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Bully Dan Castricone Is Unfit to Hold Public Office

Dear Neighbors,

I write to bring to your attention what in my opinion is the shameful behavior of Tuxedo Board of Education President Dan Castricone, who is seeking your vote in the upcoming Board of Education (BOE) election. Castricone's abuse of the legal system to stifle debate on matters concerning your tax dollars renders him unfit to serve. I urge him to do the honorable thing and withdraw his candidacy for reelection. I believe he lacks the character, judgment, and temperament to serve on the BOE, let alone lead as President.

In short, Castricone filed a frivolous "SLAPP" lawsuit seeking \$1 million in damages against lifelong resident and TPFYI reporter Meg Vaught in a transparent attempt to muzzle her criticism of his leadership of the BOE. SLAPP is an acronym for Strategic Lawsuit Against Public Participation. As the Orange County Supreme Court observed in dismissing Castricone's meritless lawsuit, "SLAPP suits are characterized as having little legal merit but filed to burden opponents with legal fees and the threat of liability and are meant to discourage others from speaking out in the future." *Castricone v. Vaught*, Decision & Order (Supr. Ct. Orange Cty May, 7, 2025)(the "Decision") at p. 4.

To combat the chilling effect of SLAPPs, New York (and over 30 other states) have adopted anti-SLAPP laws that provide mechanisms to lower the costs and other burdens associated with defending against meritless lawsuits aimed at chilling speech in connection with a public issue. The Court found Castricone's lawsuit to be just such a meritless lawsuit that warranted expedited dismissal under New York's anti-SLAPP statute and awarded Meg the attorneys fees she was forced to incur to defend this frivolous lawsuit.

Before detailing why I believe Castricone's behavior should disqualify him from public office, let me first provide transparency about the basis for my views and interest in this situation. First, I have never met Dan Castricone and do not have a firsthand view of his character. Rather, the opinions I express herein are based on his actions in what I believe was clearly an abusive lawsuit against Meg, as well as the full record before the Court, which are publicly available. I urge you to read all the materials, and for convenience I have attached hereto Castricone's initial complaint and the Court's Decision dismissing it.

Second, I supported Meg's defense of Castricone's lawsuit because I am passionate about the free flow of ideas guaranteed by the First Amendment and because I loathe bullies that would infringe on the exercise such cherished rights.

## *Background*

During business hours on Wednesday, November 20, Meg posted to her personal Facebook page reminding readers of that evening's public Board of Education meeting and sharing the following:

"At the September meeting of the BOE, not long after they put Nancy Teed in place [as acting Superintendent] at a rate of \$1K per day, BOE President Dan Castricone publicly stated that the District was NOT paying two Superintendents at once because Jeff White [the incumbent Superintendent] was on medical leave and as such not collecting a pay check. I FOILED the pay records and was not surprised to discover that the information provided to the public by Mr. Castricone was blatantly false. See below the record of payment to Mr. White. Guys, if we do nothing to hold these folks accountable, this stuff is going to keep happening. Our money is being misused and we are being lied to about it."

Meg sincerely believed her post to be true when she made it, as evidenced by her contemporaneous inclusion of the FOILED payment data to support it. And Meg continues to believe her post was true. Nevertheless, Meg removed this post the very next day (November 21) because it was her mother's birthday, and she did not want her BOE criticism to be juxtaposed against her celebratory post of the occasion.

Castricone (a practicing attorney) filed his \$1 million lawsuit by lunchtime the day after Meg's Facebook post in an apparent fit of pique at her criticism. Meg learned of the lawsuit Thanksgiving weekend when she discovered the summons and complaint taped to her front door. Classy Dan. Consider for a moment how Dan Castricone could possibly have been damaged to the tune of \$1 million by a BOE-focused Facebook post by Meg Vaught that was up for less than 24 hours?

It doesn't take a lawyer to appreciate the slapdash nature of Castricone's complaint, which I believe is an embarrassment to the legal profession. It took Castricone virtually no time to produce his boilerplate and hollow complaint, but his SLAPP required Meg to hire an attorney and incur substantial legal fees and expenses. Castricone's complaint also evinces a clear lack of diligence regarding applicable law, as his subsequent filings laid bare. Further, given Castricone's knowledge of Meg's role at TPFYI and her history of being critical of him, I believe his complaint was a transparent attempt to silence Meg's exercise of political speech at the very apex of First Amendment protections: speech directed at an elected official, in his official capacity, concerning the expenditure of taxpayer funds.

Of course, Dan's lawsuit intimidated Meg. The prospect of spending tens of thousands of dollars to defend a lawsuit seeking \$1 million in damages is daunting. But that's the whole point of a SLAPP: though lacking legal merit, the mere prospect of costly, protracted litigation discourages protected speech—and weaponizes the judicial system.

### *The Litigation and Dismissal Thereof*

By letter dated December 27, 2024, Meg's attorney detailed for Castricone why his lawsuit was baseless and doomed for dismissal under the anti-SLAPP statute and beseeched him to discontinue it. Nevertheless, Castricone persisted in prosecuting his abusive lawsuit. When Meg's counsel filed a legally compelling motion to dismiss, accompanied by damning affidavits from Meg and former BOE member Joe Rickard, Castricone tried to delay and deflect, but the Court saw through his shenanigans and denied his various motions.

Both Meg and Joe Rickard served on the BOE with Castricone, and in sworn affidavits submitted to the Court under penalty of perjury, they detailed Castricone's troubling behavior on the BOE, including his repeated threats of litigation, displays of anger and intimidation. Joe Rickard detailed several examples of such troubling behavior, observing: "Plaintiff [Castricone] consistently demonstrated impulsivity, an inability to handle conflict, and was prone to bullying others to have them not oppose whatever Plaintiff wanted to do." He concluded: "I have read the Affidavit of the Defendant Mary Vaught and the bullying and intimidating tactics of the Plaintiff [Castricone] described in the Affidavit toward her are sadly the same bullying and intimidating tactics the Plaintiff [Castricone] as a board Member used against me."

Meg also expressed in Court papers that "Dan is a thin-skinned, hot-tempered confrontational bully who previously had threatened me in the Fall of 2019 when I was Board President with a baseless defamation lawsuit." Further, Meg shared in her sworn Affidavit that Castricone had similarly threatened other Board Members with baseless defamation litigation.

The Court issued its Decision May 7, and not surprisingly it was a resounding rebuke of Castricone's frivolous SLAPP lawsuit, which it dismissed and awarded Meg reimbursement of her attorney fees and expenses by Castricone. After the Court issued its Decision, you might have expected Castricone to remain quiet or express some humility or even remorse, but instead he made a defiant post to Facebook, continuing to mislead our community. For example, Castricone continues to maintain that Meg's Facebook post was false despite the Court having conclusively found the contrary:

"Defendant's Facebook post was made after she obtained records from a FOIL request which reflected payments to the Superintendent on leave, in direct contravention to Plaintiff's statement at the School Board meeting on September 18, 2024. Accordingly, not only do the records disprove Plaintiff's claim of the falsity of the statement, but they also provide objective support for Defendant's claim that she knew the statement to be true." Decision at 7 (emphasis added).

For anyone interested, I have attached as an Appendix hereto the text of Castricone's Facebook post, with my comments correcting the record.

### *Final Thoughts and a Message for Dan*

As indicated above, I do not know Dan Castricone, but I do know that the totality of the Court record in his shameful SLAPP should disqualify him from serving on a public board such as the BOE. In my opinion, thin-skinned individuals like Castricone should not seek elected office, but when they do, they “must expect that the debate will sometimes be rough and personal.”<sup>1</sup> New York’s anti-SLAPP laws and historically robust protection of free speech principles reflect our communities’ commitment “to the principle that debate on public issues should be uninhibited, robust, and wide-open.”<sup>2</sup> Dan Castricone betrayed these principles and should be voted out of office.

To a hammer, everything resembles a nail so I anticipate Castricone’s kneejerk reaction to this open letter may be to sue me. I am unconcerned with that prospect because he will lose if he files another SLAPP, and he will be ordered to pay my legal fees, just as he is now required to do in Meg’s case. Every word of this open letter is either demonstrably true, represents unactionable opinion or otherwise is protected by the First Amendment, the anti-SLAPP statute, and/or the fair report privilege.

Dan, you should also know that the last time a public official tried to stifle the exercise of my First Amendment rights, I spent over five years and \$130,000 to hold him to account. Meg chose not to countersue you for damages under the anti-SLAPP statute—and I believe she has a strong case for damages—because she wanted to put this distressing episode behind her. However, I will show no such restraint should you file a SLAPP against me. As a fellow member (retired) of the New York State Bar, I am aghast at the abuse of the legal system your SLAPP against Meg represents. Should you choose to double down with another SLAPP, I believe you would bring disrepute to the legal profession, which would in turn raise ethical concerns the New York State Bar should be aware of.

Dan, it’s not too late to do the honorable thing and accept responsibility for an impulsive, regrettable lawsuit and withdraw your candidacy.

Any member of the community who would like to have a fact-based and respectful discussion of these issues should reach out to me.

Thank you for your consideration,

Sean P. Madden

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<sup>1</sup> *Harte-Hanks Comms v. Connaughton*, 491 U.S. 657, 687 (1989).

<sup>2</sup> *Garrison v. Louisiana*, 379 U.S. 64, 75 (1964)(quoting *New York Times v. Sullivan*, 376 U.S., at 270)).

## Appendix

Set forth below in black is the text of Dan Castricone's Facebook post of May 7 responding to the Orange County Supreme Court's Decision dismissing his frivolous defamation lawsuit against Meg Vaught. My annotated comments appear in blue italicized text.

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Today, I lost a defamation lawsuit.

Back in November, I filed a suit against Meg Vaught for slander and libel. She had posted on Facebook that I made statements during the September school board meeting that I simply did not make. She then described those (nonexistent) statements as "blatantly false."

*Dan is flat wrong: according to the Court, Meg's "Facebook post concerned the existence of records that directly contradicted Plaintiff's verbal assertions at the School Board meeting that two superintendents were not being paid salaries simultaneously." Decision at 5 (emphasis added).*

The court ruled today that I did not prove—by the high legal standard of clear and convincing evidence—that she knew her statements were false or acted with reckless disregard for the truth. That's disappointing.

*Forget "proof", Dan didn't even "plead facts" (i.e. make allegations) that Meg knew or should have known her statements were false. Nor could he because Meg believed her statements to be true and continues to stand behind them. As the court observed, "Plaintiff has failed to submit anything to meet his burden of [proof]...the Court finds no support for his claims." Decision at 7.*

I disagree with the outcome. Anyone can watch the recording of that meeting, hear what I actually said, and compare it to what she claimed I said. The record speaks for itself.

*The record does speak for itself, and here is what the Court had to say: "Defendant's Facebook post was made after she obtained records from a FOIL request which reflected payments to the Superintendent on leave, in direct contravention to Plaintiff's statement at the School Board meeting on September 18, 2024. Accordingly, not only do the records disprove Plaintiff's claim of the falsity of the statement, but they also provide objective support for Defendant's claim that she knew the statement to be true." Decision at 7 (emphasis added).*

What many people may not know is that school board members—despite being unpaid volunteers—are considered public figures under defamation law. That means we're held to the same standard as elected officials like senators and members of Congress when someone publishes false information about us. It's a very high bar to clear in court.

*Again, the court was very clear that "the records disprove Plaintiff's claim of falsity of the statement". Decision at 7. Dan is correct that BOE members are public figures under defamation law—of course they are!—elected officials who dispense taxpayer funds are obviously public figures in their communities, as any law student who passed Constitutional Law should know. But this is also irrelevant in this case. As Dan should know, neither the anti-*

*SLAPP statute nor the Court's Decision says anything about "public figures" or "elected officials". Rather, as the Court and statute say explicitly, application of the anti-SLAPP statute turns not on the status of the complaining plaintiff but rather on whether the action involves "public petition and participation".*

I'll be talking with advisors in the coming days to decide whether to appeal or simply move on. Either way, this has been a difficult process.

*Yes, it has been a difficult process—for Meg! Dan, here is some free advice: the first rule when you're in a hole is stop digging. Your lawsuit was frivolous on its face; you will lose any appeal; and any additional legal fees you wrongly impose on Meg ultimately will be for your account under the anti-SLAPP statute.*

And if you've ever wondered why it's so hard to get good people to step up and serve their communities—this is why.

*Wow, that's some chutzpah! In my opinion, "good people"—especially members of the bar who understand their ethical responsibilities—do not abuse the judicial process to intimidate critics on matters of public import. Our community will be better off without you on the BOE because, in my opinion, you have disqualified yourself based on your shameful actions.*