

**COMPLAINT IN THE CIRCUIT COURT OF SALINE COUNTY,
ARKANSAS**

RICHARD FRIEND **PLAINTIFF**

vs.

RICK CROSS, KEVIN COOPER and
JOHN DOES 1-5 **DEFENDANTS**

Case No:63CV-26-
| DIV. |

**PLAINTIFF’S RESPONSE TO SEPARATE DEFENDANT RICK CROSS’S
MOTION FOR JUDGMENT ON THE PLEADINGS AND BRIEF IN SUPPORT**

COMES NOW Plaintiff, Richard Friend, by and through counsel, Jennifer Lancaster, and respectfully submits this Response in Opposition to Separate Defendant Rick Cross’s Motion for Judgment on the Pleadings.

I. INTRODUCTION

This Motion fails because it asks the Court to do what Rule 12(c) forbids: resolve disputed issues of fact under the guise of a legal determination.

Judgment on the pleadings is reserved for the rare case in which the pleadings themselves establish both the absence of any genuine issue of material fact and the movant’s entitlement to judgment as a matter of law. This is not such a case. The Complaint sets forth detailed, specific, and non-conclusory factual allegations demonstrating that Cross published false statements of fact with actual malice in the midst of an active election and presented those statements to voters as true.

Those allegations do more than state a claim—they foreclose the immunity Cross invokes under the Arkansas Citizen Participation in Government Act. Cross’s contrary assertions—that he acted under an “honest mistake” and later issued a retraction—are not legal defenses resolvable on the pleadings. They are factual contentions that go to intent, credibility, and state of mind. At this stage, they are irrelevant.

Accepting the Complaint’s allegations as true, as the Court must, the Motion cannot succeed. It should be denied.

II. STANDARD OF REVIEW

Under Arkansas Rule of Civil Procedure 12(c), judgment on the pleadings is appropriate only where the pleadings demonstrate that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.

In evaluating such a motion, the Court must accept all well-pleaded factual allegations as true and draw all reasonable inferences in favor of the nonmoving party. The Court does not weigh competing narratives, resolve credibility, or test the truth of the allegations. Those functions are reserved for later stages of the proceeding. *Steinbuch v. Univ. of Ark.*, 2019 Ark. 356, 589 S.W.3d 350.

II. THE COMPLAINT PLAUSIBLY ALLEGES ACTUAL MALICE AND DEFEATS ANTI-SLAPP IMMUNITY

The Arkansas Citizen Participation in Government Act does not confer absolute immunity. It expressly excludes statements made with knowledge of falsity or reckless disregard for the truth. Ark. Code Ann. § 16-63-504.

The Complaint alleges precisely that. It asserts that Cross published statements claiming that two Orders of Protection had been filed against Plaintiff when, in fact, only one existed—and that order was later vacated. Critically, the Complaint alleges that Cross did not rely on rumor or secondhand information, but instead accessed Arkansas Court Connect, reviewed the underlying court records, and thus had direct access to the very information that disproved his claims. Those records reflected that the parties to the separate Orders of Protection were different individuals with different names, yet Cross chose to represent to the public that they were the same person. The records further reflected that the only Order involving Plaintiff had been vacated, expressly stating that the “allegations of the petition are not sustained by the proof.” Despite this, Cross presented his statements to the voting public as factual assertions, urged voters not to support Plaintiff during the critical pre-election period, and continued publishing related false statements thereafter.

These allegations do not describe a failure to investigate; they describe publication in the face of reviewed, contradictory records. Where a defendant has access to—and actually reviews—information that disproves his statements, yet proceeds to publish anyway, the inference of reckless disregard is not merely plausible—it is compelling. At a minimum, these allegations support the inference that Cross entertained serious doubts as to the truth of his statements—the hallmark

of reckless disregard under *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). The Complaint further alleges that Cross acted with a motive tied to the outcome of the election, reinforcing the inference that his conduct was not inadvertent, but deliberate.

These allegations are not conclusory. They identify the statements, the timing of their publication, the audience to whom they were directed, and the surrounding circumstances—including Cross’s own review of court records—that give rise to a compelling inference of reckless disregard for the truth. At the pleading stage, that is more than sufficient.

Cross’s reliance on a purported retraction and his characterization of his conduct as an “honest mistake” do not alter the analysis. Those assertions raise factual questions. Whether Cross acted innocently or with reckless disregard is not a matter of pleading—it is a matter of proof. The law is clear that purposeful avoidance—or conscious disregard—of the truth supports a finding of actual malice, and such determinations are not resolved on the pleadings. *Harte-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 688–89 (1989); *Lancaster v. Daily Banner-News Pub. Co.*, 274 Ark. 145, 622 S.W.2d 671 (1981).

IV. THE COMPLAINT STATES VIABLE CLAIMS FOR RELIEF

Independently, the Complaint states claims for defamation, false light, tortious interference with business expectancy, intentional infliction of emotional distress, and civil conspiracy.

Arkansas's fact-pleading standard requires only that a complaint allege facts sufficient to state a claim for relief. The Complaint exceeds that standard. It details the statements at issue, the manner and timing of their publication, their falsity, and the resulting harm. At this stage, no more is required. *Breeden v. State*, 2013 Ark. 150, 426 S.W.3d 472, 474-75.

V. JUDGMENT ON THE PLEADINGS IS IMPROPER

Cross's motion ultimately rests on a premise the law does not permit: that the Court may resolve disputed factual issues on the pleadings alone.

It may not.

The Motion asks the Court to determine intent, to assess whether Cross acted recklessly or mistakenly, and to evaluate the legal effect of his retraction. Each of those questions turns on facts and credibility. None can be resolved at this stage.

Because the Complaint plausibly alleges actual malice and because material factual disputes remain, judgment on the pleadings is improper.

VI. CONCLUSION

The Complaint does what the law requires. It pleads detailed, specific facts which, if proven, establish that Cross published false statements with knowledge of falsity or reckless disregard for the truth.

At this stage, that is sufficient.

The Motion should be denied, and this case should proceed on the merits.

WHEREFORE, Plaintiff respectfully requests that this Court deny Separate Defendant Rick Cross's Motion for Judgment on the Pleadings in its entirety and grant all other just and proper relief.

Respectfully submitted,
Date: April 5, 2026

/s/ Jennifer Lancaster

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April, 2026, I electronically filed the foregoing with the Clerk of the Court using the electronic filing system, which shall send notification of such filing to all counsel of record, including:

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Respectfully submitted,

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