

1 **COMP**

2 DENNIS M. PRINCE

3 Nevada Bar No. 5092

4 **PRINCE & KEATING**

5 3230 S. Buffalo Drive

6 Suite 108

7 Las Vegas, Nevada 89117

8 Phone: (702) 228-6800

9 Fax: (702) 228-0443

10 Attorneys for Plaintiff

11 *Stephen P. Quinn*

FILED

MAR 5 12 36 PM '09

E. J. Quinn
CLERK OF THE COURT

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 Stephen P. Quinn, an individual,)

15 Plaintiff,)

Case No.: A 584375

Dept. No.: XXV

16 vs.)

COMPLAINT

17 James Thomas, an individual; Jim Thomas)
18 & Associates, a Nevada licensed private)
19 investigation firm; Las Vegas Metropolitan)
20 Police Department; Doe Police Officers)
21 I-X, in their official and individual)
22 capacities; Nevada Department of Motor)
23 Vehicles; Doe Nevada Department of)
24 Motor Vehicle Employees XI-XX,)
25 in their official and individual capacities;)
26 DOES XXI through XXX, inclusive,)
27 ROE BUSINESS ENTITIES XXXI)
28 through XL,)

Defendants.)

Plaintiff Stephen P. Quinn ("Quinn"), individually, by and through his attorneys of record,
PRINCE & KEATING, for his Complaint against the Defendants, states, asserts and alleges as follows:

GENERAL ALLEGATIONS

1. At all times relevant herein, Quinn is and was a resident of Clark County, State of Nevada.

2. At all times relevant herein, James Thomas is and was a resident of Clark County, State of Nevada and a licensed private investigator in the State of Nevada.

3. Upon information and belief, at all times relevant herein, Defendant Jim Thomas & Associates, an unknown entity, is a Nevada based private investigation firm. James Thomas owns, operates and is an employee or authorized agent of Jim Thomas & Associates, and at all times relevant herein was acting within the course and scope of his agency. (James Thomas and Jim Thomas & Associates referred to collectively herein as "Thomas").

4. The true names of Defendant Doe Police Officers I-X ("the Officers") are presently unknown to Plaintiff, who, therefore, sues said defendants so designated herein as responsible for the events and occurrences referred to herein, and Plaintiff will request leave of Court to amend this Complaint to insert the true names of the Officers when the same have been ascertained and to join such defendants in this action. Upon information and belief, the Officers are now, and at all times mentioned were, duly appointed, employed, and acting police officers of Las Vegas Metropolitan Police Department and residents of Clark County, Nevada.

5. The Officers are sued in both their individual and official capacities

6. Upon information and belief, Defendant Las Vegas Metropolitan Police Department ("LVMPD") is a division of the City of Las Vegas, located in Clark County, Nevada, and is responsible for the hiring, control and supervision of all of its officers, detectives, agents and employees, as well as the implementation and maintenance of official and unofficial policies relating to the release and disclosure of LVMPD's records and files.

1 7. The true names of Defendant Doe Department of Motor Vehicle Employees XI-XX
2 ("the DMV Employees") are presently unknown to Plaintiff, who, therefore, sues said defendants
3 so designated herein as responsible for the events and occurrences referred to herein, and Plaintiff
4 will request leave of Court to amend this Complaint to insert the true names of the DMV
5 Employees when the same have been ascertained and to join such defendants in this action. Upon
6 information and belief, the DMV Employees are and were duly appointed, employed, and acting
7 representatives of the Nevada Department of Motor Vehicles and residents of the State of Nevada.
8

9 8. The DMV Employees are sued in both their individual and official capacities.

10 9. Defendant Nevada Department of Motor Vehicles ("Nevada DMV") is a division of
11 the government of the State of Nevada and is responsible for the hiring, control and supervision of
12 all of its employees and agents, as well as the implementation and maintenance of official and
13 unofficial policies pertaining to the release and disclosure of the Nevada DMV's records and files.
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15 10. The true names and capacities of Defendants named herein as, DOES XXI through
16 XXX, and ROE BUSINESS ENTITIES XXXI through XL whether individual, corporate, associate,
17 or otherwise, are presently unknown to Plaintiff, who, therefore, sues said defendants so
18 designated herein as responsible in some manner for the events and occurrences referred to herein,
19 and Plaintiff will request leave of Court to amend this Complaint to insert the true names and
20 capacities of DOES XXI through XXX and ROE BUSINESS ENTITIES XXXI through XL when
21 the same have been ascertained and to join such defendants in this action.
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1 11. James Thomas is a retired LVMPD police officer. After retiring from the LVMPD,
2 James Thomas became a licensed private investigator with the State of Nevada. Thomas
3 maintained numerous contacts with LVMPD who continuously and systematically gave him access
4 to confidential and proprietary information of citizens of the State of Nevada without their
5 knowledge or consent in furtherance of Thomas' private investigation business.
6

7 12. Thomas holds himself out to the public and to litigants as a private investigator for
8 hire. Thomas promotes himself to potential clients by informing them that he can gain access to
9 confidential, proprietary or otherwise private information from law enforcement agencies, such as
10 the LVMPD and other state agencies including the Nevada DMV.
11

12 13. On March 29, 2006, Quinn filed a lawsuit, Case Number A519586, alleging, *inter*
13 *alia*, defamation against former Governor Kenny C. Guinn's son, Jeffrey Guinn ("Guinn"), based
14 upon false and defamatory statements made by Guinn to the Nevada State Contractors Board and
15 members of the community.
16

17 14. After suit was filed, Guinn retained Thomas to investigate Quinn and obtain any
18 damaging information about Quinn that might assist Guinn in defending against the lawsuit.
19

20 15. On or about July 24, 2006, Guinn requested that Thomas obtain all of Quinn's
21 personal information, including a complete asset investigation, criminal history, financial condition
22 and credit history. Guinn did not provide Thomas with any authorizations or releases signed by
23 Quinn which would permit Thomas to obtain personal or confidential records.
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1 16. During the course of his investigation of Quinn, Thomas contacted members of the
2 LVMPD to obtain a confidential "SCOPE" criminal history report of Quinn. Despite the lack of
3 any criminal records or charges against Quinn, agents and/or employees of LVMPD released all of
4 the contents of the "SCOPE" report to Thomas, including Quinn's birth date, address, and social
5 security number, for the personal gain and benefit of Thomas and his client, Guinn.

6
7 17. During the course of his investigation, Thomas also contacted the Nevada DMV to
8 obtain a complete history of all DMV records involving Quinn. The Nevada DMV Employees
9 disclosed all of Quinn's personal information, including his name, birthdate, address, and social
10 security number, for the personal gain and benefit of Thomas and his client, Guinn.

11 18. Quinn's private and personal information, which Thomas knowingly obtained
12 without proper authorization from the Nevada DMV, was included in Thomas' investigative
13 reports submitted to Guinn and disseminated to third parties.
14

15 19. Thomas knew that Guinn would publish these reports to third parties and for his
16 own personal gain against Quinn.

17 20. During the course of litigation in Case A519586, Guinn also requested that Thomas
18 commence daily *sub rosa* surveillance of Quinn. At Guinn's request, Thomas monitored all of
19 Quinn's daily activities for more than a year at a cost of over \$100,000.00.
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21 21. During the course of the daily surveillance, Thomas or his employees followed
22 Quinn, his wife, and his children as they traveled to work, school, and recreational activities.

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1 22. As part of his engagement, Guinn requested that Thomas perform background
2 searches on all individuals who drove into the parking lot of Quinn's place of business, Precision
3 Construction, Inc., located at 1821 Western Avenue, Las Vegas, Nevada, 89102. Through Thomas'
4 contacts at LVMPD, the Nevada DMV and other organizations, Thomas obtained and distributed
5 confidential information about *hundreds* of individuals, including "SCOPE" criminal history
6 reports, dates of birth, and social security numbers.
7

8 23. Throughout Thomas' surveillance of Quinn, Thomas and his employees never
9 observed Quinn engage in any illegal activity, nor did they observe any activity that would cause a
10 reasonable person to suspect criminal activity on the part of Quinn.
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12 24. Despite the lack of any reasonable basis to accuse Quinn of illegal activity, Thomas'
13 surveillance reports to Guinn repeatedly contained accusations that Quinn was engaging in illegal
14 activity, including hiring prostitutes or promotion of prostitution, illegal drug dealing or use and
15 promotion of terrorist activity.

16 25. Thomas' false statements regarding Quinn were not for any legitimate purpose. The
17 express purpose of Thomas' false statements was to assist Guinn in the lawsuit filed by Quinn by
18 injuring and damaging the reputation of Quinn.
19

20 26. Thomas' accusations of criminal wrongdoing against Quinn had no legitimate basis
21 in law or fact and this was known to Thomas at the time that the surveillance reports were created.

22 27. Based on Thomas' false and misleading surveillance reports, LVMPD commenced
23 an investigation into Quinn without Quinn's knowledge and completed surveillance on Quinn at his
24 place of business. LVMPD's investigation concluded with no arrests or criminal charges due to the
25 baseless nature of Thomas' accusations.
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1 28. On August 28, 2008, the deposition of James Thomas was completed in the course
2 of discovery in Case Number A519586. Through Thomas' deposition, Quinn learned of Thomas'
3 unauthorized access to the personal information of over two-hundred and forty (240) individuals
4 through the LVMPD and the Nevada DMV.

5 29. At the request of Thomas, the LVMPD released more than 240 "SCOPE" criminal
6 history reports of individuals without their knowledge or consent.

7 30. Thomas' August 28, 2008 deposition also confirmed the baseless allegations of
8 criminal activity contained in Thomas' reports, the resulting criminal investigation by LVMPD, and
9 the illegal disclosure of Quinn's personal information, including his Social Security Number, by the
10 Officers, LVMPD, the Nevada DMV, and the DMV employees.

11 31. In Thomas' deposition, Thomas acknowledged the impropriety of his access to
12 government records in refusing to disclose the identity of any of his sources of information from
13 the LVMPD or the Nevada DMV.

14 32. Through additional discovery completed in Case Number A519586, Quinn learned
15 that the investigative reports containing false, misleading, and private information were knowingly
16 distributed and shared with others.

17 33. As a direct and proximate result of the Defendants' acts, Quinn sustained great
18 anguish of mind, suffered severe emotional distress, incurred substantial expenses, and was
19 prevented from transacting his usual business.

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23 **FIRST CLAIM FOR RELIEF**

24 **(Negligence as to Defendants Jim Thomas and Jim Thomas & Associates)**

25 34. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 33
26 as if fully set forth herein.

1 35. Defendants James Thomas and Jim Thomas & Associates owed defendant a duty of
2 care as professional, licensed private investigators when completing investigations into Quinn's
3 personal information and activities.

4 36. Defendants James Thomas and Jim Thomas & Associates breached this duty during
5 the course of their investigations thereby causing damage to Quinn.
6

7 37. By reason of the premises and as a direct and proximate result thereof, Quinn
8 sustained damages in excess of \$10,000.

9 38. Quinn has been compelled to retain the services of an attorney to prosecute this
10 action and is, therefore, entitled to reasonable attorney's fees and costs incurred herein.
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12 **SECOND CLAIM FOR RELIEF**

13 **(Defamation as to Defendants Jim Thomas and Jim Thomas & Associates)**

14 39. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 38 as
15 if fully set forth herein.

16 40. Based upon the knowingly and materially false statements concerning Quinn made
17 by James Thomas and Jim Thomas & Associates in reports and conversations intended for
18 publication in the public records of a case in litigation, as more particularly described above,
19 Defendants are guilty of defamation, including libel and slander.
20

21 41. As a result of the conduct of Defendants, and each of them, Quinn has been
22 damaged in an amount in excess of \$10,000.00.

23 **THIRD CLAIM FOR RELIEF**

24 **(Defamation Per Se as to Defendants Jim Thomas and Jim Thomas & Associates)**

25 42. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through
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27 41 as if fully set forth herein.
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1 43. Based upon the knowingly false statements made by Defendants James Thomas
2 and Jim Thomas & Associates, and each of them, concerning alleged criminal and immoral
3 activity by Quinn, Defendants are liable for defamation per se and therefore, damages are
4 presumed.

5 44. As a result of the conduct of Defendants James Thomas and Jim Thomas &
6 Associates, Quinn has been damaged in an amount in excess of \$10,000.00.
7

8 **FOURTH CLAIM FOR RELIEF**

9 **(Totious Invasion of Privacy as to All Defendants)**

10 45. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 44
11 as if fully set forth herein.

12 46. Defendants, and each of them, intentionally and unreasonably intruded upon the
13 seclusion of Quinn by completing more than one year of *sub rosa* surveillance of Quinn and his
14 family, including following Quinn's handicapped child to school, and completing hundreds of
15 illegal background searches of individuals who entered the parking lot of Quinn's business or
16 home.
17

18 47. Defendants and each of them intentionally and unreasonably disclosed private facts
19 including Quinn's Social Security Number.
20

21 48. Defendants actions violated the laws of the State of Nevada, the laws of the United
22 States, and the Constitution of the United States and are, therefore, highly offensive.

23 49. As a result of the conduct of Defendants Quinn has been damaged in an amount
24 in excess of \$10,000.00.
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FIFTH CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress as to All Defendants)

50. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 49 as if fully set forth herein.

51. Defendants conduct in revealing Quinn's private and personal information, including his Social Security Number and/or Defendants conduct in making false accusations of criminal and immoral conduct was extreme and outrageous.

52. Defendants either intended and/or recklessly disregarded the severe emotional distress that their actions would cause.

53. As a direct result of Defendants actions, Quinn has suffered severe and extreme emotional distress.

54. As a result of the conduct of Defendants Quinn has been damaged in an amount in excess of \$10,000.00.

SIXTH CAUSE OF ACTION

(Violation of 42 U.S.C. § 1983 as to Doe Officers, Las Vegas Metropolitan Police Department and Doe DMV Employees)

55. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 54 as if fully set forth herein.

56. Defendants Doe Officers, Las Vegas Metropolitan Police Department and Doe DMV Employees actions subjected Quinn to a deprivation of rights and privileges secured to plaintiff by the Constitution and laws of the United States, including the due process clause of the Fourteenth Amendment to the Constitution of the United States within the meaning of 42 U.S.C. §1983, namely the right to privacy.

1 57. As a direct and proximate result of Doe Officers, Las Vegas Metropolitan Police
2 Department and Doe DMV Employees' unconstitutional acts, Quinn sustained great anguish of
3 mind, incurred substantial expenses, and was prevented from transacting his usual business.

4 58. Pursuant to 42 U.S.C. § 1988, Quinn is entitled to recover reasonable attorney fees
5 incurred as a result of Defendants unconstitutional acts.
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7 **SEVENTH CAUSE OF ACTION**

8 **(Violation of the Federal Driver's Privacy Protection Act, 18 U.S.C. 2721-2725, as to**
9 **Defendants James Thomas, Jim Thomas & Associates,**
 the Nevada DMV and Doe DMV Employees)

10 59. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 58
11 as if fully set forth herein.

12 60. Pursuant to 18 U.S.C. 2721-2725 ("the Federal Driver's Privacy Protection Act"),
13 any person who knowingly obtains, discloses or uses personal information, from a motor vehicle
14 record for an unauthorized purpose shall be liable in a civil action to the individual to whom the
15 information pertains.
16

17 61. Section 2721 of the Federal Driver's Privacy Protection act provides that a Social
18 Security Number is highly restricted personal information [under Section 2725(4)] and disclosure
19 to a private investigator [as mentioned in part b(4) of Section 2721] is not permitted.
20

21 62. Defendants James Thomas, Jim Thomas & Associates, the Nevada DMV, and Doe
22 DMV Employees obtained, disclosed, and/or used Quinn's Social Security Number in violation of
23 the Federal Driver's Privacy Protection Act.

24 63. Pursuant to 18 U.S.C. 2724, Quinn is entitled to damages of not less than \$2,500
25 from each Defendant, punitive damages, and reasonable attorney's fees and litigation costs incurred
26 as a result of Defendants' violation of the Federal Driver's Privacy Protection Act.
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EIGHTH CLAIM FOR RELIEF

(Punitive Damages as to All Defendants)

64. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 63 as if fully set forth herein.

65. Defendants have engaged in conduct which is fraudulent, malicious and oppressive thereby justifying an award of punitive damages pursuant to NRS 42.005.

66. Quinn is entitled to punitive damages in an amount in excess of \$10,000.00, based upon the fraudulent, malicious and oppressive conduct of Defendants as described herein.

WHEREFORE, Plaintiff Stephen P. Quinn prays for a judgment against Defendants as follows:

1. General and special damages in an amount in excess of \$10,000.00;
2. Punitive Damages;
3. Costs of suit incurred including reasonable attorneys' fees;
4. For such other relief as the Court deems just and proper.

DATED this 4 day of March, 2009

PRINCE & KEATING


DENNIS M. PRINCE

Nevada Bar No. 5092

3230 S. Buffalo Drive

Suite 108

Las Vegas, Nevada 89117

Attorneys for Plaintiff

Stephen P. Quinn