

STATE OF NORTH CAROLINA

File No. 18cws 12964

MECKLENBURG County

In The General Court Of Justice
District Superior Court Division

Name Of Plaintiff: MICHAEL F. MILTICH
Address: c/o Elliott Law Firm, PC PO Box 1821
City, State, Zip: Huntersville, NC 28078

CIVIL SUMMONS
ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

VERSUS
Name Of Defendant(s): MICHELLE FERLAUTO

Date Original Summons Issued
Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1: Michelle Ferlauto, 21005 Sterling Bay Lane East, Apt. 1, Cornelius, NC 28031

Name And Address Of Defendant 2



IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!
¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles! Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff): Michael K. Elliott, Elliott Law Firm, PC, PO Box 1821, Huntersville, NC 28078, (704) 947-3838

Date Issued: 7/2/18, Time: 3:01, AM/PM: PM, Signature: Rosa Vasquez, Deputy CSC/Assistant CSC/Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement, Time, Signature, Deputy CSC/Assistant CSC/Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
--------------------	-------------------------------------------------------------------------------	--------------------------

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

*Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)*

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

**DEFENDANT 2**

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
--------------------	-------------------------------------------------------------------------------	--------------------------

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

*Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)*

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

<i>Service Fee Paid</i> \$	<i>Signature Of Deputy Sheriff Making Return</i>
<i>Date Received</i>	<i>Name Of Sheriff (type or print)</i>
<i>Date Of Return</i>	<i>County Of Sheriff</i>

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

FILED

2018 JUL -2 PM 3:01

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO.: 18-CVS- 12964

MICHAEL F. MILTICH,

Plaintiff,

vs.

MICHELLE FERLAUTO,

Defendant

**COMPLAINT**

COMES NOW Plaintiff, by and through counsel, complaining of the acts of the Defendant, alleges and states that:

**PARTIES**

1. Plaintiff Michael F. Miltich ("Plaintiff") is a citizen and resident of Mecklenburg County, North Carolina
2. Upon information and belief, Defendant Michelle Ferlauto ("Ferlauto") is a citizen and resident of Mecklenburg County, North Carolina.

**CAUSE OF ACTION & VENUE**

3. Venue is proper in this jurisdiction under N.C. Gen. Stat. §1-82 as the Plaintiff and Defendant are located within Mecklenburg County, North Carolina.
4. This is an action for Defamation and recovery of civil damages pursuant to N.C.G.S. §15A-296.

**FACTUAL BACKGROUND**

5. Plaintiff is employed as an otolaryngologist at Charlotte Eye, Ear, Nose & Throat Associates, P.A., and also serves as the current Mayor Pro Tem of the Town of Cornelius, NC.
6. Ferlauto ran unsuccessfully in 2017 for a seat as a Town of Cornelius Commissioner, and upon information and belief, harbors hostile will and abhorrence for the Plaintiff because of his position as Mayor Pro Tem.
7. On May 11, 2018 at or about 9:00 AM Plaintiff was working in a secure area at Novant Hospital – Huntersville and was having a private conversation with another physician.
8. Unbeknownst to either the Plaintiff or the other physician, and without either of their consents, a recording was made of the conversation. The identity of the person making the recording remains unknown at this time.



9. As neither the Plaintiff nor the other physician gave consent to the recording, the recording of the conversation was a criminal act under N.C.G.S. §15A-287.

10. Upon information and belief, the person who made the recording gave a copy of the recording to Ferlauto on or shortly after May 11, 2018.

11. On May 16, 2018 Ferlauto “tagged” Plaintiff in a Facebook post posing a question to Plaintiff, based on the contents of the illegal recording, in an attempt to subject the Plaintiff to ridicule, contempt and disgrace.

12. On May 17, 2018 Plaintiff was approached by a reporter from WSOC asking for comments about the recording, and WSOC subsequently ran a news story that can still be seen at <https://www.wsoc.tv.com/news/local/cornelius-mayor-pro-tem-explains-controversial-comments-recorded-on-video/751410175>.

13. According to the news story, WSOC stated that they acquired the recording from an anonymous source.

14. On May 17, 2018 Ferlauto posted a link on Facebook to the video described above in ¶12 and stated that “[Plaintiff lied]”, once again in an attempt to subject the Plaintiff to ridicule, contempt and disgrace.

15. Upon information and belief, Ferlauto is the anonymous source of the recording that was given to WSOC.

16. On May 31, 2018 Ferlauto posted again on Facebook, this time stating in part:

“Which would bother you most if you were a resident of Cornelius?...

2. Mayor Pro Tem Dr. Mike Miltich accused of sexual harassment by a reporter while she was just trying to do her job covering the town. Do we know for a fact this is the first time of such accusations?...

6. Mayor Pro Tem Dr. Mike Miltich getting caught on camera audio trashing the fire department?...”

17. The Plaintiff has not been accused of sexual harassment, nor has there ever been any formal complaint or investigation regarding the false statements in #2 above. The statement regarding the alleged “trashing” of the fire department, upon information and belief, relates to the contents of the illegal recording.

18. On June 3, 2018 Ferlauto posted the illegal recording on Facebook and stated:

“\*\*\*\*\*TONIGHT @7PM Cornelius Town Hall Come out and show your support for our first responders? Your voice CAN make a difference for public safety.\*\*\*\*\*”

For everyone who wanted to listen to the entire recording of Mayor Pro Tem Miltich trashing the Fire Department (or doubted that he did)....”

19. On June 8, 2018 Ferlauto was sent a letter informing her of the illegality of the recording, the falsity of the statements she had promulgated on Facebook, warning her of the civil penalties under N.C.G.S. §15A-296 for the dissemination of the recording, demanding that she cease and desist with the continued dissemination of the recording, to destroy any and all copies of the recording in her possession and to acknowledge her compliance with the above demands in writing by June 15, 2018. Those demands have gone unanswered and otherwise ignored.

**FIRST CLAIM FOR RELIEF**  
**[Defamation]**

20. Paragraphs 1-19 of Plaintiff's Complaint are reasserted, realleged, and incorporated herein as if fully set forth.

21. Ferlauto has defamed Plaintiff in that she (1) published the illegal recording on Facebook, (2) upon information and belief provided a copy of the illegal recording to WSOC, and (3) made false statements regarding a sexual harassment claim with reckless disregard for its truth or falsity, and did all of these actions in a willful and malicious attempt to subject the Plaintiff to ridicule, contempt and disgrace.

22. As a direct and proximate result of the aforementioned actions, Plaintiff has been damaged in amount to be determined at the trial of this matter but believed to be in excess of \$25,000.

**SECOND CLAIM FOR RELIEF**  
**[Violation of NCGS §15A-287]**

23. Paragraphs 1-24 of Plaintiff's Complaint are reasserted, realleged, and incorporated herein as if fully set forth.

24. Pursuant to N.C.G.S. §15A-287 a person is guilty of a Class H felony if, without the consent of at least one party to the communication, the person:...(4) Willfully uses, or endeavors to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this Article.

25. Upon information and belief, Ferlauto has disseminated the illegal recording as described herein to potentially the entire world through her use of Facebook.

26. Ferlauto, in her actions of disseminating the illegal recording, acted with reckless disregard for its truth or falsity, and in a willful and malicious attempt to subject the Plaintiff to ridicule, contempt and disgrace.

27. As a direct and proximate result of the aforementioned actions, Plaintiff has been damaged in amount to be determined at the trial of this matter but believed to be in excess of \$25,000.

**THIRD CLAIM FOR RELIEF**  
**[Punitive Damages]**

28. Paragraphs 1-27 of Plaintiff's Complaint are reasserted, realleged, and incorporated herein as if fully set forth.

29. Ferlauto disseminated the illegal recording in direct violation of N.C.G.S. §15A-287.

30. Plaintiff is entitled to recover punitive damages from Ferlauto pursuant to N.C.G.S. §15A-296 in an amount to be determined by a jury to deter Ferlauto from engaging in conduct in the future but believed to be in excess of \$25,000.

**WHEREFORE**, Plaintiff prays the Court:

1. That compensatory and economic damages in an amount proven at trial but believed to be in excess of \$25,000 be awarded to Plaintiff from Defendant;

2. That Plaintiff be awarded punitive damages pursuant to N.C.G.S. §15A-287;

3. That Plaintiff have and recover from Defendant the costs and expenses incurred in this action, including attorney's fees, pursuant to N.C.G.S. §15A-287;

4. That the Court enjoin Defendant from any further dissemination of the illegal recording;

5. The Court issue a mandatory injunction requiring all Defendant to destroy all copies of the illegal recording;

7. That all issues be tried by a jury; and

8. That the Court grants Plaintiff such other and further relief as the Court deems just and proper.

This the 2 day of July, 2018.

**ELLIOTT LAW FIRM, PC**

P.O. Box 1821

13420 Reese Blvd. W.


Huntersville, NC 28078

(704) 947-3838 – Phone

(704) 947-6547 – Fax

[mike@elliottlawfirm.net](mailto:mike@elliottlawfirm.net)

By: \_\_\_\_\_

  
Michael K. Elliott

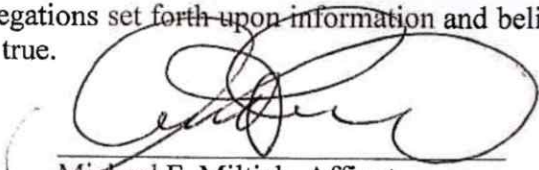
State Bar No. 31505

Attorney for Plaintiff




**PLAINTIFF VERIFICATION**

Before the undersigned Notary Public, personally appeared Michael F. Miltich, the Plaintiff in this action and that as such, he makes the following affidavit: that the allegations set forth in the Complaint are true to the best of his knowledge and belief, except for those allegations set forth upon information and belief, and as to those allegations, he believes them to be true.

  
\_\_\_\_\_  
Michael F. Miltich, Affiant

Sworn to and subscribed before me this 2 day of July, 2018.

  
\_\_\_\_\_  
Notary Public  
My commission expires: 8/11/18

