

IN THE CIRCUIT COURT
IN AND FOR ESCAMBIA COUNTY, FLORIDA

GENE VALENTINO,

2015 NOV 18 P 3:13

Plaintiff,

v.

FILED & RECORDED
CASE NO. 15-CA-620

INWEEKLY MEDIA, INC., RICK
OUTZEN, JEREMY MORRISON,
and DOUG UNDERHILL,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS WITH PREJUDICE
AND DENYING PLAINTIFF'S MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT**

This matter, having come before the Court on Defendants' Motion to Dismiss Amended Complaint and Plaintiff's Motion for Leave to File Second Amended Complaint, and the Court, having reviewed the motions and the court file, having heard argument of counsel for all parties on October 28, 2015, and otherwise being fully advised in the premises, makes the following finds of fact and law:

1. The purpose of the First Amendment to the United States Constitution, in terms of the speech clause, is to nurture robust debate on politics and issues of importance to the country and to protect peoples' rights because the opposite of that, something that would restrict the freedom of speech, would have a limiting effect on the full and unfettered expression of opinion in the marketplace of ideas. Given the choice between full and fair expression versus the Courts being the final word on what is true and what is not and what is sayable and what is not, and the chilling effect that would have on free speech, the forefathers chose freedom of speech, and the Courts have consistently proceeded accordingly.

2. The Court has read the article at issue several times looking for both specific instances of what may have been defamatory statements, as well as whether the overall tenor of the article could be viewed as defamatory. The Court notes that the article contains Plaintiff's positions on all of the issues discussed in the article and ends by giving the Plaintiff the last word.

3. None of the specific statements identified by Plaintiff at the hearing as defamatory are actionable.

4. While the Court recognizes the article taken as a whole may not be totally flattering to Plaintiff, the Court finds that it is not an attack on Plaintiff and it does not rise above the pale; it is typical of articles published by the media about public discourse on public issues regarding a public official and his constituents. In this country free and boisterous debate about public opinion on public matters is paramount. Once one becomes a public official, one swims in different waters; waters that churn and at times can be very uncomfortable, even dangerous. That is the environment our country has chosen. The First Amendment protects free expression to enable robust exchange of ideas. Nothing in the article is inconsistent with that. Therefore the amended complaint should be dismissed.

5. The proposed second amended complaint contains the exact same factual allegations as the original and first amended complaint; the only changes were the causes of action. The Court thus finds granting the motion for leave to file second amended complaint would be futile.

6. The Court further finds that no set of facts could be alleged that would give rise to a claim for defamation based on any statements in the article or the article taken as a whole. Therefore, the amended complaint should be dismissed with prejudice.

It is therefore ORDERED and ADJUDGED as follows:

7. Defendants' motion to dismiss amended complaint is hereby GRANTED and Plaintiff's amended complaint is hereby DISMISSED WITH PREJUDICE.

8. Plaintiff's motion for leave to file second amended complaint is hereby DENIED.


ROSS GOODMAN
CIRCUIT COURT JUDGE

November 17, 2015

Conformed copies to:

Marie Mattox, Esq.

Scott Remington, Esq

James R. Green, Jr., Esq.