

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS
CIVIL DIVISION

RICHARD FRIEND

PLAINTIFF

VS.

NO. 63CV-26-601

RICK CROSS, KEVIN COOPER and
JOHN DOES 1-5

DEFENDANTS

**SEPARATE DEFENDANT KEVIN COOPER'S MOTION TO DISMISS
FOR ANTI-SLAPP IMMUNITY AND PURSUANT TO RULE 12(b)(6)**

COMES NOW Separate Defendant Kevin Cooper, by and through his counsel of record, and for his *Motion to Dismiss for Anti-SLAPP Immunity and Pursuant to Rule 12(b)(6)* of the Arkansas Rules of Civil Procedure, states as follows:

1. Plaintiff Richard Friend, a candidate for Sheriff of Saline County, has filed a five-count complaint against Defendant Kevin Cooper arising from a Facebook Live video published by Cooper during the days preceding the March 3, 2026, Republican primary election for Saline County Sheriff. The complaint alleges that Cooper made false statements about Friend's conduct as a law enforcement officer.

2. This action is a Strategic Lawsuit Against Public Participation (SLAPP) and is subject to dismissal under the Arkansas Citizen Participation in Government Act, Ark. Code Ann. §§16-63-501 *et seq.* (the "Act"). The Act confers immunity from civil liability upon persons who make privileged communications in furtherance of the right of free speech in connection with an issue of public interest or concern, unless the statement was made with knowledge of its falsity or in reckless disregard of whether it was false. Ark. Code Ann. §16-63-504.

3. Cooper's Facebook Live video constitutes a privileged communication in furtherance of free speech in connection with a matter of public interest or concern within the meaning of Ark. Code Ann. §16-63-503. The fitness of a candidate for Sheriff of Saline County is

paradigmatically a matter of public concern, and political speech directed at voters during an active election campaign falls squarely within the protected categories of the Act. Plaintiff's own complaint acknowledges that the video was directed at voters, addressed the sheriff's election, and was widely disseminated to the public.

4. Because Cooper's statements were made in connection with a matter of public interest or concern, Cooper is immune from civil liability unless Friend pleads and proves by clear and convincing evidence that Cooper's statements were made with knowledge of their falsity or in reckless disregard of whether they were false. Ark. Code Ann. §16-63-504. The burden of establishing the applicability of that exception rests on the Plaintiff.

5. The complaint fails to plead sufficient facts to invoke the actual malice exception to statutory immunity. Despite 165 numbered paragraphs, a dedicated "Factual Basis for Actual Malice" section, and a separate "Anti-SLAPP Allegations" section, the complaint's actual malice pleading rests almost entirely on verbatim recitations of the legal standard, which are conclusory and entitled to no weight. *Quinn v. O'Brien*, 2020 Ark. App. 83, 2, 596 S.W.3d 20, 24; *Stevens v. Danley*, 2026 Ark. App. 2, 6, ___ S.W.3d ___.

6. Stripped of its conclusory labels, the complaint alleges, at most, that Cooper failed to investigate or verify his statements prior to publication. Failure to investigate is legally insufficient to establish actual malice. *Lancaster v. Daily Banner-News Pub. Co., Inc.*, 274 Ark. 145, 153, 622 S.W.2d 671, 675 (1981); *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). The constitutional standard requires subjective awareness of probable falsity, not objective negligence in failing to discover it.

7. Further, Plaintiff's own complaint alleges that Cooper disclosed on the video that he lacked firsthand knowledge of at least two accusations and possessed no tangible evidence

supporting them, and that one incident allegedly occurred more than fifteen years ago and was not personally witnessed by Cooper. A speaker who discloses the basis and limits of his knowledge is not acting with actual malice; such disclosures are inconsistent with, not evidence of, subjective awareness of falsity.

8. Independently and alternatively, the complaint fails to state a claim upon which relief can be granted and must be dismissed pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure. Friend is a limited purpose public figure who bears the burden of pleading and proving actual malice by clear and convincing evidence. *Fuller v. Russell*, 311 Ark. 108, 111, 842 S.W.2d 12, 14 (1992). The complaint's conclusory recitations of the actual malice standard, unsupported by specific facts regarding Cooper's subjective state of mind at the time of publication, are insufficient to satisfy that burden at the pleading stage.

9. Pursuant to Ark. Code Ann. §16-63-505, all proceedings, including discovery, should be stayed pending resolution of this motion.

10. Pursuant to Ark. Code Ann. §16-63-506, Cooper is entitled to an award of reasonable attorney's fees, costs, and expenses upon prevailing on this motion.

11. In support of this motion, Cooper submits concurrently his *Brief in Support of Motion to Dismiss for Anti-SLAPP Immunity and Rule 12(b)(6)*, which is incorporated herein by reference.

WHEREFORE, PREMISES CONSIDERED, Separate Defendant Kevin Cooper respectfully requests that the Court:

- (1) Dismiss the complaint against him with prejudice on the basis of statutory immunity under Ark. Code Ann. §16-63-504;

- (2) Stay all proceedings, including discovery, pending resolution of this motion pursuant to Ark. Code Ann. §16-63-505;
- (3) Alternatively, dismiss the complaint pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure for failure to state a claim upon which relief can be granted;
- (4) Award Cooper his reasonable attorney's fees, costs, and expenses pursuant to Ark. Code Ann. §16-63-506; and
- (5) Grant all other relief to which Cooper may be entitled.

Respectfully submitted,

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By: 

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CERTIFICATE OF SERVICE

On this 27th day of **March, 2026**, I hereby certify that a true and correct copy of this document has been served in accordance with the Arkansas Rules of Civil Procedure on counsel of record, *via electronic mail*:

Jennifer Lancaster
Cornerstone Law Firm, PLLC
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Eric G. Hughes