

BRYAN CANARY	*	IN THE
Plaintiff	*	DISTRIC COURT
v	*	OF MARYLAND FOR
GORDON BROWN	*	BALTIMORE CITY
Defendant	*	Case No. 0101-004412-2017

* * * * *

ANSWERS TO INTERROGATORIES

TO: GORDON BROWN, DEFENDANT

FROM: BRYAN CANARY, PLAINTIFF

Plaintiff, Bryan Canary, by his attorney, David W. Clayton, and in answer to the Interrogatories propounded on behalf of the Defendant says:

- (a) The information supplied in these Answers are not based solely on the knowledge of the executing party but includes the knowledge of the parties, agents, representatives and attorneys, unless privileged.
- (b) The word usage and sentence structure has been modified, in part, by the attorney and does not purport to be exact language of the executing party.
- (c) Where the word usage refers to the first person, "I" "me" or "my/mine," the terms relate to Plaintiff.

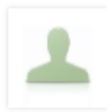
1. Identify with specificity all of the false or malicious or defamatory statements claimed to have been made by the defendant, of or concerning you, in the subject complaint, and, state: a. the words that you claim were defamatory; b. the date when and the place where the words were spoken or published; and c. the name and address of each person to whom these words were uttered or published.

ANSWER:

DEFAMATORY STATEMENT #1

Date:	1/8/2017
Statement Type:	Online Review
Location:	https://www.vrbo.com/77119#reviews

Audience:	7 billion potential readers on the World Wide Web, aka, Internet.
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Gordon B.

Proceed With Caution



The house is pretty nice but all hardwood, tile, and steel grate floors are not very cozy. Our first night there was no heat, we were expected to live with space heaters. I am very glad it was not a colder night and that there were extra blankets because all of our party had not arrived. The owner offered no accommodation for this discomfort on check out. He also claimed a pet did damage to a comforter. We had no pets. There were pages of rules and warnings so I was not surprised that he found a way to keep some of our deposit. Then in follow up emails he needed to insult me.

Stayed: December 2016 Submitted: January 8, 2017 Source: VRBO

Specifically:

“Proceed with Caution” -- the words in the REVIEW TITLE were unearned and defamatory. They were specifically chosen to use a reader's fear mechanism to harm Plaintiff economically. Defendant's own modification of this Review Title when posting this same review on a different review network in which he had a reputation is indicative of his understanding of the additional power in these words versus the ones he used on the other network (which were generally not defamatory in nature).

“Our first night there was no heat” -- That is a false statement. “No heat” gives the mental impression of frozen pipes, inability to shower without pain, mountains of blankets, and general misery, and none of that existed. These words were chosen for cognitive impression and the follow up of “we were expected to live with space heaters” does not excuse the prior word choice as the trailing words in a sentence never overshadow the sentence opening. But maybe more importantly in this case, the latter words are not factually correct given this home has a two zone heating system as well as a radiant heat source that maintained a minimum temperature of 64 degrees in the rental property.

“The owner offered no accommodations for this discomfort on check out” -- I have a self check out process, as such I could not have offered any accommodations upon check out, as I was not there and that is not any part of my business process. These carefully chosen words imply a scenario which did not transpire and they are powerful taken out of context. My contract specifies that I will close out damage deposit refunds in five days. On day four, Defendant contacted me before I had a chance to contact him about the damage in the property, and in his email he claimed the home was left in proper condition, and he demanded some type of accommodation for “no heat”. Given this fact, Defendant would have no idea if I was going to offer him anything because he took it upon himself to demand something prior to my first contact with him after his stay.

“There were pages of Rules and Warnings” -- I have an extensive set of check in and check out documents that most guests truly appreciate as it enables a self check in and self check out process and it enables them to leave the home in a manner that best ensures they

get a full damage deposit refund. To claim these are pages of Rules and Warnings is incredibly inappropriate and it is designed to paint a picture of a controlling and manipulative situation that does not exist. With this statement Defendant took a benefit (an outline of ways to obtain a full refund) and turned it into a detriment as it relates to my business and my reputation.

DEFAMATORY STATEMENT #2

Date:	1/8/2017
Statement Type:	Online Review
Location:	https://www.tripadvisor.com/VacationRentalReview-g60811-d6906725-Convention_Center_Camden_Yards_Inner_Harbor_with-Baltimore_Maryland.html
Audience:	7 billion potential readers -- too many names and addresses to list...



Mister B
Woodstock, NY

Level 4 Contributor

29 reviews

7 hotel reviews

16 helpful votes

"Just OK and Check out Problems"

Reviewed January 8, 2017 for a stay in December 2016

1 person found this review helpful

The house is pretty nice but all hardwood, tile, and steel grate floors are not very cozy. Our first night there was no heat, we were expected to live with space heaters. I am very glad it was not a colder night and that there were extra blankets because all of our party had not arrived. The owner offered no accommodation for this discomfort on check out. He also claimed a pet did damage to a comforter. We had no pets. There were pages of rules and warnings so I was not surprised that he found a way to keep some of our deposit. Then in follow up emails he needed to insult me.

Would I recommend this vacation rental to my best friend? **No.**

[Less ▲](#)

Was this review helpful? **Yes**

This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.

[Problem with this review?](#)

Specifically:

This is identical to statement #1 with the exception of the REVIEW TITLE. The REVIEW TITLE here is a reasonable title given his perspective of our interaction. Defendant alters the title because he has a reputation on this network and he realized the other Review Title was overly aggressive and/or Defamatory.

NOTE: "1 person found this review helpful" however no responses to this review were provided to Plaintiff.

DEFAMATORY STATEMENT #3

Date:	1/13/2017
Statement Type:	Email
Audience:	Homeaway Customer Support

Defendant sent content, presumably via email, to Homeaway Customer Support with false and defamatory statements intended to cause severe economic harm.

He numbered his issues #1 and #2.

In #1, Defendant made a deceptive claim about his discovery of my ad in an attempt to keep his niece, Dora, from being a relevant part of this process. Then he made a fully false claim that Plaintiff had steered him in the booking process away from booking via VRBO - an impossibility given Plaintiff was not signed up for online booking to start with. Then Defendant claimed Plaintiff directed him to Plaintiff's website where he completed the booking process through Plaintiff's website - an impossibility since Plaintiff does not have any booking system on Plaintiff's website and utter non-sense given Plaintiff completed his transaction directly with him via email as is done with all of Plaintiff's customers.

With this prose, Defendant fabricated an entire set of false statements of fact in order to threaten this marketing channel, which currently generates approximately \$100,000 per year in business revenue.

In #2, Defendant claims "the thermostat never rose above 60 degrees until the maintenance man repaired the unit on the second day". That is a fully false statement that is contradicted by his own email to me the night of the problem, which stated, "Can't get house above 61." While seemingly only at two degrees or more apart (61 versus 59 or less) the cognitive goal was to get the reader to mentally experience a home in the 50 degree range. The thermostat was in fact reading 64 degrees when he first reached out to me and claimed it was 61. A 64 degree reading in the coolest part of the first floor is not a home with "no heat" nor a mental image of a home in the 50's for some 18+ hours.

Defendant is energetic and specific with words as his destructive and harmful tools. Defendant knows how to use the written word for significant economic destruction.

2. State the name and address of each person who ridiculed you or held you in contempt as a result of any statements claimed to have been made by the defendant.

ANSWER: Plaintiff has not received ridicule or contempt direct from any persons;

however his reputation has been damaged in the public forum of the world wide web known as the internet which is a generally accessible database available to and relied upon the public for information and opinion.

3. State the name and address of each person who has knowledge of your reputation in the community.

ANSWER: Plaintiff has not received ridicule or contempt direct from any persons; however his reputation has been damaged in the public forum of the world wide web known as the internet which is a generally accessible database available to and relied upon the public for information and opinion.

4. State how and in what manner your reputation has been injured, including the name and address of each person in whose opinion your reputation has been damaged, as a result of the acts listed in the complaint.

ANSWER: Plaintiff has not received ridicule or contempt direct from any persons; however his reputation has been damaged in the public forum of the world wide web known as the internet which is a generally accessible database available to and relied upon the public for information and opinion. Defendant's defamatory remarks have placed Plaintiff's business reputation into question and tarnished the value of his rental business.

5. State whether you have engaged in any conversation with any other person since the date when the alleged defamatory statements were supposedly made regarding the allegedly slanderous statements that you claim were made, and, if so, state: a. the time and place of each conversation; b. the name and address of each person present at such conversation; and c. the comments of each person in regard to the allegedly slanderous statements that you claim were made.

ANSWER: Dora Brown -- 1/8/2017 -- By Email -- Dora was my initial contact for this group. Dora was the person who emailed me the check out document indicating there was no damage, Dora was the person who signed that check out document. Dora was the one who was staying in the room in which damage occurred. I reached out via email asking if she was aware of the complaint made by her Uncle, the Defendant, regarding the temperature of the home. I received no response.

James Clarke -- 1/8/2017 -- By phone -- James indicated the thermostat was reading 64 degrees when he arrived on the night of the problem. James indicated the majority of guests where in the kitchen cooking / eating breakfast the next morning when he returned and he indicated they were not remotely dressed in a manner indicative of a home at 57 degrees. No one was wearing hats, gloves, ear muffs, jackets or anything else that would be associated with sub-60 indoor temperatures.

The Internet -- 1/9/2017 -- Website Response to Review: See following Page

Owner response:

This home has two hvac systems and two portable heaters so people can dial in the heat with control. Gordon reported all good at 4pm check in. At 8pm he emailed indicating the Living Room t-stat was reading low, but he failed to reply to my email with questions related to basement furnace activity. Fortunately, my service person was in the neighborhood and he left his personal event to check on the heat/guest. He arrived within 45 minutes of the initial email. Seemingly, the furnace had timed out due to a pressure switch fault. He was able to reset the furnace and he pulled an extra portable heater out of storage. When he left, both hvac systems and three portable heaters were operational. And Gordon calls that 'no heat'. The pressure switch was replaced the next morn to avoid any future potential problems. I had no other interaction with Gordon during his stay.

My cleaning person sent a photo of a damaged comforter indicating a dog or cat may have scratched on it. Gordon indicated he'd be bringing a small dog. I do provide lots of pages of information, but mostly related to helpful info for self-serve arrival, occupancy and departure from a 2100 sf, 180 year old row home.

Before I could send Gordon an email related to the damaged comforter, I received a terse email stating expectations of a full deposit refund and compensation for 'no heat'. When I asked about the damaged comforter he stated it was of poor quality, he refused to own the damage, and he demanded one-hundred dollars for 'no heat'.

Some guests know landlords fear negative reviews and they use that to pinch pennies on the back-end of a stay. Some owners refer to this as bad reviews for refunds program. I'm not going to get pushed into this kind of refund Please treat me and my home with respect, and I will do the same. If you refuse to take responsibility for damage and if you demand inappropriate refund compensation, I won't be as polite as I would be otherwise.

As for extras he left out, I was able to accommodate a third car for him on several nights for no additional charge. He added a fourth night at time of booking w/o asking for a lower rate, and I voluntarily extended a discount of 8%/nt b/c that is what I would have quoted had he initially asked for 4 nights..

All guests are not created equal. Please read the reviews left for me and my properties by others and that should be self-evident.

Proceed with caution is right. Just steer clear of Gordon.

Plaintiff has established content posted on the Internet on 5/4/2017, by webpage, having a potential audience of 7 billion viewers, which Plaintiff cannot name:

See <http://3catsmedia.weebly.com/canary-v-brown.html>

Plaintiff has not received any direct or indirect responses from anyone on this site at this time.

6. Identify all personnel of the plaintiff business entity employed by the business entity at the time when the alleged defamatory statements were allegedly made by the defendants, setting forth for each: a. the person's name, title or position, and current address; b. the time period for which the individual was or has been employed by the plaintiff business entity.

ANSWER: James Clarke -- James is an independent business owner who I use for maintenance and repair of my home. James has been doing work with me/for me for approximately 15 years.

7. State with particularity the factual basis for the plaintiff's allegation that each of the defamatory statements were entirely false, including the manner in which the plaintiff business entity knows that each statement is not true in any respect.

ANSWER: Plaintiff incorporates facts recited by James Clark indicating that one of the two zone heating systems remained operational during the Defendant's occupation of the rental property and that the thermostat readings did not fall below 64 degrees. In addition to the two zoned hvac systems which overlap heat and air conditioning in the rental property, the rental property also contains a passive radiant heat source which does not rely upon the rental property mechanical systems. The claims made by Defendant are not remotely supported in our email dialogue and we had no dialogue outside of email. Defendant used damaging language such as "no heat" which was categorically false contradicted by his own writing several times.

8. State with particularity the factual basis for the plaintiff's allegation that each of the defamatory statements made by the defendant were false and: a. known by the defendant to be false; and/or b. made with reckless disregard for the truth or falsity of the matters asserted.

ANSWER: See prior answers. Defendant knew it was not "Absolute Zero" yet he claimed there was "no heat". Defendant knew there was a full secondary heating system but he omitted that with the "space heater" statement. Defendant knew the home was above 60 degrees on the night of the event but in subsequent writing the home never got above 60 degrees prior to day two.

This quote below from Defendant email to Homeaway demonstrates Defendant's factual fabrication skills:

"This is exactly what the owner, Mr. Canary, did. I found the property on VRBO. After I contacted him through VRBO to discuss the vacation, he told me not to book through VRBO saying something like, "there are always problems with the details." Instead, he directed me to his own website (<http://www.south-paca-street-vacation-rentals.com>) to complete the deal, which I did, not knowing that I really shouldn't have."

Defendant starts with a first line lead in claiming he is going to disclose "exactly" what I did -- and then he followed that up with one false statement after another:

1. Mr Brown found my property after dialoguing with his niece Dora and his Brown's initial email to me came via the contact page on my own personal website. -- compare that to "I found the property on VRBO and contacted him through VRBO to discuss"

2. I was not signed up for online booking with VRBO so I would have had no need to tell him not to book via VRBO do to "problems" as that was never an option (and it was never discussed -- the emails show there was ZERO dialogue related to his paraphrasing he created).

3. My website has no booking system. We booked via a manual email dialogue

process (as I always do). Compare that to “Instead, he directed me to his own website (<http://www.south-paca-street-vacation-rentals.com>) to complete the deal.”

Every written word Defendant used was carefully chosen for cognitive manipulation and affect with utter and reckless disregard for facts. Defendant wanted the reader to connect “exacting behavior” with his fully manufactured story in hopes Plaintiff’s reputation and advertising would be tarnished, placed in disrepute, and possibly result in termination of Plaintiff’s advertising agreement. Defendant’s statements were crafted with “reckless disregard” and specific intent spewing falsities in a precise and calculated manner meant to permanently harm Plaintiff’s reputation. Nothing in the paragraph is related to anything I kind of did much less “exactly” did.

9. Describe with particularity the loss of business damages that the plaintiff claims to have incurred as a result of the alleged defamation described in the complaint, setting forth: a. each item of lost business; b. the name and address of each person or entity with whom the business would have been; c. the amount claimed to have been lost by the plaintiff business entity in connection with each item; and d. a detailed description of the manner in which the plaintiff business entity has determined that the loss of each item of business was a result of the alleged defamation.

ANSWER: Plaintiff has not received communications of ridicule or contempt direct from any persons; however his reputation has been damaged in the public forum of the world wide web known as the internet which is a generally accessible database available to and relied upon the public for information and opinion. Defendant’s defamatory remarks have placed Plaintiff’s business reputation into question and tarnished the value of his rental business. Plaintiff estimates a minimum loss of rental revenue of \$15,000 in the calendar year in which Defendant made his statements and continuing damages for several more years while the Defendant’s published statements persist on the internet and in the minds of those who receive the statements.

10. State whether the plaintiff business entity, its agents, or its attorneys obtained any statements from any person who has knowledge or information of the matters and incidents described in the complaint, and, if so, set forth for each: a. the name and address of each person; b. the date of the statement; c. whether the statement was written or oral; d. if oral, the substance of the statement; and e. if written, identify and attach a copy of each written statement.

ANSWER: In addition to the statements made by Defendant, Plaintiff identifies the oral statement from James Clarke, as described in item 5.

11. State the names and addresses of all persons having knowledge or information of the matters and incidents described in the complaint filed in this case.

ANSWER: Gordon W. Brown, Alisa Brown, Zoe Brown - 171 Piney Point Road, Boiceville NY
Norman and Elaine Brown - 408 Dundaff St. #703, Norfolk VA 23507
Claudia Brown - 42 Helen Street, Binghamton NY 13905
Dora Brown and Tim Roenigk - Red Lion Pennsylvania

12. Provide the name and address of every person, government agency, corporation, or other entity that has withdrawn business from the plaintiff business entity, or declined to do business with

the plaintiff business entity, as a result of the defamation alleged in this action.

ANSWER: Plaintiff has not received direct communications from any persons declining to do business with the Plaintiff's rental business; however his reputation has been damaged in the public forum of the world wide web known as the internet which is a generally accessible database available to and relied upon the public for information and opinion.

13. With respect to the plaintiff's business entity's revenue, set forth: a. the plaintiff's business entity's revenue for the year before the alleged defamatory statements were allegedly made by the defendants; b. the plaintiff business entity's revenue for the year in which the alleged defamatory statements were allegedly made by the defendants; and c. the prior year's projected revenue or estimated revenue for the year in which the alleged defamatory statements were allegedly made by the defendants.

ANSWER:

A. 2016 –
Total Sales for 625 -- \$58,150
Total Sales for 627 - \$48,751

While Defendant's defamatory remarks were written about one home, both homes are referenced in each advertisement and the public often views both homes when deciding on renting. Defendant's conduct and remarks impacted Plaintiff's short-term rental business which includes both adjacent properties which are linked and referenced under Plaintiff's business name and reputation.

B. 2017 vs 2016 -- 625 S. Paca St
January 3675 vs 4555 year prior (off by \$880)
February 2300 vs 3715 year prior (off by \$1415)

2017 vs 2016 -- 627 S. Paca St.
January 1375 vs 3575 year prior (off by \$2200)
February 2200 vs 2655 year prior (off by \$455)
Total decreases in first two months after Defendant's defamatory publications,
revenues were down by \$4950.

C. Plaintiff Projects a total loss to Plaintiff's short-term rental revenue to be in excess of \$29,700 for 2017.

14. Prior to entering into the short-term rental agreement with the Defendant referenced in the Complaint, were you aware of any potential utility or heating issues with the subject property. If your answer is yes, did you warn the Defendant of a potential heating issue before execution of the rental agreement.

ANSWER: In December 2015, that furnace timed out. It was showing an exhaust fault. Those faults are typically due to a faulty pressure sensor switch, a clogged exhaust pipe, or unusual condensation build up in the exhaust pipe. The pressure sensing switch seemed fine. My service crew inspected the 30' long exhaust pipe and found a small sag in the horizontal pipe and a small build-up of moisture. This should not have caused a fault, as it had been like that since 2003. The pressure switch was testing fine. We cut the vent line, cleaned out the vent lines, we adjusted the pipe slope slightly, we resealed the vent line, we reset the furnace and it worked

fine. We didn't have any other problems the rest of the winter (Dec 2015 through March 2016)

In October 2016 that unit went into heating mode for this winter. We had no issues for 3 months.

On December 17, 2016, the furnace timed out during a guest visit. The vent line hangers were checked to make sure nothing had come loose and caused a sag. The vent line was separated to release the pressure switch safety, and the furnace started without issue. The vent pipe was reconnected and the furnace operated fine for the duration of that guest's stay. The cause for this could have been 1) moisture in the line 2) a faulty pressure switch or 3) an animal such as a bird or small rodent could have taken up home for the night in the warm vent pipe. The most likely cause was item 3 since it worked fine after being reset.

On approximately December 22, 2016, my maintenance person and I had a conversation about the heat. It was still running fine in the home. While we agreed there was technically nothing else to be done, and maybe the recent fault was a bird or rodent seeking shelter, we agreed it would not hurt to have a pressure switch on hand should this transpire again, just so we could rule that out of any further intermittent issues. And that is what the maintenance person referred to when he had a conversation about the part.

As for Defendant's insinuation that I or my maintenance person knew there was a heating problem, Plaintiff did not receive 45 out of 48 reviews as 5 stars and 45 out of 46 reviews as 5 stars by trying to trick guests into arriving to homes that have "no heat" or even "known broken heat"

If Plaintiff, knew the hvac system for the lower levels was not working, Plaintiff would have taken the following steps.

1. We would have had the second zone on the third floor running upon his arrival (which it was not when Defendant arrived)
2. We would have positioned box fans in the two light wells that feed light from the third floor to the basement to assist with greater heat circulation down to the 2nd and 1st floor as well as the basement.
3. We would have had one space heater running in the basement suite upon his arrival (which it was not when Defendant arrived)
4. We would have had one space heater running on the first floor rear upon his arrival (which it was not when Defendant arrived)
5. We would have pulled out the space heater from the house storage room and had it running in the second floor rear upon his arrival (which it was not when Defendant arrived)
6. We would have relied on a passive radiant heat source to provide heat keeping home at or above 64 degrees even while being short one of the two primary heating systems after 11pm.

7. And if by Some Act of God that wasn't enough, we would have brought in other space heaters from Plaintiff's shop which is just a mile away and/or we would have rented them from Home Depot.

8. And Plaintiff would have notified Defendant in advance that there were heating issues with one of the two primary heating systems, but that we were addressing them properly with other various proper heating systems.

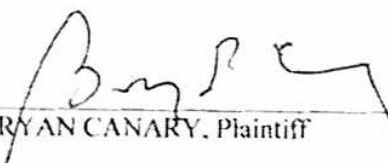
Defendant's initial public review stated the home had "no heat". When in fact he had a the second of a two zone system in play, 3 space heaters and a large radiant heat source, and a thermostat reading 64 degrees in the coolest part of the first floor.

15. State whether prior to September 23, 2016 any part of the heating system on the subject property underwent any repair or maintenance. If the answer is yes, state the name and address of the person who performed the repair, the dates of such work, and a brief description of the work performed.

ANSWER: See Answer to Interrogatory 14.

EXECUTION SHEET ON FOLLOWING PAGE

I DO SOLEMNLY AFFIRM that these answers are true and correct to the best of my knowledge and belief.


BRYAN CANARY, Plaintiff