

IN THE CIRCUIT COURT OF THE
9TH JUDICIAL CIRCUIT IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2011-CA-8475 (39)

GENERAL JURISDICTION
DIVISION

TEXAS EQUUSEARCH MOUNTED SEARCH
AND RECOVERY, a Texas Non-Profit Corporation,

Plaintiff,

v.

CASEY ANTHONY,

Defendant.

FIRST AMENDED COMPLAINT

Plaintiff TEXAS EQUUSEARCH MOUNTED SEARCH AND RECOVERY ("TES"), a 501(c)(3) non-profit corporation incorporated in the State of Texas, makes the following allegations against Defendant CASEY ANTHONY:

INTRODUCTION

1. TES is a highly regarded non-profit organization dedicated to the search and recovery of missing persons in cooperation with law enforcement.
2. TES depends on charitable donations to fund its operations. Although TES also relies on the assistance of countless dedicated volunteers to conduct searches throughout the United States of America and abroad, the scope of the services TES is able to provide is constricted by its funding and its limited personnel.
3. This case arises out of services that TES dedicated to CASEY ANTHONY in the summer and fall of 2008 to search for her daughter, Caylee Marie Anthony.

4. CASEY ANTHONY made ongoing misrepresentations to TES and its founder, Tim Miller, and failed to correct materially false information provided to Mr. Miller, in order to convince TES, its staff and volunteers to engage in extensive, costly and time-consuming searches for Caylee. The time and effort dedicated to this search diverted resources from TES' ability to provide its search and rescue operations to other families.

5. TES did not realize, in the summer and fall of 2008, that CASEY ANTHONY knew that Caylee was not missing but had been dead since June 16, 2008.

6. TES only learned as a result of the criminal trial of CASEY ANTHONY in connection with the disappearance and death of her daughter, Caylee, that it based its decision to conduct the massive searches for Caylee on CASEY ANTHONY's lies, omissions, and deception.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this dispute because this Complaint seeks damages in excess of \$15,000.00 dollars, exclusive of interest and attorneys' fees.

8. Venue is proper in Orange County Florida, because the incident from which this cause of action arises occurred in Orange County, Florida, and because CASEY ANTHONY resides in Orange County, Florida.

PARTIES

9. Plaintiff TES is a 501(c)(3) charitable organization incorporated in the State of Texas.

10. Defendant CASEY ANTHONY is a resident of the State of Florida, County of Orange and, at all times relevant hereto, was *sui juris*. CASEY ANTHONY was the mother of Caylee Anthony.

GENERAL ALLEGATIONS

11. TES is a non-profit corporation formed in August, 2000, with the purpose to provide volunteer search and recovery for lost and missing persons. TES is dedicated to the memory of Laura Miller, the daughter of its founding director Tim Miller. In 1984, Laura Miller was abducted and murdered in North Galveston County, Texas.

12. TES has been involved in over 1,200 searches in approximately 42 states in the United States, and in Aruba, Sri Lanka, Mexico, Jamaica, the Dominican Republic and Nicaragua. Its efforts have proven successful with returning over 300 missing people home to their families safely. TES also has been responsible for recovering the remains of 125 missing loved ones, bringing closure to many families. TES never charges families or law enforcement agencies or anyone else for its services.

13. TES and its founder, Tim Miller, have received countless awards and recognition throughout the country, including the "Point of Light" award from President George W. Bush.

14. TES personnel and volunteers conduct searches on horse, by air, in water (using sonar and divers), on foot, and with specially trained canine units.

15. TES is one of only a handful of specialized search and rescue teams that assists law enforcement with searches of missing people.

16. Its personnel and volunteers are trained in search procedures which will maximize the preservation of evidence so that any criminal matters can be prosecuted effectively.

17. TES relies solely on charitable donations to fund its operations. In addition, it could not operate without the thousands of hours of time donated by its volunteers across the country and abroad.

18. Because of funding and manpower constraints, TES cannot accept every request that it receives to become involved in the search and recovery of individuals. Instead, TES must make difficult decisions regarding the allocation of its financial and manpower resources.

19. In July 2008 defendant CASEY ANTHONY informed her parents, George and Cindy Anthony, that her daughter, Caylee Marie Anthony, had been "missing" for 31 days.

20. CASEY ANTHONY originally informed her parents and local law enforcement that Caylee had been abducted by her nanny.

21. When those statements proved to be false, CASEY ANTHONY insisted that she had no idea where Caylee was, or what had happened to her.

22. At the time of her disappearance Caylee was two-years old.

23. In the August, 2008, Cindy Anthony called TES and spoke with Tim Miller.

24. Cindy Anthony implored Mr. Miller to have TES assist in the search for her grand-daughter, Caylee.

25. Cindy Anthony, based on her discussions with her daughter, CASEY ANTHONY, told Mr. Miller that Caylee was alive.

26. Based on Cindy Anthony's request, Mr. Miller travelled to Orlando, Florida and met with CASEY ANTHONY, her parents, Cindy and George Anthony, and CASEY ANTHONY's attorney, José Baez, to determine whether or not TES could help with the search for Caylee, and whether it should dedicate its limited resources to the case.

27. On or about August 26, 2011, Mr. Miller met with the Anthony family, including Cindy Anthony, George Anthony and CASEY ANTHONY (the "August 26 Meeting"). The August 26 Meeting was held in the home of George and Cindy Anthony in Orlando, Florida. During the August 26 Meeting, Cindy and George Anthony told Mr. Miller, in the presence of

CASEY ANTHONY, that Caylee was still alive. During the August 26 Meeting, CASEY ANTHONY did not correct, question or otherwise comment on the representation made by her parents, Cindy and George Anthony, that Caylee was alive. In fact, during the August 26 meeting, CASEY ANTHONY likewise told Mr. Miller that Caylee was alive, and asked him to please bring her back.

28. Mr. Miller believed the representations of the Anthony family at the August 26 Meeting that CASEY ANTHONY attended and who, as the child's mother, was presumed to have the most accurate information regarding what had happened to her daughter.

29. During the August 26 Meeting, the Anthony family, including Cindy Anthony, George Anthony and CASEY ANTHONY, insisted that they believed that Caylee had been abducted and that she was alive.

30. During the August 26 Meeting, CASEY ANTHONY never corrected or otherwise disagreed with any statements made by Cindy Anthony and George Anthony that Caylee was still alive.

31. CASEY ANTHONY never told Mr. Miller that Caylee was, in fact, dead.

32. In reliance on these representations, Mr. Miller agreed that TES would assist in the search for Caylee.

33. Specifically, TES organized and managed two of the largest searches it had ever conducted, one in early September, 2008 and another in November, 2008.

34. Mr. Miller met again with the Anthony Family, including Cindy Anthony, George Anthony and CASEY ANTHONY, after the commencement of the September 2008 search, and such meeting occurred between August 29, 2008 and September 7, 2008 (the "Second Meeting"). The Second Meeting was held in the home of George and Cindy Anthony in Orlando, Florida.

During the Second Meeting, Cindy and George Anthony again told Mr. Miller, in the presence of CASEY ANTHONY, that Caylee was still alive. During the Second Meeting, CASEY ANTHONY again did not correct, question or otherwise comment on the representation made by her parents, Cindy and George Anthony, that Caylee was alive. In fact, during the Second Meeting, CASEY ANTHONY again likewise told Mr. Miller that Caylee was alive.

35. Mr. Miller and TES again relied on CASEY ANTHONY's representations at the Second Meeting as TES continued the search for Caylee Anthony.

36. In the course of conducting the September 2008 and November 2008 searches, TES spent over \$100,000 of its funds to pay for, *inter alia*, motel rooms, rented vehicles and other expenses related to the search.

37. Over 4,200 people from 13 states volunteered their time to participate in searches for Caylee which TES coordinated, dedicating tens of thousands of hours to the searches.

38. TES' search for Caylee was the second most costly search in the organization's history, and consumed 40% of its annual budget.

39. The financial and personnel resources that TES dedicated to the search for Caylee were resources that were not available to other families who sought TES' assistance in locating their loved ones because TES has limited funds and personnel available to dedicate to the coordination of searches in and outside the country. During the time TES was searching for Caylee, TES received more than 15 requests from other families searching for missing loved ones, and was unable to offer assistance to any of these families as TES was fully devoted to the search for Caylee.

40. Throughout this time, although she was aware of the time and expense being expended to search for her daughter, CASEY ANTHONY never informed Mr. Miller or anyone from TES that she knew what had happened to Caylee.

41. After Caylee's remains were discovered on December 11, 2008, CASEY ANTHONY was arrested and charged with several crimes arising out of Caylee's homicide.

42. In this opening statement at CASEY ANTHONY's criminal trial, CASEY ANTHONY's attorney Mr. Baez, who had been present at the August 26 Meeting with the Anthony family, stated following about Caylee; "[s]he never was missing. Caylee Anthony died June 16th, 2008, when she drowned in her family's swimming pool."

43. CASEY ANTHONY's counsel further stated that CASEY ANTHONY and her father were aware that Caylee had accidentally drowned and died.

COUNT I-FRAUD

44. Plaintiff repeats the allegations set forth above in paragraphs 1 through 43 as if set forth herein in full.

45. CASEY ANTHONY participated directly in a meeting on or about August 26, 2011 at the home of George and Cindy Anthony in Orlando, Florida, in which CASEY ANTHONY told Mr. Miller, as TES's representative, that she did not know what happened to Caylee and that she believed that Caylee was alive (the "August 26 Meeting"). Cindy and George Anthony also stated during the August 26 Meeting that that they did not know what happened to Caylee and that they believed that she was alive.

46. During the August 26 Meeting, CASEY ANTHONY never corrected or otherwise disagreed with any statements made by Cindy Anthony and George Anthony that Caylee was still alive.

47. CASEY ANTHONY participated in a second meeting at the home of George and Cindy Anthony in Orlando, Florida, which occurred between August 29, 2008 and September 7, 2008, in which CASEY ANTHONY told Mr. Miller, as TES's representative, that she did not know what happened to Caylee and that she believed that Caylee was alive (the "Second Meeting"). Cindy and George Anthony also stated during the Second Meeting that that they did not know what happened to Caylee and that they believed that she was alive.

48. During the Second Meeting, CASEY ANTHONY never corrected or otherwise disagreed with any statements made by Cindy Anthony and George Anthony that Caylee was still alive.

49. The representations made in the August 26 Meeting and the Second Meeting that no one in the Anthony family knew what had happened to Caylee and, specifically, that they believed Caylee was alive, were material facts upon which TES based its decision with regard to conducting a search operation to find Caylee.

50. The representations made by CASEY ANTHONY in the August 26 Meeting and the Second Meeting were made with the intent that TES would rely on them in its decision to dedicate its funds and personnel to a search for Caylee.

51. CASEY ANTHONY knew at the time that the statements were made in the August 26 Meeting and the Second Meeting that the representations made to Mr. Miller regarding Caylee were false. Specifically, CASEY ANTHONY knew that, contrary to what she, Cindy and George Anthony told Mr. Miller, Caylee was deceased; CASEY ANTHONY concealed this fact, and the facts surrounding Caylee's death, from Mr. Miller.

52. TES reasonably relied on the representations made to him in the August 26 Meeting and the Second Meeting by CASEY ANTHONY, Cindy Anthony and George Anthony,

with CASEY ANTHONY's participation and concurrence, and likewise relied on CASEY ANTHONY's omissions, when it decided to mobilize thousands of volunteers and dedicate a major portion of its budget to conducting searches for Caylee.

53. As a result of TES's reliance on CASEY ANTHONY's, Cindy Anthony's and George Anthony's misrepresentations and omissions made to Mr. Miller regarding Caylee in the August 26 Meeting and the Second Meeting, TES was damaged in that its limited funds and personnel were spent on the searches for Caylee in September and November 2008.

54. But for the misrepresentations and omissions regarding Caylee's whereabouts and her status, TES would not have dedicated its resources to search for Caylee, but could have used them to conduct searches for other worthy families who were trying to locate their missing loved ones.

55. As a direct result to TES' reliance on CASEY ANTHONY'S misrepresentations and omissions made to Mr. Miller regarding Caylee, TES was damaged in that its limited funds and personnel were spent on the searches for Caylee in September and November, 2008.

WHEREFORE, Plaintiff TES respectfully requests that this Honorable Court enter judgment against Defendant CASEY ANTHONY by awarding compensatory damages and such further relief as the Court deems reasonable and just.

COUNT II-UNJUST ENRICHMENT

56. Plaintiff repeats the allegations set forth above in paragraphs one 1through 43 as is set forth herein in full.

57. TES coordinated massive search and rescue operations, dedicated over \$112,000 and its personnel, and coordinated over 4,200 volunteers in its effort to locate Caylee.

58. These services and resources were conferred by TES to the benefit of CASEY ANTHONY.

59. CASEY ANTHONY knew her apparent "cooperation" with the massive searches coordinated by TES created an appearance that she was a victim of law enforcement's unjust investigation and that she was a concerned mother seeking her missing Child's return.

60. In addition, the fact that TES provided these unpaid-for services at the Anthony family's request, and with the endorsement and support of CASEY ANTHONY and her attorney, Mr. Baez, also meant the CASEY ANTHONY would not have to dedicate any funds to hiring private investigators to conduct a search for Caylee.

61. CASEY ANTHONY gladly accepted the benefits conferred upon her by TES knowing, all the time, that her daughter was deceased and that the search for her daughter was unnecessary, particularly to the extent that searchers were looking for a live child.

62. As a result, CASEY ANTHONY has been unjustly enriched by the services provided by TES.

63. Because TES conducted a massive search to CASEY ANTHONY's benefit, and at TES's expense, it would be inequitable for her to retain the benefit of the searches without compensating TES for the funds that it expended and the value of its services.

WHEREFORE, Plaintiff TES respectfully requests that this Honorable Court enter judgment against Defendant CASEY ANTHONY by awarding compensatory damages and such further relief as the Court deems reasonable and just.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues so triable.

DATED this 28th day of October, 2011.

Respectfully Submitted,

WITES & KAPETAN, P.A.

Attorneys for Plaintiff

4400 North Federal Highway

Lighthouse Point, FL 33064

954-570-8989; 954-354-0205 (fax)

By: 

Marc A. Wites

Florida Bar No. 24783

mwites@wklawyers.com

Alex N. Kapetan, Jr.

Fla. Bar No.: 181234

akapetan@wklawyers.com

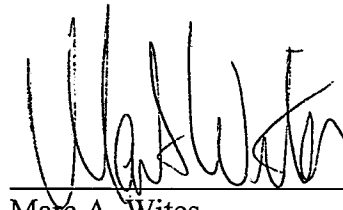
Jonathan S. Burns

Florida Bar No. 0027555

jburns@wklawyers.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via fax and mail on October 28, 2011 upon: Charles M. Greene, Law Offices of Charles M. Greene, P.A., 55 East Pine Street, Orlando, Florida 32801.



Marc A. Wites