

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CASE NO.: 2022-CP-40-01390
David Voros and Alexandra Stasko,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>DEFENDANT MANDY MATNEY’S</b>
	)	<b>NOTICE OF MOTION AND</b>
Allison Dunavant; and Fitsnews, LLC,	)	<b>MOTION FOR JUDGMENT</b>
and Mandy Matney,	)	<b>ON THE PLEADINGS</b>
	)	
Defendants.	)	
	)	

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TO: WILLIAM R. PADGET, ESQUIRE, CHRISTINE M. BROWN, ESQUIRE, AND HHP LAW GROUP, LLC, ATTORNEYS FOR PLAINTIFFS:

PLEASE TAKE NOTICE that Defendant, Mandy Matney (“Defendant”), through undersigned counsel, will move before the Presiding Judge of Richland County, at the Richland County Judicial Center, Richland, South Carolina, on the 10<sup>th</sup> day after service hereof or as soon thereafter as the parties may be heard, for an order dismissing Plaintiffs’ claims against Defendant pursuant to Rule 12(c) of the South Carolina Rules of Civil Procedure. A Motion for Judgment on the Pleadings is appropriate after the pleadings are closed but within such time as not to delay the trial. The motion is made on the following grounds:

The Plaintiffs’ Complaint alleges causes of action for defamation and civil conspiracy arising from statements made by Defendants concerning the public controversy over allegations of sexual harassment made by Defendant Dunavant and others (in lawsuits) against University of South Carolina Professor Plaintiff Voros and over the response by the University of South Carolina administration to the allegations in the lawsuits. Plaintiff Voros is the USC professor

against whom Dunavant lodged certain allegations, including in a federal lawsuit. Plaintiff Stasko alleges she was formerly an instructor at USC and a former master's student at USC, and allegedly accompanied Voros at the time of the events underlying Dunavant's allegations.

Defendant Fitsnews owns and publishes an online media platform with concentration on South Carolina current events, politics, and other news. At the time at issue, Defendant Matney was an employee of Fitsnews and authored several articles related to USC's response to the lawsuits alleging sexual harassment by Voros. Those articles were published on the Fitsnews.com website. Plaintiffs Voros and Stasko contend that certain portions of the articles published on the Fitsnews.com platform are defamatory because they "related to claims of harassment made by several individuals against Professor Voros which also contained negative implications and insinuations related to Professor Stasko." Comp. para. 7. And, that the statements tended to impeach the honesty, integrity, virtue and reputation of Plaintiffs and portray them in a false light. *Id.* para. 27.

Plaintiffs allege the articles entitled "Former Student Who Sued USC: System for Harassment Complaints 'Revictimizes the Victims'" (December 9, 2020), "[You Must Listen to Survivors of Abuse:] USC Protestors Demand Professor Be Fired" (March 4, 2021), and "USC Student Accuses History Professor of Sexual Harassment and Abuse in New Lawsuit" (March 23, 2021) contained defamatory statements. Comp. Paras. 8, 17, 18. Copies of the articles specifically referenced in the Complaint are attached hereto as Exhibit "A," even though they were not attached to the Complaint.<sup>1</sup>

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<sup>1</sup> On a Rule 12 motion to dismiss, the court may consider documents referenced in but not attached to the complaint without converting the motion to dismiss into a motion for summary judgment. *Brazell v. Windsor*, 384 S.C. 512, 516, 682 S.E.2d 824, 824 (20109); *accord Blankenship v. Manchin*, 471 F.3<sup>rd</sup> 523, 526 n.1 (4<sup>th</sup> Cir. 2006) (newspaper article referred to in complaint considered on motion to dismiss).

While Matney disputes the allegations of the Complaint, even accepting all of the allegations as true for the purposes of this motion, the Complaint fails to state facts constituting a valid cause of action against Matney for the following reasons:

1. The alleged defamation constitutes protected expression of opinion, epithet, or hyperbole, and is therefore not actionable.
2. To the extent to which the Defendant's article contains statement that are not the expression of opinion, epithet, or hyperbole, it is protected by the "fair report privilege" as a fair and accurate report of statements made in public court filings. The standard of accuracy when reporting on information based on government documents and filings is one of substantial truth – to the act or statement on which the report is based, not the underlying truth of the matter. It is enough that the report conveys to persons who read it a substantially correct account of the [public proceedings or public documents] at issue.
3. If the press accurately reports the content of the public filing or statements, the press is immune from liability, and is under no duty to independently verify the underlying information.
4. Plaintiffs' Complaint admits that both Voros and Stasko are or were public university instructors. As a matter of law, persons holding public positions at public institutions are public officials, mandating clear and convincing evidence of actual malice by a defendant accused of defamation.
5. With regard to claims by Plaintiff Stasko (construing these claims as properly joined), the statements are not "of and concerning" Plaintiff Stasko.
6. Plaintiffs' Complaint fails to sufficiently plead the elements of civil conspiracy: the combination of two or more persons to commit an unlawful act or a lawful act by unlawful

means, together with the commission of overt act in furtherance of any alleged agreement.

This motion is further supported by the South Carolina Rules of Civil Procedure, applicable statutory law, applicable case law, a memorandum or memoranda of law, if necessary, and arguments of counsel at a hearing on this matter.

PLEASE BE PRESENT TO DEFEND IF SO MINDED.

s/John A. Massalon

John A. Massalon (SC Bar #10279)

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ATTORNEYS FOR MANDY MATNEY

CHARLESTON, SC

October 26, 2022