

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

TERRY J. CLARK)	Case Number: _____
Plaintiff,)	
)	
v.)	
)	
TIME WARNER, INC.,)	
TIME INC.,)	
SPORTS ILLUSTRATED,)	
GOLF MAGAZINE,)	
GOLF.COM,)	
JOHN GARRITY,)	
and)	
HEARTLAND GOLF DEVELOPMENT II, LLC)	
Defendants.)	

PETITION FOR DAMAGES

COUNT 1

DEFAMATION AND LIBEL

COMES NOW the Plaintiff, Terry J. Clark, by and through his attorney, Daniel A. Williams, and for his cause of action against the Defendants, Time Warner, Inc., Time Inc., Sports Illustrated, Golf Magazine, Golf.com, John S. Garrity, and Heartland Golf Development II, LLC, states and alleges as follows:

1. That Plaintiff is a resident of Johnson County, Kansas.
2. That Defendant Time Warner, Inc. is, on information and belief, a corporation with headquarters in the State of New York, with an official address of One Time Warner Plaza, New York, New York, 10019-8016.
3. That Defendant Time Inc. is, on information and belief, a corporation with headquarters in the State of New York, with an official address of Time & Life Building, 1271 Avenue of the Americas, New York, New York, 10020.

4. That Defendant Sports Illustrated is, on information and belief, a business unit with headquarters in the State of New York, with an official address of Time & Life Building, 1271 Avenue of the Americas, New York, New York, 10020.
5. That Defendant Golf Magazine is, on information and belief, a business unit with headquarters in the State of New York, with an official address of Time & Life Building, 1271 Avenue of the Americas, New York, New York, 10020.
6. That Defendant Golf.com is, on information and belief, a business unit with headquarters in the State of New York, with an official address of Time & Life Building, 1271 Avenue of the Americas, New York, New York, 10020.
7. That Defendant John Garrity is, on information and belief, a resident of the State of Missouri, with an official address of Time & Life Building, 1271 Avenue of the Americas, New York, New York 10020.
8. That Defendant Heartland Golf Development II, LLC is, on information and belief, a limited liability corporation with business operations in the State of Missouri, and a resident agent of S & B Corporate Services, Inc., 4600 Madison, Kansas City, Missouri 64112-3012.
9. That Plaintiff is an owner and former general manager of Hillcrest Country Club in Kansas City, Missouri.
10. That between 2011 and the current time, Plaintiff and David Francis, managing member of Heartland Golf Development II, LLC, have been involved in a number of legal cases regarding Plaintiff's ownership in various entities, including Heartland Golf Development II, LLC.
11. That in multiple instances between 2011 and the current time, David Francis, managing member of Heartland Golf Development II, LLC has been quoted in media outlets disparaging Plaintiff professionally and personally.
12. That Plaintiff is well-known throughout the Kansas City, Kansas, and Missouri areas as a golf course manager and expert.
13. That on or about May 29, 2014, an article was published on the Defendant Golf.com website on the topic of Hillcrest Country Club in Kansas City, Missouri (Exhibit A).
14. That the author of this article was Defendant John Garrity, a contributing author to Defendant Golf.com and Defendant Golf Magazine, employed by Defendant Sports Illustrated.
15. That Defendant Time Warner, Inc. was the owner of Time Inc. on May 29, 2014.

16. That Heartland Golf Development II, LLC is the owner of Hillcrest Country Club in Kansas City, Missouri.
17. That Defendant Time Inc. was the owner of Sports Illustrated, Golf Magazine, and Golf.com on May 29, 2014.
18. That the article of Golf.com was a hit piece against Plaintiff, filled with false statements and intentional lies written by Defendant John Garrity as quoted to him by David Francis, managing member of Defendant Heartland Golf Development II, LLC and an owner of Hillcrest Country Club, and Kurt Everett, general manager of Hillcrest Country Club.
19. That in research for the articles, author John Garrity made no effort to contact Plaintiff Terry J. Clark or Plaintiff's attorney, who was easily identified through court records.
20. That Defendant Garrity, Francis, and Everett, through the website of Defendant Golf.com and Defendant Golf Magazine, committed malicious defamation and libel against Plaintiff to a worldwide audience.
21. That in the article, Defendant Garrity referred to Plaintiff as "Vlad the Impaler", an infantile and highly non-professional false name designed to subvert the rules of law.
22. That within the golfing and business communities in Kansas City, Kansas, and Missouri, Plaintiff was known as the former general manager of Hillcrest Country Club and the false name used by Defendant Garrity did not hide Plaintiff's true identity to thousands of readers, and that a simple online search could provide Plaintiff's identity to anyone else.
23. That Plaintiff has ample evidence to prove that the claims made by Defendant Garrity in the article, as he quoted David Francis and Kurt Everett, are completely and knowingly false.
24. That all Defendants acted together to commit defamation and libel against the Plaintiff.
25. That Timing and Jurisdiction in this Court is proper, pursuant to Kansas Statutes Annotated 60-514(a) and 28 U.S.C. Section 1332.

COUNT 2

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

26. Plaintiff re-alleges those allegations set forth in paragraphs 1 through 25.
27. All Defendants conspired together to publish the defamatory and libelous articles.
28. Defendant Heartland Golf Development II, LLC, by its managing member David Francis and the general manager of Hillcrest Country Club Kurt Everett, intentionally provided false statements to Defendant John Garrity for publication in the defamatory and libelous articles.

29. Defendant Heartland Golf Development II, LLC had knowledge that the false statements made would be hurtful to Plaintiff, both professionally and personally.
30. Defendants Time Warner, Inc., Time Inc., Sports Illustrated, Golf Magazine, Golf.com, and John Garrity should have known that the statements made would be hurtful to Plaintiff, both professionally and personally.
31. All Defendants conspired to publish publically the defamatory and libelous articles, complete with false statements throughout, for the purpose of damaging Plaintiff, both professionally and personally.
32. Defendants' actions by publishing the articles have caused Plaintiff severe emotional pain and have resulted in the loss of ability to pursue professional activities loved by Plaintiff.
33. That all Defendants conspired together to intentionally inflict emotional and mental distress upon Plaintiff through the publication of the articles.

TRIAL BY JURY

Plaintiff Hereby Demands Trial by Jury.

WHEREFORE, the Petitioner prays for judgment against the Respondents which is fair and reasonable, for \$2,000,000.00 for compensatory damages for lost income potential and for \$10,000,000.00 for the emotional damages incurred by Plaintiff as a result of the Defendants' intentional and malicious actions; for the costs of this action, including but not limited to attorney's fees; and any other and further relief as the Court may deem fair, just and equitable.

Respectfully Submitted,



Daniel A. Williams KS#18779
107 W. Elm St.
Olathe, KS 66061
(913) 850-8271
dwlawks@gmail.com
ATTORNEY FOR PLAINTIFF

Exhibit A
Page 1

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Once given up for dead, the challenging Donald Ross-designed Hillcrest Country Club is thriving again



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By John Garrity, Contributing Writer, Sports Illustrated *(/search/apachesor_search/John Garrity?filters=is_cck_field_article_contributor_ref%3A151070&sort=created desc)*
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When Ray Floyd teed it up at Hillcrest some 30 years ago, he called the par-3 1st the toughest opening hole he had ever played.

I said goodbye to Hillcrest Country Club on a sunny fall afternoon in 2011. Playing alone, I teed off on the infamous 1st hole, a downhill, 243-yard par-3 that Ray Floyd once called the toughest opening hole he had ever played. Then, surrounded by flaming maples and preening oaks, I followed a trail blazed a half century before by Kansas City Open champs Dick Mayer, Al Besselink and Ernie Vossler — and by

, who once needed 83 blows to get around Hillcrest's rugged layout. Come sunset, my car was the only one in the parking lot. Taking one last, very long look at the old stone clubhouse, I pulled onto Hillcrest Road and drove away.

Fortunately, Hillcrest's death rattle turned out to be more of a smoker's cough. Missouri's only remaining Donald Ross-designed layout reopened the following spring and endures today as a semiprivate, daily-fee course. I play there a couple of afternoons a week, dodging the boisterous league golfers and company-outing cutups who have reanimated the old course. Bless them all. They've pulled Hillcrest out of Chapter 11 bankruptcy.

Before I go further, I need to make one thing clear: I don't love Hillcrest because of Donald Ross. I love Hillcrest because it was my summer playground when I was a teenager. I played junior golf there, splashed in the pool, gorged on the Friday-night seafood buffet, caddied on weekends and stretched out on the grassy slope below the

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Phil Knocks Watson's Strategy After Loss

(javascript: golfCvpl.loadLatestVideo)

Exhibit A
 Page 2

1st tee to watch fireworks on the Fourth of July. Walking through the sprawling stone clubhouse, I encounter the ghosts of my chain-smoking, loquacious dad, who served a term as club president, and my older brother, Tom, who held the course record, dominated the region's amateur ranks and represented Hillcrest during a brief run on the PGA Tour.

But every so often — such as now, with the USGA about to descend on Ross's beloved Pinehurst No. 2 for its men's and women's national championships — I am reminded that Ross courses are widely revered. They're not all masterpieces, and some of them have had mustaches painted on them by posterity, but playing one of the 399 courses attributed to Ross is like fingerpicking a vintage Martin guitar. Something of the designer is inevitably expressed, something sings ... and you don't need a lot of talent to appreciate the craftsmanship.

It doesn't take much, though, to wipe a Ross original off the face of the earth. Nobody knows this better than David Francis, Hillcrest's owner since 2006. When he acquired Kansas City's second-oldest private golf club, it was running significant deficits and was down to 230 golf members and 110 social members — well below the numbers that had allowed it to prosper for decades. Some of that decline owed to the perception that Hillcrest, built in 1916, was on "the wrong side of town" — i.e., away from the burgeoning bedroom communities of Johnson County, across the state line in Kansas. Another factor was a real estate market correction that has forced the closing of more than 600 courses across the U.S. in the past eight years.

"They were going to board this place up when I bought it," Francis says, indulging in some hyperbole. "It was overstaffed. They'd send several waiters just to pour tea in the women's card room."

Convinced that sound business practices would right the ship, Francis turned Hillcrest's management over to a business partner who had impressed him on another project. Vlad the Impaler—not his real name — promptly went on a management rampage. Noticing a drink left atop the club's grand piano, Vlad chewed out the offender and his wife on the course, leading them to resign without holding out. Spotting a cart on the 4th fairway on a paths-only day, Vlad yanked out the key, enraging its driver — who just happened to be the president of a trade association paying Hillcrest 20 grand for its annual outing. And my favorite: Vlad told the chef to stop ordering Heinz ketchup as a rebuke to Democratic presidential candidate John Kerry. (Cherchez la femme!)

"Club presidents' widows used to get a free social membership," says Kurt Everett, Hillcrest's general manager. "That was nothing but goodwill, and they came in every Friday and Saturday night and spent money. But he took that away. Anything the members liked, he took away." Vlad even had an answer for those who quit Hillcrest: He sued them for breach of contract and then banned them from the property, going so far as to forbid their participation in charity scrambles.

Disturbing, yes. But then Vlad went after Donald Ross.

At first it was a matter of the course's conditioning. Greens weren't mowed as often, branches and debris weren't cleared as promptly after storms. "There was a lot of deferred maintenance," says Everett. "[Vlad] thought if you didn't overseed, you didn't have to hire somebody to mow." But then the Impaler got it in his mind that the 9th green, on high ground near the clubhouse, was hogging space that would generate more income as — wait for it — a wedding bower!

"I came out here one day, and the green was being torn up," Francis says, shuddering at the memory. "I said, 'What are you doing?' The bower never got built, but Vlad installed a replacement green some 50 yards short of Ross's. It was tiny, perpetually soggy and propped up by a stone wall. In less time than it takes to schedule a deposition, one of Kansas City's strongest par-4s had been destroyed.

Fed up, Francis fired Vlad, touching off an exchange of suits and counterclaims that entertained court reporters and baffled readers of The Kansas City Star. When the smoke cleared, Hillcrest was broke, depopulated and sparsely staffed. "I take full responsibility," the owner says. "I could have stepped in sooner."

Francis, time has proved, wanted to save Hillcrest, not annihilate it. A businessman-philanthropist who moonlights as a commercial pilot, he has used some of his Puritan Bennett fortune to build and operate Prairie Highlands Golf Links, a highly regarded public course in Olathe, Kans. Now, still stinging from his foray into country-club golf, he promises to put Hillcrest back on its feet. "I felt I needed to correct the situation," he says. "What happened here was not representative of my family or my integrity."

The man is digging deep into his pockets to fulfill that pledge. Returning members have seen extensive clubhouse renovations, a resurfaced parking lot and a fleet of spiffy new golf carts. The pared-down clubhouse staff, managed by Everett and golf-operations director Jeff Locke, wear perpetual smiles and pitch in like Peace Corps volunteers. I'm no longer surprised, for instance, to see head pro John Bozarth on a ladder painting exterior trim.

Meanwhile, course superintendent Brett Mathias and assistant greenkeeper Dallas Ridenour have a punch list of their own, meant to restore Hillcrest's luster. It's a daunting task because the site's deer-infested verges and easily eroded swales demand constant attention. In the market for a dead tree? Call 816-523-8601.

The most pressing concern, of course, is to get Donald Ross to stop spinning in his grave. A big step was taken last year when the greenkeepers, working from old aerial photos, restored the 9th green. Like the Ross original, the new putting surface is disarmingly plain, unbunkered and seemingly defenseless, its surface so subtle as to appear artless. Hah! Approach shots landing left of center trickle off the green, and a two-putt par or a bogey feels like a birdie. The old Scotsman, whose silhouette is plastered on practically every flat surface at Hillcrest, would surely smile.

There is still much to be done. The range is scruffy, the pool remains tarped, and a picnic pavilion hides behind a pile of sawed-up tree trunks. But little by little the old club is regaining its vitality. About 50 former members have rejoined, and a flock of newcomers has signed up, unable to resist the club's Donald Ross pedigree and for-a-limited-time-only monthly dues of \$229. "We've overdelivered on every promise we've made," says Francis, happy to be wearing the white hat again.

Hillcrest lovers got more good news recently when Cerner Corporation, the health-care giant, launched a 237-acre, \$4.3 billion innovation campus near Hillcrest that is expected to create up to 15,000 jobs. That project, along with a planned 350-acre biotech park, should rid the club of its wrong-side-of-town stigma and provide a pool of prospective members from the lab-coat and software-geek crowd.

"There's so much passion for this golf course," says Everett. "It's a thinking man's golf course. It's a gem. And it's worth saving."

Recap: Europe Keeps the Cup, (378761; Phil Knocks Watson's 1)) Strategy After Loss, 2))



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Exhibit A
Page 3

I – and a couple of clubhouse ghosts – happen to agree.

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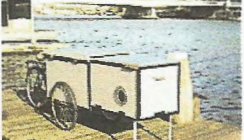
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(http://www.sportsweek.com/sports/15-athletes-who-died-in-the-middle-of-their-careers/)

15 Athletes Who Died In The Middle Of Their Careers



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Oldest

JohnSchwaab

Jan 1, 2014

Mr. Garrity,

0

Great article!!! I grew up at Hillcrest during the 70's learning the game from Dutch who gave me my first 3 golf clubs that he cut down from a ladies set. You nailed it with the 3rd paragraph. Nothing like laying on the slope of the 1st tee and watching the fireworks! I will have to get back to KC this summer and play a round.

Like Reply



*Exhibit A
Page 4*

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Exhibit B
Page 1

Once given up for dead, the challenging Donald Ross-design Hillcrest Country Club is thriving again



When Ray Floyd teed it up at Hillcrest some 30 years ago, he called the par-3 1st the toughest opening hole he had ever played

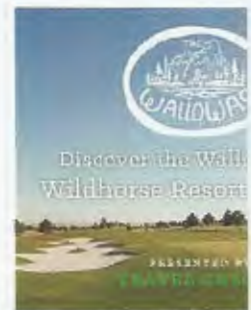


by John Garrity

Posted:
Thu May 29, 2014

Updated:
Mon Dec 1, 2014

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Exhibit B
Page 4

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