4 (S.D.N.Y. 1993). The statements published by the New York Times fall squarely into these definitions.

As to tortious interference, New York law states that such a claim may be brought where a valid contract or relationship exists which a third party knew about, the third party intentionally and improperly sought to procure the breach of that contract or relationship, and plaintiff was damaged as a result. *Ullmannglass v. Oneida, Ltd.*, 86 A.D.3d 827 at 830 (2011). Here, the New York Times obviously knows about the Babylon Bee's relationship with Facebook and other social media platforms, and it plainly sought to interfere with these relationships by publishing its false statements. Whether deserved or not, the New York Times is generally looked to as a reliable source of information, and thus its disseminations of falsehoods in this matter may result in the social media platforms which host the Babylon Bee to question whether they should continue to maintain Babylon Bee accounts as they currently do. Any resulting restrictions by these platforms upon Babylon Bee accounts would all but certainly be a direct result of your intentional and tortious publications described herein.

Therefore, the Babylon Bee demands that the New York Times immediately publish a full and complete retraction of all versions of the above described article. Failure to do so will result in further damages to the Babylon Bee, which hereby reserves all of its rights to bring a lawsuit in this matter.

Govern yourselves accordingly.

Regards,

NASON, YEAGER, GERSON, HARRIS
& FUMERO, P.A.

Noah B. Tennyson

cc: The Babylon Bee

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Doc No: 1056707