

**IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND**

DANIEL M. FOX )  
783 Woodmont Ave, Ste. 347 )  
Bethesda, MD 20814 )  
)  
)  
Plaintiff, )  
)  
v. )  
)  
JOHN MCCARTHY )  
50 Maryland Avenue, 5<sup>th</sup> Floor )  
Rockville, Maryland 20850 )  
)  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. \_\_\_\_\_

**COMPLAINT**

Plaintiff, Daniel M. Fox sues Defendant, John McCarthy and states:

1. Plaintiff Daniel M. Fox (“Fox” or “Plaintiff”) is a resident of Montgomery County, Maryland.
2. Defendant John McCarthy (“McCarthy” or “Defendant”) is a is a resident of and/or regularly does business in Montgomery County, Maryland.
3. Daniel Fox and John McCarthy are both running in the Democratic primary for Montgomery County State’s Attorney. The election is scheduled for September 12, 2006.
4. During his campaign, McCarthy has made a number of false statements about Fox. On July 5, 2006, McCarthy stated: “The number one requirement of the job is being an attorney.” McCarthy then pointed towards Fox and said, “he’s not even...he’s not an attorney in this state. He’s a financial advisor.” McCarthy made this statement at the Bethesda Chevy Chase Democratic Breakfast Club.

5. On July 27, 2006, Mr. McCarthy answered a question about his priorities for the office by saying, "Dan's not a practicing lawyer in Maryland. [] He's never practiced law in Maryland." McCarthy made this statement at the Leisure World Democratic Club State's Attorneys' Candidates Forum.

6. On July 29, 2006, Mr. McCarthy began his stump speech by saying, "Everything Dan just said is false. He's not even a practicing lawyer in this state. He's a financial advisor to a skateboard company." McCarthy made this statement at the Greater Silver Spring Democratic Club picnic.

7. On August 15, 2006, a voter told Fox that McCarthy had denigrated Fox to her. Specifically, McCarthy told this voter that Fox was not an attorney. She then told Fox that she called her son with this information and he informed her that Fox was in fact an attorney. She then told Fox: "How can McCarthy say you're not an attorney when it's not true? You need to do something about it. You need to let people know that you are in fact an attorney."

8. On August 18, 2006, McCarthy stated: "My opponent is not a practicing attorney. He's a financial advisor to a skateboard company. He's never handled a criminal case in this county." These statements were publicized on Channel 8 News at 5:30 p.m. and 6 p.m.

9. The statements made by McCarthy during the campaign, which are identified above, are false. First, Fox is not only an attorney, but is fully licensed to practice in Maryland.

10. Second, Fox has handled criminal cases in Montgomery County Maryland.

11. McCarthy's false statements are harmful to Fox's reputation because they tend to make him appear unqualified for the Montgomery County State's Attorney office for which he is actively campaigning. Indeed, being an attorney is a necessary requirement for the office. By

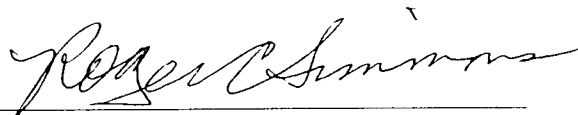
telling voters that he was not an attorney, McCarthy created the false appearance that Fox was disqualified for the job.

12. When McCarthy made these false and defamatory statements he knew them to be false or recklessly disregarded their falsity. Accordingly, McCarthy's actions also violate Maryland's Rules of Professional Conduct, including Rule 4.1 and 8.4(c).

13. As a result of McCarthy's defamatory and unethical conduct, McCarthy has harmed Fox's campaign to become State's Attorney for Montgomery County. He has also impaired Fox's reputation in the community, including with potential clients. Furthermore, he has caused currently unidentified money damages.

WHEREFORE, Plaintiff Daniel M. Fox demands that this Court award such compensatory and punitive damages as may be established at trial, as well as such other and further relief as this Court may deem just and proper.

Respectfully submitted,



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**JURY DEMAND**

Plaintiff demands a jury trial for all issues so triable.



Roger C. Simmons, Esq.