

IN THE COURT of COMMON PLEAS of PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT of PENNSYLVANIA
CIVIL TRIAL DIVISION

JACQUELINE DAVIS	:	COURT of COMMON PLEAS
Plaintiff	:	PHILADELPHIA COUNTY
v.	:	
	:	DECEMBER TERM, 1997
RESOURCES for HUMAN	:	No. 745
DEVELOPMENT, Inc.	:	
and	:	
NEW BEGINNINGS HEAD START	:	
and	:	
PAT TOWNSEND COLLIER	:	
and	:	
CAROL PORTER	:	
and	:	
HANEEFAH ISLAM, a/k/a	:	
HANEEFAH ISLAM-WALLINGTON	:	
and	:	
LYNNETTE STARR	:	
and	:	
PATRICIA A. ANDREWS	:	
and	:	
CYNTHIA BARNES	:	
Defendants	:	

MEMORANDUM OPINION of the COURT
sur MOTIONS for SUMMARY JUDGMENT

January 13, 2000

GOODHEART, J.

I dismissed this libel and slander case on defense Motions for Summary Judgment¹ because it is immediately apparent from the record that this Plaintiff cannot make out a viable defamation case against any of the Defendants. A timely appeal followed, which led to the writing of this

¹ Two of the defendants, Resources for Human Development and New Beginnings Head Start (collectively, the “**Entity Defendants**”) filed a joint Motion for Summary Judgment on September 7, 1999; the others (the “**Individual Defendants**”) filed their substantially similar joint Motion later that same day.

opinion.

For approximately six years, beginning in 1991, the Plaintiff served as an unpaid volunteer at the New Beginnings Head Start Center, a federally-funded early-education program operated by the Corporate Defendants. In 1996, she was appointed to the center's Policy Council; federal regulations require every federally-funded Head Start program to establish a Policy Council, to enable parents to "...participate in policy making or in other decisions about the program." 45 C.F.R. §1304.50.

In the fall of 1996, shortly after returning from a Policy Council trip to Houston, Texas, the Plaintiff received a letter signed by the four other members of the Council (Defendants Islam, Starr, Andrews and Barnes), which accused her of displaying "behavior ... unbecoming of a Policy Council member..." and which accused her – albeit obliquely – of stealing unspecified items from her hotel room. The Plaintiff admits, in Answers to Interrogatories, that the letter constitutes the sole basis of this action. (Answers to Corporate Defendants' Interrogatories, ¶10).

Dismissal of this matter was proper for several separate reasons. First of all, the phrase "conduct unbecoming of a member" is – even if untrue – a mere expression of opinion, and standing alone, is incapable of defamatory meaning as a matter of law.

Second, even if the termination letter is defamatory, this Plaintiff has failed to allege (and the evidence thus far produced has failed to show) that the letter was "published" to anyone other than the defendants², an essential element of a defamation claim as set forth in 42 P.S. §8342.

² Though the Plaintiff has argued -- in opposition to the Summary Judgment motions -- that the letter was "published" by the first signer when it was handed to the second signer for signature, by the second when handed to the third, and so on, the Complaint in this matter does not so plead, and in any event, I find that – on the facts of this case, at least – transmission of an allegedly defamatory statement among joint tortfeasors are insufficient to constitute publication as a matter of law.

Third, and perhaps most importantly, even if the letter was defamatory, and even if it was sufficiently “published” within the meaning of the law to support a defamation claim, this Plaintiff has not shown (and cannot show) that she suffered any resulting damages.

The Plaintiff admits that she sustained no special damages as a result of the alleged defamation³, and has offered no evidence of general damages, through affidavits, deposition testimony or otherwise, to show -- as the law requires -- that any third person’s opinion of her was lessened by the alleged defamation. The fact that the Plaintiff believes that her reputation in the community was damaged is – essentially – no more than proof of hurt feelings, which are not compensable.

Finally – though I believe that the foregoing discussion provides several more than ample bases upon which to dismiss this case – it also appears that the letter in question was privileged, either because the writers were volunteers within the meaning of 42 P.S. §8332.2(a)⁴, or because in Pennsylvania, employee termination notices are absolutely privileged. Yetter v. Ward Trucking Corp., 401 Pa. Super. 467; 585 A.2d 1022, at 1024 (1991)⁵.

I am not unsympathetic to the Plaintiff, who was doubtless quite upset when she was forced out of her volunteer position at New Beginnings Head Start -- clearly, an important part of her life -- without an opportunity to dispute the allegations against her.

³ Having been disabled since 1994, and thus unemployed, the Plaintiff suffered no loss of wages as a result of the events giving rise to this action, and lacking a medical expert, the Plaintiff cannot prove that she suffered objectively verifiable physical symptoms attributable to the alleged defamation.

⁴ At the very least, the Individual Defendants have claimed such status; the Plaintiff has not contradicted those assertions.

⁵ Even though the Plaintiff was a volunteer of the Corporate Defendants, and not their employee, there is no reason why that should alter the analysis, or the outcome.

Happily, however, she began volunteering at her grandson's elementary school soon thereafter, and – according to her own testimony – enjoys doing so every bit as much as she enjoyed her old position. Hopefully, all of the parties will now put this matter aside, and continue to contribute their time and services to help provide vital services to the community.

For the reasons set forth above, my decision to dismiss this case should be affirmed.

BY THE COURT:

GOODHEART, J.