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Sumner County, Circuit Court

IN THE CIRCUIT COURT FOR SUMNER COUNTY
AT GALLATIN, TENNESSEE

JEFFREY COKER and COKER, WOLFE & ASSOCIATES, INC.,	)	
Plaintiffs,	)	
v.	)	**No. 83CC1-2025-CV-535**
BRANDON LEWIS, THE TENNESSEE CONSERVATIVE, LLC, GINA CARPENTER, MATT CAMPBELL BARRY BRILEY, CHRIS SPENCER, Individually and d/b/a CHRIS SPENCER FOR TN STATE SENATE DISTRICT 18 JEFF HARTLINE, and KURT RILEY, d/b/a SUMNER COUNTY CONSTITUTIONAL REPUBLICANS,	)	
Defendants.	)	

MEMORANDUM AND ORDER

This cause came on to be heard on the 29th day of June 2026, before Robert E. Lee Davies, Senior Judge, pursuant to an agreed order setting the Defendants' motions to dismiss under the Tennessee Public Participation Act and Rule 12 Tenn. R. Civ. P. However, the Court first considered Plaintiffs' motion to continue this hearing and allow for limited discovery under the T.P.P.A.

The Court found Plaintiffs' motion not well taken for the following reasons:

1. Defendants' motions were originally set to be heard before Judge Oliver when he recused himself, but no request for discovery was made by Plaintiffs.
2. The undersigned then held a conference with the attorneys and a new date was selected by agreement to hear the motions to dismiss, and at that time Plaintiffs

did not request to take any discovery prior to the hearing on the motions to dismiss.

3. The motions to dismiss pursuant to Rule 12 are based on the pleadings and discovery is not allowed.
4. Most of the facts set forth in Defendants' motions to dismiss under the T.P.P.A. are undisputed except for the mental state of the Defendants.

Accordingly, the Court Denied the motion to continue.

Motions to Dismiss Pursuant to Rule 12 Tenn. R. Civ. P.
Standard of Review

A Rule 12.02(6) motion to dismiss seeks to challenge whether the complaint states a claim upon which relief can be granted. Such a motion requires the Court to determine the legal sufficiency of the complaint, not the strength of the plaintiff's proof and therefore, matters outside the pleadings should not be considered in deciding whether to grant the motion. Trau-Med of America, Inc. v. All State Ins. Co., 71 S.W.3d 691, 695 (Tenn. 2002). In making this determination, the trial court must construe the complaint liberally and consider all of the factual allegations to be true, giving the plaintiff the benefit of all reasonable inferences. Pursell v. First American National Bank, 937 S.W.2d 838, 840 (Tenn. 1996). It is incumbent upon the trial court not to dismiss a complaint for failure to state a claim unless it appears that the plaintiff is unable to prove any set of facts in support of his claim that would warrant relief. Doe v. Sunquist, 2 S.W.3d 919, 922 (Tenn.1999).

The allegations of the complaint[1] are as follows:

The complaint alleges that Chris Spencer was a candidate for the Tennessee State Senate; that Gina Carpenter worked for him and was a former treasurer of the Republican Party of Sumner County; that Jeff Hartline also worked for the Spencer Campaign; that Barry Briley and Matt Campbell were supporters of Chris Spencer; that Kurt Riley is the founder of the Sumner County Constitutional Republicans and built Spencer's campaign website; and that Brandon Lewis was a reporter with the Tennessee Conservative, LLC, both of which supported the Spencer Campaign. Plaintiff, Jeff Coker lives in Sumner County, Tennessee and is Chairman of the City of Hendersonville Municipal Planning Commission, and former Mayoral candidate. He is also the President of Coker, Wolfe & Associates, Inc., a Tennessee corporation providing insurance and risk management services.

On July 2, 2024, Plaintiff, Jeffrey Coker, noticed a campaign sign that was within twelve feet of the edge of the pavement in violation of a zoning ordinance of the City of Hendersonville, which the owner of the property had not consented to being placed on his property[2]. Coker removed the sign and put it in his vehicle. Coker then sent an email to Keith Free, the planning director for Hendersonville. In his email, Coker stated:

> Keith, ...I asked you about six weeks ago who to call re: political signs that were in violation of city sign ordinance. You mentioned to just let you know, but the ones I had in mind at the time slipped my mind. Saw one this afternoon that was particularly egregious, so I took care of it myself in the moment....

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[1] The complaint filed in this case was unverified. While that has no impact on the Rule 12 motions, the allegations set forth in the unverified complaint cannot be used to support Plaintiffs' response to the motions to dismiss under the Tennessee Public Participation Act, which provides for sworn affidavits which state admissible evidence. Tenn. Code Ann. § 20-17-105(d).

[2] The campaign sign was a Chris Spencer for State Senate sign; however, Coker had no knowledge regarding the property owner's lack of consent at the time he stopped.

Free directed Coker to "drop it behind the dumpster at City Hall" to permit the candidate to retrieve it, consistent with the City's practice for some time.

Not long after Coker removed the campaign sign, he received a Facebook message from Defendant Briley which stated:

> "You should know it is illegal to remove campaign signs and related signage especially when it has the disclaimer."
>
> I am pretty sure they will prosecute.

Coker responded that the sign was placed illegally and that it would be at Hendersonville City Hall. A few hours later, Defendant Riley sent Coker the following text messages:

> "You keep your filthy hands off our signs! You're a thief and a punk!"

Coker responded again that the sign was placed illegally, that it was returned to City Hall, and that the property owner had not authorized it to be on the property.

Later that evening, Candidate Spencer made the following post on Facebook:

> It is pretty clear who's been stealing Chris Spencer's signs. They caught Jeff Coker today. One of Ferrell Haile's campaign guys taking one of Chris' signs. How low can the Haile campaign go? These people are dirty! Coker, Wolfe & Associates, Inc.
>
> Just when you thought a Haile supporter couldn't stoop to anything worse than lying and personal attacks, they surprise everybody by going out and stealing my signs. Now you see it, now you don't!
>
> Is this the mystery "sign-stealer" that has stolen close to three hundred of our signs over the last few months? That is close to $2400. Hey ...Jeff Coker, can we get our signs back? This is very disappointing to see a local Hendersonville resident resorting to this type of behavior.[3]

Defendant Briley republished these statements on Facebook along with a photograph of Coker taking the campaign sign.

Defendant Campbell republished these statements on Facebook, along with the pictures of Coker taking the sign.

On July 3, 2024, Defendant Lewis, on behalf of the Tennessee Conservative News, posted on Facebook a press release issued by Candidate Spencer which called out Coker for stealing one of the Spencer signs. The press release went on to accuse Haile and his supporters of removing Spencer's campaign signs and cited several sections of the Tennessee Code regarding theft or vandalism of campaign signs. Defendant Hartline was the author of the Spencer press release.

The complaint goes on to state that Defendant Carpenter made a comment on the Tennessee Conservative News' Facebook which stated Coker stole the sign because Haile had an event at the YMCA which was nearby the sign. She and Defendant Campbell also reposted the allegations in a Facebook group in which they were members.

On July 18, 2024, Plaintiff and his firm, Coker, Wolfe & Associates, Inc. issued a cease-and-desist letter to all Defendants. After receiving Plaintiffs' letter, the Tennessee Conservative News and the Sumner County Constitutional Republicans removed the above-referenced post, Riley removed his post from Next Door, and Spencer removed the tag of the firm Coker, Wolfe.

A few days later, Defendant Campbell placed various signs around Sumner County which read as follows: "Jeff Coker has not stolen this sign yet". These signs then led to more comments and discussions regarding Coker, Senator Haile and Chris Spencer.

Coker alleges that the Defendants knew their statements were false or at least published the statements with a reckless disregard for the truth. Plaintiffs' claims for relief are defamation and defamation by implication, false light, and civil conspiracy.

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[3] In his post Spencer tagged Coker, Wolfe & Associates, Inc. and John Rich and Riley Gaines. The Sumner County Constitutional Republicans then republished

Defamation Claim

To establish a prima face case of defamation, the Plaintiff must plead and prove the following elements: "1) a party published a statement; 2) with knowledge that the statement was false and defaming to the other; or 3) with reckless disregard for the truth of the statement or with negligence in failing to ascertain the truth of the statement." Davis v. The Tennessean, 83 S.W. 3d 125, 128 (Tenn. Ct. App. 2001).

The first issue raised by Defendants is that there is no defamation claim attributable to the firm, Coker, Wolfe & Associates, Inc. None of the posts or publications are directed at the corporation. Its only involvement in this case is that Defendants "tagged"[4] the corporation in their posts. Defendants point out that the purpose of "tagging" in a Facebook post is to notify. For example, in this case Defendant Spencer tagged his celebrity supporters, John Rich and Riley Gaines, in order to increase the circulation of these statements. In fact, Plaintiffs recognize the use of the term tag in the complaint. The posts by Defendants are devoid of any statement or inference that the corporation was involved in the stealing of the campaign sign. There is nothing in the publications by the Defendants which suggest the corporation was involved in the stealing of the campaign sign. "Whether a statement is capable of being defamatory depends upon the context in which it is made." Revis v. McClean, 31 S.W. 3d 250, 253 (Tenn. Ct. App. 2000). The statement should be considered as a person of ordinary intelligence would understand it in light of the surrounding circumstances. Id. If the defamatory words do not have the reasonable meaning which the plaintiff ascribes to them, the court should disregard plaintiff's interpretation. Stones River Motors, Inc. v. Mid-South Pub. Co., 651 S.W. 2d 713 (Tenn. Ct. App. 1983). The same reasoning applies to the corporation's claim for defamation by implication. Accordingly,

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the statements.

the complaint fails to make out a prima facie case of defamation against Coker, Wolfe & Associates, Inc. and the motion to dismiss is **GRANTED** as to this Plaintiff.

Defamation by Implication

Defamation by implication occurs when statements that are true are nevertheless actionable if they imply facts that are not true. Memphis Publishing Co. v. Nichols, 569 S.W. 2d 412, 420 (Tenn. 1978). Thus, a statement can be defamatory even if the words do not appear to be defamatory on their face, when those words imply a defamatory meaning. Pate v. Serv. Merk. Co., 959 S.W. 2d 569 (Tenn. Ct. App. 1996).

Here, Coker argues that the publications made by the Defendants imply that Coker committed theft. The Court disagrees. The posts assert what they claim to say, along with photographs of Coker removing the campaign sign; that Coker was caught stealing the opposition's campaign sign. There is nothing in the complaint which articulates the facts in the Defendants' posts which Coker believes is literally true but carries an implied defamatory meaning. Accordingly, Defendants' motion to dismiss the claim of defamation by implication is **GRANTED**, with exception of Defendant Campbell.[5]

False Light

Tennessee recognizes the separate tort of false light invasion of privacy. "One who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability to the other for invasion of his privacy, if:

(a) The false light in which the other was placed would be highly offensive to a reasonable person, and
(b) The actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.

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[4] Tagging is a tool that is used by Facebook to notify the person who is tagged. Facebook.com/help/124970597582337/

[5] The sign "Jeff Coker has not stolen this sign yet" which Campbell put up after the incident survives the Rule 12 motion to dismiss.

West v. Media General Convergence, Inc., 53 S.W. 3d 640, 643-644 (Tenn. 2001). (Adopting Section 652E of the Restatement (2d) of Torts (1977).

"The facts may be true in a false light claim. However, the angle from which the facts are presented, or the omission of certain material facts, results in placing the plaintiff in a false light." Id. *646, n. 5.

False light claims address injuries to the right of privacy, not the outside world. It is an injury to the inner person. There is nothing in the complaint that suggests injury to the privacy of Coker. All of the publications are focused on his removal of an opponent's campaign sign in broad daylight, where he was photographed in the act along with the ensuing comments by his political adversaries chastising him for his actions. In other words, the Defendants meant what they said and said what they meant. There was no hidden meaning. Accordingly, Defendants' motion to dismiss the claim of false light is **GRANTED.**

Defamation

In this case there is a defamation by libel claim by a public figure. The complaint identifies Coker as the chairman of the City of Hendersonville Municipal Planning Commission and a former mayoral candidate. His own email indicates Coker has direct access to the planning director for the City of Hendersonville. As stated by the U.S. Supreme Court in Gertz v. Robert Welch, Inc., 418 U.S. 323, 94 Sup. Ct. 2997, 41 Law Ed. 2d 789 (1974):

> Public officials and public figures usually enjoy significantly greater access to the channels of effective communication and hence have a more realistic opportunity to counteract false statements than private individuals normally enjoy. Private individuals are therefore more vulnerable to injury, and the state interest in protecting them is correspondingly greater. ...
>
> Those classified as public figures stand in a similar position. Hypothetically, it may be possible for someone to become a public figure through no purposeful action of his own, but the instances of truly involuntary public figures must be exceedingly rare. For the most part those who obtain this status have assumed

> roles of especial prominence in the affairs of society. Some occupy positions of such persuasive power and influence that they are deemed public figures for all purposes. More commonly, those classified as public figures have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved. In either event, they invite attention and comment. Id.*344-345, *3009, *808.

"In defamation cases the interest sought to be protected is the objective one of reputation, either economic, political, or personal, in the outside world. For a written statement to be defamatory, it must constitute a serious threat to the plaintiff's reputation. A published statement is not libelous because the subject of the publications finds it 'annoying, offensive or embarrassing.' Rather, the statement 'must reasonably be construable as holding the plaintiff up to public hatred, contempt or ridicule' and convey 'an element of disgrace.'" Aegis Sciences Corp. v. Zelenik, 2013 W.L. 175807, *5 (Tenn. Ct. App. 2013) (internal citations omitted). A statement alleged to be defamatory must be judged within the context in which it was made. Revis v. McClean, 31 S.W. 3d 250, 253 (Tenn. Ct. App. 2000).

The context in this case is a hotly contested political race for state senator. Coker supported the incumbent. All of the other Defendants supported the challenger, Spencer. Coker, the chairman of the planning commission for the City of Hendersonville was photographed removing the political sign of Spencer. Spencer issued a single Facebook post. Spencer's post suggested that Coker was the person responsible for stealing Spencer's other campaign signs. These statements are rhetorical hyperbole. Spencer did not accuse Coker of theft, which is a crime. In Farmer v. Hersh, 2007 W.L. 2264435 (Tenn. Ct App. 2007) the Court of Appeals considered the issue of defamation when the mayor of Jackson, Tennessee filed suit alleging that the owner of the minor league baseball team which played for the City of Jackson, defamed the mayor by telling the media that the mayor was attempting to "steal" the team. The Court of

Appeals agreed with the trial court that the statement made was mere hyperbole and not defamatory as a matter of law.

> In this case, Farmer's complaint asserts that Hersh defamed him by saying that "Farmer attempted to 'steal' the Team from Hersh." This is an obvious exaggeration intended to emphasize that Farmer wanted to purchase the team for far less than what Hersh considered to be fair market value. ...**In this context**, such terminology can only be characterized as "mere hyperbole" or a figure of speech used to make a point. Id. * 6.

In the case at bar, Spencer's post included the nondefamatory facts on which his conclusions about Coker's behavior were based. The publisher's comments on true and nondefamatory facts are not actionable, even if those comments are stated in strong or offensive terms. Davis v. Covenant Presbyterian Church of Nashville, 2015 W.L. 5766685, *3 (Tenn. Ct. App. 2015). Moreover, an opinion is not actionable as libel unless it implies the existence of unstated defamatory facts. Stone River Motors, Inc. v. Mid-South Publishing Co., Inc.,651 S.W. 2d 713, 722 (Tenn. Ct. App. 1983). As Spencer's post indicates, Coker was photographed taking one of Spencer's campaign signs, placing it in his car, and driving away. Spencer's post included those photographs and under these circumstances Spencer was entitled to share his opinion, which was based on true and nondefamatory published facts (unless Coker had the authority to remove campaign signs) – that Coker was stealing his signs. However, whether Coker had the authority to remove this sign cannot be decided in a motion to dismiss under Rule 12. Instead, that issue will be discussed under the T.P.P.A. where the Court can consider additional facts by affidavit. Accordingly, this motion is **DENIED.**

Tennessee Public Participation Act
(T.P.P.A.)

Under the T.P.P.A., if a legal action is filed in response to a party's exercise of the right of free speech, right to petition, or right of association, that party may petition the court to

dismiss the lawsuit. Tenn. Code Ann. § 20-17-104(a). This case involves the exercise of the right of free speech which is defined as a communication made in connection with a matter of public concern that falls within the protection of the United States Constitution or the Tennessee Constitution. Tenn. Code Ann. § 20-17-103(3). A "matter of public concern" includes such issues as the government, a public official or public figure, or any other matter deemed by a court to involve a matter of public concern. Tenn. Code Ann. §20-17-103(6).

Here, Coker is not simply a private citizen. As the complaint indicates, he is the current "Chairman of the City of Hendersonville Municipal Planning Commission", which is an elected position. He is also described as a "former state senate and mayoral candidate" and "would be easily recognized" by the public.

The context of the publication by Defendant Spencer, candidate for State Senate and the ensuing republications and/or comments by the other Defendants regarding the removal of Spencer's campaign sign by Coker were about a "matter of public concern" ...the hotly contested Republican Primary for State Senate. Accordingly, the Court finds all of the Defendants have met their initial burden under the T.P.P.A. The question now becomes whether Coker's action has established a prima facie case for each essential element of the claims he brought. Tenn. Code Ann. § 20-17-105(b).

With regard to the defamation claim, all of the Defendants have argued that Coker is unable to prove that their statements were made with actual malice, a required element for a defamation claim involving a public figure. Actual malice requires proof that the speaker had knowledge of the false statement or recklessly disregarded the truth of the statement. Moreover, the actual malice standard has been extended to alleged defamatory statements about matters of public interest. West v. Media General Convergence, Inc., 53 S.W. 3d 640, 647 (Tenn. 2001).

The crux of this particular issue turns on a legal conclusion: Whether Coker was legally authorized to remove Spencer's sign. The local zoning ordinance was to be enforced by the staff of the planning department. Coker's email to the planning director, Keith Free, implies as much, and the Mayor's email makes it clear.[6] Coker has not provided any proof other than his self-serving statement that he had authority to take Spencer's campaign sign, and his alternative position that any citizen can determine that a campaign sign has been placed illegally and can then remove it, is not logical. Clearly, the responsibility to determine infractions of the campaign sign ordinance and enforce that ordinance has to be with the staff of the Hendersonville Planning Department, of which Coker is not a member. Since Coker did not have the authority to remove Spencer's campaign sign, Spencer's publication that Coker was caught stealing his sign was true. Finally, Coker's contention that he had permission from the property owner to take Spencer's sign is to no avail, since Coker did not have the property owner's permission at the time he actually took the sign. Likewise, any failure by any of the Defendants to retract their publication after it was published is not probative of the Defendants' state of mind at the time they made the publication, and the Court finds that the cease-and-desist letter is therefore irrelevant. Cruz v. Van Sickle, 452 S.W. 3d 503, 517 (TX App. 2014); Fairfax v. CBS Corp., 2 F.4th 286, 295 (4th Cir. 2021). As Coker cannot establish the element of actual malice, his claim for defamation must fail and Defendants' motion is **GRANTED.**[7]

[6] The Mayor's email states "As I mentioned in our call, planning commissioners do not have a responsibility to remove temporary signs that are placed illegally. Additionally, planning commissioners (including the chairman) have no more authority in removing illegal signs than anybody else has."

Damages

Even if Coker could establish the elements supporting his claim for defamation, false light, and civil conspiracy, each of these torts require proof of damages. The complaint only addresses damages in two sentences:

- "The verified complaint alleges that Plaintiffs have been damaged and have suffered an ascertainable loss in the form of reputational damage."
- "This satisfies the actual damage requirement."

As Defendants point out, the complaint in this case is not verified. "Unsworn allegations of fact in a pleading or brief do not create an issue as to facts shown by sworn evidence." In Re: Myah, 2017 W.L. 3176108 *5 (Tenn. Ct. App. 2017) (internal citation omitted).

> Allegations in pleadings are not, by themselves, evidence of facts. Likewise, arguments of counsel in briefs and otherwise are not evidence.

Price v. Mercury Supply Co., Inc., 682 S.W. 2d 924, 929 n.5 (Tenn. Ct. App. 1984)(internal citations omitted).

Since the allegations in the unverified complaint are of no avail to Coker in creating a genuine issue of fact, that leaves the declaration of Jeffrey Coker, which provides the following statements:

1. The business, Coker Wolfe has suffered both monetary and reputational harm as a result of Defendants' false and defamatory statements. For instance, I had a relatively new client email me after seeing the posts, second-guessing their decision and questioning the integrity of the business as well as my personal integrity.
2. Another client asked my former business partner about the posts and then stopped doing business with Coker Wolfe.
3. Numerous individuals have asked me about the accusations and have questioned my integrity as a result.

Tennessee Code Annotated § 20-17-105(d) provides that each party may file supporting and opposing sworn affidavits **stating admissible evidence** upon which the liability or defense is based and on other **admissible evidence** presented by the parties. Each of the statements

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[7] This includes Defendant Campbell's sign.

contained in Coker's declaration are what unidentified customers allegedly told him and are inadmissible hearsay[8]. The only evidence provided by Coker were his conclusory assertions that his reputation had been damaged. "Conclusory statements, that is assertions that are 'devoid of facts or details', do 'not rise to the dignity of evidence.'" Blythe v. Forsythe, 2025 W.L. 3095415 *7 (Tenn. Ct. App. 2025)(internal citations omitted). In this case, Coker does not provide any specifics or details as to the actual damage to his reputation. While he could have provided those details with affidavits from the unnamed persons that he claims made these statements, he failed to do so. "Vague, general, and conclusory assertions are insufficient for a jury to rule for him on the question of whether he suffered an injury to his reputation." Id. *8.

Defendants' motion to dismiss for lack of proof of damages is **GRANTED.**

Civil Conspiracy

"Civil conspiracy is a combination of two or more persons who, each having the intent and knowledge of the other's intent, accomplish by concert an unlawful purpose, or accomplish a lawful purpose by unlawful means, which results in damage to the plaintiff." Brown v. Birman Managed Care, Inc., 42 S.W. 3d 62, 67 (Tenn. 2001). The elements of civil conspiracy must be pled with specificity and "conclusory allegations, however, unsupported by material facts will not be sufficient to state such a claim". Kincaid v. South Trust Bank, 221 S.W. 3d 32, 38 (Tenn. Ct. App. 2006).

Initially, the Court notes that the complaint on its face fails to provide the specificity required for civil conspiracy. Moreover, civil conspiracy requires an underlying tort. Conspiracy, standing alone is not actionable where the underlying tort is not actionable. Lane v. Becker, 334 S.W. 3d 756, 763 (Tenn. Ct. App. 2010). As the Court has dismissed all of the

[8] Coker's response that the statements are nonhearsay undercuts his position that he has suffered damages, since they cannot be used to assert the truth

underlying tort claims in this case, the claim for civil conspiracy cannot stand, and Defendants' motion to dismiss is **GRANTED.**

WHEREFORE for the reasons set forth above, the Court grants Defendants' motion and the complaint is dismissed with prejudice.

It is so **ORDERED.**

ENTERED this 20 day of July, 2026.

Robert E. Lee Davies, Senior Judge

of the matter.

CLERK'S CERTIFICATE OF SERVICE

A copy of this Order has been served by U.S. Mail and/or Email upon all parties or their counsel named below:

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Deputy Clerk Date

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing ORDER

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Penny Freeland

Circuit Court Clerk/Deputy Clerk