

Krakow, 17 May 2019

District Court in Warsaw

I Civil Department

Al. Solidarności 127

00-898 Warsaw

1. Plaintiffs: Filomena Leszczyńska

2. Defendants:

1. Barbara Engelking, ul. Nowy Świat 72, 00-330 Warsaw

2. Jan Grabowski, ul. Nowy Świat 72, 00-330 Warsaw

Petition fee: The Plaintiff is exempt from the court fee, due to regulation art. 95 b of the Act on court costs

WPS: PLN 100,000

CLAIM

for protection of personal rights and for compensation

Acting on behalf of the plaintiff F. Leszczyńska (hereinafter: "the Plaintiff"), on the basis of the relevant powers of attorney which I present in the attachment, pursuant to art. 23 and 24 in conjunction with art. 448 of the Act of 23 April 1964 - Civil Code (Journal of Laws of 1964 No. 16 item 93, as amended), I am applying for:

I. obligation of the defendants: Barbara Engelking (hereinafter: "the Defendant") and defendant Jan Grabowski (hereinafter: "Defendants") - hereinafter referred to as: "Defendants" to remove the effects of the infringement of the personal good of the Plaintiffs by publicly submitting declarations with the following content:

"Statement by Barbara Engelking and Jan Grabowski – APOLOGY TO FILOMENA LESZCZYŃSKA - The author Barbara Engelking (co-author of the book "Dalej jest noc") and editor Jan Grabowski apologize to Filomena Leszczyńska for the dissemination of false information about Edward Malinowski - uncle of Filomena Leszczyńska.

I, Barbara Engelking, declare that in the book "Dalej jest noc", I wrote that Edward Malinowski was complicit in the death of 18 Jews (he informed about to the Germans of their hiding place), first he robbed the Jewess Estera Drogicka, and later traded with her (she sent him, items for sale) and that Estera Drogicka, after the war, made false statements, knowing that Edward Malinowski was complicit in the death of 18 Jews.

All the above information cannot be found in any files, testimonies or any documents.

In fact

1. Edward Malinowski hid Jews in his barn, as stated / confirmed by many witnesses, including three Jewish witnesses, who actually hid/were hidden in Edward Malinowski's barn.
2. Edward Malinowski did not rob Estera Drogicka, and actually hid her without accepting any money, which was confirmed by Estera Drogicka herself, during testimonies submitted to the court in Edward Malinowski's trial.
3. Not only did Estera Drogicka give testimony, that Edward Malinowski hid Jews, but such testimonies were made by three Jews and many residents of the village, where Edward Malinowski was the village leader/administrator (Sołtys).

At the same time, I, Barbara Engelking, inform that I was familiar with the IPN files describing the trial of Edward Malinowski, but I did not inform the readers of the following:

1. Edward Malinowski was accused by three people, with whom he was in conflict ..
2. Many people (including three Jews, whom Edward Malinowski hid) testified to his innocence and the fact that he hid many Jews during World War II.
3. Edward Malinowski did not collect any money for hiding Estera Drogicka, as Estera Drogicka, herself, testified before the court.
4. In the book "Dalej jest noc", I only removed from Esther Drogicka's explanations the information that Edward Malinowski helped her selflessly, and left all the rest of Estera Drogicka's testimonies.
5. From the witnesses' testimony, which was also confirmed by the acquittal of Edward Malinowski, it is clear that it was not Edward Malinowski who denounced the Jews.
6. According to many witnesses, Edward Malinowski was a very good village Sołtys - he protected the population from German repressions.
7. Edward Malinowski hid not only Jews, but also a Russian soldier who escaped from a transport.

I, Barbara Engelking, professor of sociology and co-author of the book "Dalej jest noc", apologize to Filomena Leszczyńska for spreading false information about her uncle. At the same time, I acknowledge that the information I disseminate, which is not covered by/in research or any documents, illustrated the thesis that Poles murdered Jews. I also apologize for the omission of facts, which did not fit in with my thesis, which - if were presented – would put Edward Malinowski in a completely different light, i.e. they would have represented him as a hero, who saved Jews.

I, Jan Grabowski, apologize to Filomena Leszczyńska for, while being the editor of the book "Dalej jest noc", I allowed the dissemination of untrue information by Barbara Engelking about Edward Malinowski.

Barbara Engelking - author and editor of the book "Dalej jest noc", Jan Grabowski - editor of the book "Dalej jest nocy".

II. Order jointly and severally from the Defendants for the Plaintiff F. Leszczyńska PLN 100,000

III. Admission of evidence from the documents indicated in the statement of the claim, i.e. .:

1. a fragment of the book entitled "Dalej jest noc", edited by Barbara Engelking and Jan Grabowski, published by the Centre for Research on the Holocaust, pages 149-150 - on the content of false information about Edward Malinowski written and disseminated by the author Barbara Engelking and by the editor and publisher

2. testimony of Maria Wiśniewska from the files of the criminal case of Edward Malinowski, reference number 403/18 / 1- on the occasion of their content, on the occasion of showing both the invention/creation by the author B. Engelking content that is not found in the files and the culpable action of B. Engelking, who, having access to authentic documents, omitted some of the information contained in them and additionally invented/created and disseminated untrue information

3. testimony of witnesses from the criminal case of Edward Malinowski and explanations given by the accused Edward Malinowski - on the behaviour of Edward Malinowski during World War II, B. Engelking's knowledge of Defendant's actions and the conscious misinformation of the public

4. the document, confirming the family relations between Filomena Leszczyńska and Edward Malinowski – which will confirm the above relationship of F. Leszczyńska to E. Malinowski

5. The title page of the book – stating its (the book's) content, presented as proof of the book's as a reliable study

6. Information about the research project available on <http://www.holocaustresearch.pl/index.php?show=6&strona=542>

7. Criticism of the book "Dalej jest noc" by professional historians: Piotr Gontarczyk, Ph.D. and Tomasz Domański, Ph.D.,

- on the contents of the book, where numerous mistakes and inaccuracies, as well as lack of professionalism by the Defendants are pointed out.

8. Response by B. Engelking and J. Grabowski to the professional criticism of the book "Dalej jest noc" available on <http://www.holocaustresearch.pl/index.php?show=555&strona=556> and [http://www.holocaustresearch.pl/index.php?show=555 & page=563](http://www.holocaustresearch.pl/index.php?show=555&page=563) – as to the content of their book, response to the critics, undermining the people with professional and academic titles, who criticized their work

Substantiation

I. The facts

In April 2018, the Centre for Research on the Holocaust of Jews, IfiS PAN, published the book "Dalej jest noc", edited by Barbara Engelking and Jan Grabowski. This book was to summarize the findings of the research project, carried out by the Centre for Holocaust Research, entitled "Strategies of survival of the Jews, during the occupation in the "Generalgouvernement", 1942-1945. Studium wybranych powiatów (a study of selected poviats)". The book is presented as the result of academic work (reliable scientific research work, for which a scientific grant was obtained).

In the chapter entitled "Strategies of survival", on pages from 149 to 150, the story of Edward Malinowski was described, the Sołtys of Malinów, whose niece is the Plaintiff. The fragment in subject is as follows (original spelling):

"Esterka Drogicka (née Siemiatycka), after the loss of her family, provided with documents bought from a Belarus woman, decided to go in search of work to Prussia, helped by Edward Malinowski, the Sołtys of Malinów (who, in the process - robbed her) – and in December 1942, she arrived in Rastenburg (Kętrzyn), as domestic help to a German family, named Fittkau. Not only did she meet her second husband there (a Pole, who was a forced labourer there), but she started a commercial activity, sending Malinowski parcels containing items for sale. She visited him, when she returned "home" for vacation. She realized, that he was complicit in the deaths of "several tens" of Jews, who were hiding in the forest and were denounced to the Germans by him, but in his (Malinowski's) trial - after the war - she gave false testimony in his defence";

To the above content, a footnote no. 397 was assigned (original spelling): "AIPN Bi, 403/18, Files of the criminal case against Edward Malinowski, Testimony of Maria Wiśniewska, p. 43:" During the German occupation, I was a Jew hiding in the forest near Malinów. No one wanted to take me into their home. I went to Sołtys Malinowski, who took me in. I was hiding in Malinowski's barn for a good couple of weeks, and he fed me [...]. At night, his barn was full of Jews, Malinowski gave them food. I owe my life to Malinowski, for he obtained Aryan papers for me, and then, having first agreed with me, he reported that I was evading forced labour. I was then arrested and sent to Germany. I returned to Malinów for vacation. At the time, the Jews were being murdered, I was in Germany. I received a letter from Edward Malinowski, in which he wrote to me, that he Jews were denounced to the Germans by a forester and that, in retaliation for this, he was killed by Jewish partisans". Malinowski was acquitted. {original spelling]

Evidence:

1. a fragment of the book entitled "Dalej jest noc" by the Defendants, pages 149-150

The fragment of the book, defined above, contains false information about Edward Malinowski, the Sołtys of Malinów, which is contradictive to reality, which has been established and confirmed by key sources.

During the Second World War, Edward Malinowski, described by the defendants in their book, hid Jews. Around 1940, Edward Malinowski, despite his reluctance to the fact, that he would have to partly cooperate with the occupying forced - became the Sołtys of Malinów. The period of the occupation had many events, where certain social groups were persecuted. These including people of Jewish nationality. One day, in a village where Edward Malinowski was the Sołtys, the Germans came in search of Jews, who were in hiding in nearby forest. They ordered the gamekeeper from Czerna (a nearby village) be brought to them. After the gamekeeper was brought there, he and the Germans, together with the Sołtys Malinowski, and a few other villagers went to the forest, having first been ordered to take shovels with them. In the forest, the Germans, basing on information obtained from the gamekeeper, found a shelter and killed the Jews, who were hiding in it.

According to popular opinion, during the war Edward Malinowski carried out his responsibilities as Sołtys, very well. His noble character traits were evident. He was skilful in his contacts with the German occupying forces, and thanks to this, he managed to get the Germans to be more lenient towards the local population and inhibited their imperious aspirations.

After the war, several people with whom Edward Malinowski was in conflict, denounced the Sołtys to the local branch of the then Ministry of Public Security - the Office of Public Security, in writing. The UB (security forces) arrested Edward Malinowski - the uncle of the Plaintiff. During the period of his detention, residents of the village, where he was the Sołtys, wrote letters to the office of the security forces, bearing witness to his innocence and describing the help, he offered to all residents during and after the war. The contents of the letters showed, that he was a great man who also helped Jews during the occupation period. In addition, as a result of the efforts of the villagers, a Jewish survivor was located - Wiśniewska (before the war Estera Drogicka), as well as two other Jews, who testified that Edward Malinowski hid them during the war. As a result of the testimonies of the inhabitants of the village, together with the surviving Jews, and the confrontation of the key witnesses in the case - Edward Malinowski was acquitted.

Confirmed by documents and the testimonies of people, the true situation destroys the false image of Edward Malinowski as a thief and informer, which clearly resulted from the information created by the Defendants, in their publication entitled "Dalej jest noc".

It should be pointed out, that both public and state materials, indicated by the Defendants as a source of information, are cited by the authors selectively. The rest of evidents relating to Edward Malinowski

was built on false information and non-existent events. In particular, the Defendant wrote lies, that the Jewish woman Maria Wiśniewska (then Estera Drogicka), was robbed by Edward Malinowski, that she knew that he killed 18 Jews, and that - during the trial – she made false testimonies, that would lead to Malinowski's acquittal.

From the testimonies alone, in footnote no. 397, in the Defendants' book, it is interesting to note, that the only information that has been removed was that Edward Malinowski hid and fed Maria Wiśniewska out of goodwill (for free). Citing the full text of the source would obviously be in conflict - with the argument/point, that Edward Malinowski stole from Estera Drogicka (vel Maria Wiśniewska) and would destroy the false image of Malinowski as a thief. In fact, during the war, a young Jewish girl - then named Estera Drogicka - came to the Plaintiff's uncle, and asked him for help. Because of her similarity in looks to a deceased girl, she wanted to use the documents of the said deceased girl, and on the basis of her (the deceased girl's) documents become officially a Pole, and get sent the Third Reich, as a forced labourer.

Edward Malinowski agreed to help her, with the proviso, that Wiśniewska (Drogicka) does not move around on her own, but only accompanied by him. Malinowski took her to the police station, where he informed representatives of the occupational authorities, that this girl looked after his grazing cows and would like to go to work in Germany. The whole undertaking was successful: Wiśniewska (Drogicka) was put on a list on the basis of the documents of the deceased Polish girl, and later - as that Polish girl, was taken to Germany for forced labour – which, in consequence, saved her life.

During her testimony in court, Maria Wiśniewska (Estera Drogicka), stated: "For a good couple of weeks, I was hidden in Malinowski's barn and he fed me, even though I was penniless." From this statement, Barbara Engelking removed the words "even though I was penniless". The reasons for which these 5 words were removed from Maria Wiśniewska's testimony were unknown to the Plaintiff. These words contradict the information that E. Malinowski robbed the Jewish girl and put E. Malinowski in an extremely positive light. Not only was he not afraid of hiding a Jewish girl (for which he, his family and the entire village could have suffered the death penalty), but he did this selflessly.

II. Validity of the claim - legal status

A. Positive identification of the Plaintiff's - Filomena Leszczyńska - right to the claim

The plaintiff is the niece of Edward Malinowski. From the war, she has known, that her uncle hid Jews and did this absolutely selflessly. The Plaintiff also cared for maintaining the memory of her heroic uncle, alive in her family. At the same time, as a modest person, she did not ask for any benefits for herself or for her family, believing that helping her fellow man during the Second World War, was an absolutely natural thing to do. That is why, she was very hurt by the information, that Edward Malinowski is being portrayed as a murderer (complicit in the death of Jews) and a thief.