

**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 IN OPPOSITION TO DEFENDANT KEVIN
COOPER'S RULE 12(b)(6) MOTION TO DISMISS**

COMES NOW Plaintiff, Richard Friend, by and through counsel, Jennifer Lancaster, and for his Response to Separate Defendant Kevin Cooper's Motion to Dismiss for Anti-SLAPP Immunity and Pursuant Rule 12(b)(6) Motion states:

I. INTRODUCTION

Separate Defendant Kevin Cooper seeks dismissal under the Arkansas Citizen Participation in Government Act and Rule 12(b)(6), invoking statutory immunity. His motion fails as a matter of law at every level of analysis.

Plaintiff has complied with all procedural requirements, including filing the verification mandated by Ark. Code Ann. § 16-63-505 and this Court's April 1, 2026, Order.

More importantly, the Complaint does precisely what the law requires: it pleads detailed, specific, and non-conclusory facts that, taken as true—as they must

be at this stage—plausibly establish that Cooper knowingly or recklessly published a series of provably false accusations of criminal and professional misconduct, and did so in the midst of an active election, presenting those accusations to voters as statements of fact.

Those allegations defeat Anti-SLAPP immunity and independently satisfy Rule 12(b)(6). This case should proceed to discovery—or, at minimum, limited discovery directed to malice and verification.

II. PROCEDURAL HISTORY AND SCOPE OF THE RENEWED MOTION

Plaintiff notes that Separate Defendant Kevin Cooper’s first Motion to Dismiss was stricken by this Court in its entirety as a Rule 11 sanction. While the striking of the first motion technically permits the filing of a second Rule 12(b) motion without triggering the waiver provisions of Ark. R. Civ. P. 12(g) and 12(h), the second motion raises the Anti-SLAPP immunity defense under Ark. Code Ann. § 16-63-504 — a defense that was available but not raised in the first motion.

Allowing Defendant to assert this new defense after his initial filing was sanctioned would effectively reward the conduct that led to the Rule 11 sanction and would prejudice Plaintiff by forcing him to respond to shifting arguments. In the interest of judicial economy and fairness, Plaintiff respectfully requests that the Court limit its consideration to those defenses properly raised in the original motion or, in the alternative, deny the second motion and proceed on the merits based on the previously filed briefing.

III. STANDARD OF REVIEW

On a motion to dismiss under Rule 12(b)(6), the Court accepts all well-pleaded factual allegations as true and draws all reasonable inferences in the plaintiff's favor. *Faulkner v. Ark. Children's Hosp.*, 347 Ark. 941, 948, 69 S.W.3d 393, 398 (2002). Dismissal is inappropriate where the Complaint states a plausible claim for relief. *Breeden v. State*, 2013 Ark. 150, 426 S.W.3d 472, 474—75.

The Arkansas Anti-SLAPP Act provides immunity for speech on matters of public concern, but that protection is not absolute. It does not extend to statements made with knowledge of falsity or reckless disregard for the truth. At the pleading stage, a plaintiff need only allege specific facts which, if proven, would establish the exception. That burden has been met here.

ARGUMENT

IV. THE ANTI-SLAPP MOTION FAILS BECAUSE THE COMPLAINT PLAUSIBLY ALLEGES ACTUAL MALICE.

The Complaint plausibly alleges actual malice through multiple independent, fact specific theories, each of which defeats Anti-SLAPP immunity. Defendant Kevin Cooper's Motion fails for an additional and independent reason: he has not—and cannot—establish as a matter of law that the Complaint fails to plausibly allege actual malice. Even assuming arguendo that Plaintiff is a public figure or limited-purpose public figure, Plaintiff's well-pleaded allegations more than support a finding

of actual malice, and Defendant offers no basis to conclude otherwise as a matter of law.

Actual malice exists where a defendant publishes statements with knowledge of their falsity or with reckless disregard for whether they are true or false. *See New York Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964). Reckless disregard is established where the defendant “entertained serious doubts as to the truth of his publication” or acted with a “high degree of awareness of probable falsity.” *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968).

Here, Plaintiff has alleged facts demonstrating at least reckless disregard. The complaint alleges that Defendant admitted he lacked firsthand knowledge of key accusations, possessed no tangible evidence to support them, and nevertheless presented those accusations to the public as statements of fact. Rather than investigate, verify, or refrain from publication, Defendant chose to proceed—publishing serious allegations of criminal and professional misconduct during an active election despite his admitted lack of knowledge. At a minimum, these allegations support the inference that Defendant entertained serious doubts as to the truth of his statements—the hallmark of reckless disregard. That is precisely the standard articulated in *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968) (defining reckless disregard as “serious doubts” as to the truth). Publishing serious accusations in the face of an admitted evidentiary void supports a finding of actual malice. *See Hartes-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 688 (1989)

(recognizing that purposeful avoidance of the truth supports a finding of actual malice).

Taken together, these facts do not merely suggest negligence—they describe a deliberate decision to publish serious accusations without knowledge, without evidence, and without verification. Such conduct satisfies the actual malice standard and precludes dismissal at the pleading stage. Defendant’s Motion offers no meaningful basis to overcome these allegations and instead improperly invites the Court to weigh facts and assess credibility, which is impermissible under Rule 12(b)(6). *See Little Rock Newspapers, Inc. v. Fitzhugh*, 330 Ark. 561, 954 S.W.2d 914 (1997) (recognizing that actual malice is typically a question for the factfinder when supported by evidence).

When the allegations are accepted as true and viewed in the light most favorable to Plaintiff, as they must be, the inference of actual malice is not only reasonable—it is compelling.

Defendant did not merely fail to investigate; he admitted he lacked firsthand knowledge and nevertheless chose to publish serious accusations as fact. He did so without evidence, without corroboration, and while advancing a personal and political interest in the outcome of the election. This is not a case of negligence or oversight—it is a case of deliberate disregard for the truth. Under controlling precedent, such allegations do not merely permit an inference of actual malice; they compel it at the pleading stage.

This is not a close case, and it is not one that can be resolved on the pleadings.

A. The Complaint Identifies Specific, Verifiable False Statements of Fact.

Cooper published a 51-minute Facebook video on the eve of early voting, in which he made a series of grave accusations presented as factual assertions—not opinion. These include allegations that Plaintiff engaged in criminal conduct, abused official authority, traded prosecutorial discretion for sexual favors, stole property during law enforcement activity, and committed other acts that would subject him to arrest and professional decertification.¹

These are not rhetorical flourishes or loose characterizations. They are concrete, verifiable claims of criminal and professional misconduct, directed at voters during an active election and accompanied by an explicit directive: “Don’t vote for Friend.”²

B. The Complaint Pleads Reckless Disregard Through Specific, Concrete Facts.

The Complaint further alleges that Cooper offered no sources, no reports, no witnesses, and no evidence to support his accusations, instead attempting to justify that absence by speculating that any corroborating proof had been “swept under the rug.”³

Critically, the Complaint alleges that Cooper admitted he lacked firsthand knowledge of key accusations and possessed no tangible evidence to support them.⁴ In some instances, he relied on allegations purportedly decades old, invoking the passage of time as an explanation for the absence of records or corroboration.

¹ See Verified Complaint ¶¶ 19–23, 35.

² Complaint ¶ 45.

³ Complaint ¶¶ 24–25

⁴ Complaint ¶¶ 26–27

These allegations do not describe a mere failure to investigate; they describe publication in the face of acknowledged evidentiary void.⁵

C. The Complaint Alleges Purposeful Avoidance of Verification and Motive.

The Complaint also alleges that Cooper is a trained law enforcement officer who knew how to verify such allegations through readily available public records, yet deliberately chose not to do so.⁶

Purposeful avoidance of the truth is itself powerful evidence of actual malice. *See Harte-Hanks Commc'ns, Inc. v. Connaughton*, 491 U.S. 657, 688–89 (1989) (holding that a publisher's deliberate decision not to review readily available information that would have revealed falsity supports a finding of actual malice).

At the same time, the Complaint alleges a clear and concrete motive: Cooper publicly supported Plaintiff's opponent and expressed that he might obtain a position in the Sheriff's office if that opponent prevailed.⁷

This alleged personal and financial interest, coupled with contemporaneous hostile conduct and rhetoric, further supports an inference that Cooper acted with a high degree of awareness of probable falsity.

D. Taken Together, These Allegations Plausibly Establish Actual Malice.

When considered in their totality, the Complaint's allegations—specific false statements, admitted lack of knowledge and evidence, speculative justification for

⁵ Complaint ¶¶ 36–40

⁶ Complaint ¶¶ 51, 60(b)–(d)

⁷ Complaint ¶¶ 48–49, 60(g).

that absence, failure to verify, and motive—more than suffice to plead actual malice under the Anti-SLAPP exception.⁸

This is not a case built on labels or conclusions. The Complaint identifies the statements, describes their context, details Cooper’s admissions, and explains why those facts support an inference of knowing or reckless falsity. That is precisely what the law requires at this stage.

E. Disclaimers of Limited Knowledge Do Not Defeat Malice.

Cooper contends that his acknowledgment of a lack of firsthand knowledge defeats any inference of malice. But the Complaint alleges precisely the opposite: that despite conceding he had no tangible evidence, no witnesses, and no records to support his accusations, he nevertheless presented those allegations to voters as statements of fact. He further attempted to excuse the absence of proof through speculative assertions that any corroborating evidence had been “swept under the rug.”⁹

These are not neutral disclaimers—they are allegations of publication in the face of admitted evidentiary void. Taken as true, they support a compelling inference that Cooper entertained serious doubts as to the truth of his statements or acted with reckless disregard for their accuracy. At the pleading stage, those inferences must be drawn in Plaintiff’s favor and are not subject to resolution on a motion to dismiss.

⁸ Complaint ¶¶ 49–61, 78–82.

⁹ Complaint ¶¶ 26–28, 36–40.

V. THE COMPLAINT INDEPENDENTLY STATES PLAUSIBLE CLAIMS UNDER RULE 12(B)(6).

For the same reasons, and independent of the Anti-SLAPP analysis, the Complaint adequately pleads each cause of action.

The defamation claim identifies specific false statements of fact, widely disseminated, concerning criminal and professional misconduct, resulting in reputational and other damages.¹⁰

The false light claim alleges highly offensive publicity placing Plaintiff in a false position before the public, published with knowledge or reckless disregard of falsity.¹¹

The tortious interference claim alleges a concrete and identifiable expectancy—votes and public office—Defendants’ knowledge of that expectancy, intentional interference through knowingly false accusations timed to coincide with the election, and resulting harm.

The outrage claim alleges extreme and outrageous conduct—fabricated accusations of serious crimes during an active election—causing severe emotional distress.¹²

At the pleading stage, these detailed factual allegations are more than sufficient.

¹⁰ Complaint ¶¶ 69–85

¹¹ Complaint ¶¶ 86–96.

¹² Complaint ¶¶ 116–125.

VI. A STAY AND FEE-SHIFTING ARE UNWARRANTED; AT MINIMUM, TARGETED DISCOVERY SHOULD PROCEED.

Because the Complaint plausibly pleads the actual-malice exception, there is no basis for a blanket stay or for fee-shifting.

Although the Act imposes a temporary stay of discovery upon the filing of a qualifying motion, Ark. Code Ann. § 16-63-507(a)(1), it expressly permits the Court to authorize limited, targeted discovery upon a showing of good cause. Ark. Code Ann. § 16-63-507(b).

If the Court concludes that further factual development is necessary, the appropriate course is not dismissal but limited, expedited discovery focused on malice and verification—specifically, Cooper’s sources, his pre-publication investigation, his communications regarding the video, and his statements regarding prospective employment tied to the election outcome.

VII. THE ASSERTED WEAKNESSES DO NOT UNDERMINE THE COMPLAINT.

That the speech occurred in a public-concern context is not disputed. The dispositive question is whether the Complaint plausibly alleges actual malice—and it does.

Nor is this a mere failure-to-investigate case. The Complaint alleges fabrication, admissions of no evidence, speculative excuses, deliberate avoidance of verification, and motive. These are qualitatively different allegations.

Finally, all claims are adequately pleaded. Should the Court identify any deficiency, Plaintiff respectfully requests leave to amend to include additional detail drawn from the video transcript and related materials.

VIII. CONCLUSION

The Complaint does what the law requires. It pleads detailed, specific facts which, if proven, establish that Defendant published serious accusations of criminal misconduct with knowledge of falsity or reckless disregard for the truth.

At this stage, that is more than sufficient.

The motion to dismiss should be denied. Discovery should proceed. And if any question remains, it should be resolved where it belongs—on the merits, not on the pleadings.

WHEREFORE, Plaintiff respectfully requests that this Court deny Separate Defendant Kevin Cooper's Motion to Dismiss for Anti-SLAPP Immunity and Pursuant to Rule 12(b)(6) in its entirety and grant such other and further relief as the Court deems just and proper.

Respectfully submitted,
Date: April 5, 2026

/s/ Jennifer Lancaster

Jennifer Lancaster, Ark. Bar No. 2011178
Counsel for Plaintiff, RICHARD FRIEND
Cornerstone Law Firm, PLLC
117 S. Market St., Benton, AR 72015

(501) 776-2224
Jennifer@CornerstoneAR.law

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:

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

Shane Strabala
Tristan Bennett Franks
BARBER MUNSON
One Allied Drive, Suite 1600
Little Rock, AR 72202
sstrabala@barbermunson.com
tfranks@barbermunson.com

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

Respectfully submitted,

/s/ *Jennifer Lancaster*
Jennifer Lancaster