

STATE OF VERMONT

SUPERIOR COURT  
Windham Unit

CIVIL DIVISION  
Docket No. 193-6-19 Wmcv

Crosson vs. Brattleboro Reformer et al

**DECISION AND ORDER GRANTING MOTION TO STRIKE COMPLAINT  
UNDER 12 V.S.A. 1041**

Count 1, Defamation/Libel/Slander (193-6-19 Wmcv)

Count 2, Defamation/Libel/Slander (193-6-19 Wmcv)

Title: Motion Strike and to Dismiss (Motion 2)

Filer: Brattleboro Reformer

Attorney: Robert B. Hemley

Filed Date: July 19, 2019

No response filed

**The motion is GRANTED.**

This action is before the court for decision on the Defendant's Motion to Strike Complaint. The motion is based on Vermont's anti-SLAPP statute, 12 V.S.A. §1041.

In acting on this motion the court has considered the filings submitted by the Defendant in support of the motion, the Complaint, the Answer, and a pleading filed by Plaintiff on August 7, 2019. The court recognizes that the Plaintiff is proceeding without legal counsel. Nevertheless, the Plaintiff's pleading filed August 7, 2019 does not address the specific factual and legal issues raised by Defendants' motion to strike the complaint. The court interprets the Plaintiff's pleadings as stating her position that Defendant's made false and defamatory statements about her causing her to suffer reputational damages. We take those allegations as true for the purpose of our ruling on this motion to strike. There is no dispute about the fact that the subject matter of Defendants' press reporting concerned a matter of public interest, specifically issues of homelessness in the community.

Defendant correctly points out that the Vermont anti-SLAPP statute is designed, in part, to protect persons and entities like the Defendant, who exercise rights of free speech, from the chilling effect of lawsuits by persons who disagree with the content of their reporting. In matters of public interest, where the suit alleges that the defendant's statements are defamatory, the Plaintiff must respond to a motion to strike with evidence, often by way of affidavit, that if true could establish that the Defendants' statements are completely devoid of any reasonable factual or legal support. In this case, the Plaintiff has failed to produce such

evidence, and the material provided by Defendant demonstrates that there was a reasonable factual basis for the reporting.

Accordingly, the Plaintiff's complaint must be stricken pursuant to 12 V.S.A. §1041. The various motions and requests for relief filed by Plaintiff in the one page pleading filed August 7, 2019 are denied as moot.

Defendant requests an award of costs and attorney fees. The applicable statute mandates that where a complaint is stricken pursuant to the Vermont anti-SLAPP statute the court "... shall award costs and reasonable attorney's fees to the defendant." 12 V.S.A. §1041(f)(1). **Accordingly, absent the filing of a written waiver of the claim for attorney fees by Defendant in 7 days of the date of this order, the court clerk shall schedule a one hour evidentiary hearing on the amount and reasonableness of the attorney fees and costs claimed by Defendant.**

Final judgment will be entered following adjudication of Defendant's claim for attorney fees and costs.

Electronically signed on August 12, 2019 at 02:35 PM pursuant to V.R.E.F. 7(d).



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Robert P. Gerety, Jr.  
Superior Court Judge

Notifications:

Plaintiff Kimberly Crosson

Robert B. Hemley (ERN 2941), Attorney for Defendant Brattleboro Reformer

Robert B. Hemley (ERN 2941), Attorney for Defendant Susan M. Smallheer