

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS  
CIVIL DIVISION

RICHARD FRIEND

PLAINTIFF

v.

63CV-26-601

RICK CROSS; KEVIN COOPER; and  
JOHN DOES 1-5

DEFENDANTS

**SEPARATE DEFENDANT RICK CROSS’S REPLY IN SUPPORT OF MOTION  
FOR JUDGMENT ON THE PLEADINGS**

Comes Separate Defendant Rick Cross (“Cross”), by and through counsel, for his Reply in Support of Motion for Judgment on the Pleadings, and states,

Cross respectfully requests this Court grant his underlying Motion for Judgment on the Pleadings and dismiss Plaintiff’s Complaint against him. The facts as presented in the Complaint and Cross’s Amended Answer make clear that no genuine issues of material fact are present, and this case is ripe for decision as a matter of law.

**I. Judgment on the pleadings is proper because the pleadings demonstrate no genuine issues of material fact and no merit to Plaintiff’s claims against Cross.**

In his response, Plaintiff argues judgment on the pleadings is not proper because whether Cross acted with malice or reckless disregard for the truth is a fact still in dispute. This assertion must be born out of a fundamental misunderstanding of the law regarding actual malice or reckless disregard for the truth.

The facts, less Plaintiff’s own legal conclusions, are as follows: Cross published a statement to his Facebook account explaining that Plaintiff had two orders of protection filed

against him at various times. Compl., ¶ 16; Am. Answer, ¶ 11. Cross admitted that he did mistakenly post that Plaintiff had two orders of protection entered against him as opposed to just the one that Plaintiff admits to, and immediately upon recognizing his mistake, posted a retraction statement to his Facebook page, just three days later on February 2, 2026. Exhibit 1 to Cross's Amended Answer. The allegation that Cross acted with actual malice is not a fact but a legal conclusion added by Plaintiff. However, the facts as presented by the Complaint and Cross's Amended Answer do not support a finding of actual malice.

**a. Actual malice is simply not present in this case.**

Plaintiff's response suggests that Cross actually reviewed information disproving his statement and published the false claim anyways. Cross's retraction statement, attached to his Amended Complaint as Exhibit 1, clearly explains that online court records incorrectly linked the second order of protection to Plaintiff's name through his unique AR Court Search identifier number. The second order of protection was actually against "Richard James Friend" as opposed to Plaintiff's legal name, "James Richard Friend." However, both Plaintiff's divorce proceeding, which he does not dispute included an order of protection, as well as the second order of protection against a "Richard James Friend" appear in AR Court Search under the name "Richard James Friend" and under the unique identifier of 2434749. Additionally, filings in both of these proceedings include only the name "Richard Friend," which Plaintiff indisputably goes by. *See* Exhibit 1, AR Court Search for Identifier 2434749.

In relying on available public records, Cross had no reason to, and did not actually, entertain any serious doubts as to the veracity of his statement. "[R]eckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing." *St. Amant v. Thompson*, 390 U.S. 727, 731, 88 S. Ct. 1323, 1325, 20 L. Ed. 2d 262

(1968). Instead, it must be shown that the defendant himself in fact entertained serious doubts as to the truth of his publication. *Id.* Plaintiff's conclusory allegations cannot refute the facts as presented. Cross reasonably relied on the incorrectly linked public records, which both showed the name "Richard Friend," and he had no reason to doubt the records were correct.

Plaintiff also emphasizes the timing of Cross's statements and his "motive" to influence the outcome of the primary election for sheriff of Saline County. As briefed substantially in Cross's Motion, the timing of the comments should be given no weight by the Court in its analysis. *Coody*, 320 Ark. at 462, 896 S.W.2d at 901. In addition, the so-called "motive" Plaintiff describes is exactly the type of speech encouraged by our laws in America and specifically protected by the Arkansas Citizen Participation in Government Act. Cross did speak out in opposition to Plaintiff's candidacy for sheriff of Saline County, as is his right to do. Therefore, the fact that Cross had a "motive" to influence the election could not possibly be the grounds for a finding of actual malice on Cross's part.

Put simply, the pleadings demonstrate a clear lack of actual malice. Cross reasonably relied on publicly available court records and entertained no serious doubts as to the truth of his statements before posting. At worst, this was a failure on Cross's part to investigate further. As Arkansas law makes abundantly clear, a lack of investigation is not basis for a finding of malice. Cross made his statements regarding a fundamental issue of public concern and without knowledge of its falsity. Therefore, malice is not present, and Cross is entitled to immunity pursuant to the Citizen Participation in Government Act.

In addition, the absence of actual malice or reckless disregard for the truth explicitly forecloses Plaintiff's defamation and false light invasion of privacy claims. Plaintiff has not and

cannot establish Cross acted with reckless disregard for the truth based on the undisputed facts as included in the pleadings, and thus, those claims fail as a matter of law.

**b. Plaintiff's claims for tortious interference with a business expectancy, intentional infliction of emotional distress, and civil conspiracy fail as a matter of law.**

Plaintiff makes only a brief note in his response as to his claims for tortious interference with a business expectancy, intentional infliction of emotional distress, and civil conspiracy: he contends that his Complaint "exceeds" Arkansas's fact-pleading standard and no more is required at this stage. *See* Plaintiff's Response, p. 5.<sup>1</sup> Nonetheless, Plaintiff has failed to dispute any of Cross's arguments to that effect. Plaintiff does not have a legally recognized concrete business expectancy in gaining enough votes to win the office of sheriff. *Overturff v. Read*, 2014 Ark. App. 473, 9, 442 S.W.3d 862, 867 (2014). Cross's statement, which he admits was made in error, does not fall outside the bounds of decency. In fact, incorrect accusations are often part of campaigns for political office. Likewise, Plaintiff's civil conspiracy claim cannot stand on its own, so it fails as well. In addition, Plaintiff presents no facts to support a claim for civil conspiracy. In fact, the only factual allegations against Cross himself are that he, himself, published statements regarding the Plaintiff. Nothing suggests there was involvement by anyone else. As such, Plaintiff's civil conspiracy claim fails to meet Rule 8's fact pleading standard and must be dismissed.

**CONCLUSION**

For the reasons stated herein, the pleadings in this case prove on their face that Plaintiff has failed to demonstrate any actionable claim against Cross. As such, he respectfully requests this

---

<sup>1</sup> Cross would note that as legal support for this contention, Plaintiff cites to *Breeden v. State*, 2013 Ark. 150, 426 S.W.3d 472, 474-75. That citation led Cross's counsel to an Arkansas Supreme Court order regarding a motion for rule on clerk filed in a criminal appeal. As the Court may suspect, being that it is a criminal proceeding which does not utilize the Arkansas Rules of Civil Procedure, the order does not mention Arkansas's fact-pleading standard or what is required at this stage in litigation.

Court grant his underlying Motion for Judgment on the Pleadings and dismiss the case against him.

Respectfully submitted,



By: \_\_\_\_\_

Shane Strabala (AR BIN 2000080)  
Tristan Bennett Franks (AR BIN 2024169)  
BARBER MUNSON  
One Allied Drive, Suite 1600  
Little Rock, AR 72202  
Ph: 501-372-6175 / Fax: 888-412-3288  
Email: sstrabala@barbermunson.com  
tfranks@barbermunson.com

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of April, 2026, I electronically filed the foregoing with the Clerk of Court by using the electronic filing system which shall send notification of such filing to the following counsel:

Jennifer Lancaster  
Cornerstone Law Firm, PLLC  
117 S. Market St.  
Benton, AR 72015  
jennifer@cornerstonear.law

Clinton W. Lancaster  
Clint Lancaster & Co, LLC  
900 S. Shackleford, Ste. 300  
Little Rock, AR 72211  
clint@clintlancaster.com

Eric G. Hughes  
Hughes & Hughes Law Firm  
P.O. Box 536  
Arkadelphia, Arkansas 71924  
eric@ehugheslaw.com



---

Tristan Bennett Franks