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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

JOHN LANGON,

Plaintiff,

Case No. CV99-03139

vs.

Dept. No. 6

DAILY SPARKS TRIBUNE,
RONALD BARBASH, and
DOES I-X, inclusive,

Defendant.

ORDER GRANTING SUMMARY JUDGMENT IN PART AND DENYING IN PART

The Court has read and considered the memoranda and exhibits submitted in support of and in opposition to the motions of defendant Daily Sparks Tribune (Tribune) for summary judgment and motion in limine and/or motion for partial summary judgment filed June 9, 2000, and submitted for decision on August 4, 2000.¹

"Summary judgment is appropriate only when the moving party is entitled to judgment as a matter of law, and no genuine issue remains for trial." Shepard v. Harrison, 100 Nev. 178, 179, 678 P.2d 670, 672 (1984). The district court must exercise caution in granting summary judgment, as "[a] litigant has the

¹ Defendant Barbash has joined in both motions.

1 right to trial where there is the slightest doubt as to the
2 facts." Shepard, 100 Nev. at 180, 678 P.2d at 672.

3 Further, "the non-moving party must, by affidavit or
4 otherwise, set forth specific facts demonstrating the existence
5 of a genuine issue for trial or have summary judgment entered
6 against him." Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 825
7 P.2d 588 (1992). Finally, a party is not entitled to build its
8 case on "gossamer threads of whimsy, speculation, and
9 conjecture." Posadas v. City of Reno, 109 Nev. 448, 452, 851
10 P.2d 438, 441-42 (1993).

11 Motion for Summary Judgment

12 After carefully considering the memoranda and exhibits
13 submitted in this case, it is the Order of this Court that
14 genuine issues of material fact remain as to plaintiff's claim
15 for libel. A separate cause of action in negligence is
16 unjustified; therefore, plaintiff's negligence claim fails as a
17 matter of law.

18 Accordingly, defendants' motion for summary judgment is
19 denied as to plaintiff's libel action, and granted as to
20 plaintiff's negligence action.

21 Motion in Limine and/or Motion for Partial Summary Judgment

22 There is no evidence that plaintiff served a written
23 demand for correction on defendant Tribune pursuant to NRS
24 41.336. As a result, plaintiff is limited solely to special
25 damages. See NRS 41.336(1).

26 Plaintiff has failed to allege special damages in his
27 complaint. However, plaintiff did make reference to three
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1 possible claims for special damages during his deposition. The
2 Court finds these claims to be highly speculative and unsupported
3 by competent evidence. Thus, plaintiff has failed to claim any
4 damages for which he is entitled to recover.

5 There being no genuine issue of material fact regarding
6 plaintiff's claim for damages, defendant Tribune's motion for
7 partial summary judgment is granted in favor of defendant Tribune
8 and against plaintiff.

9 As to defendant Barbash, NRS 41.336 does not apply to
10 non-media defendants. Therefore, plaintiff is permitted to
11 pursue general and punitive damages in its action against
12 defendant Barbash. However, for the reasons set forth above,
13 plaintiff is precluded from submitting any evidence in
14 furtherance of his claim for special damages.

15 Accordingly, defendants' motion for partial summary
16 judgment is denied as to defendant Barbash. Defendants' motion
17 in limine is granted to the extent that plaintiff is precluded
18 from introducing evidence of special damages.

19 DATED this 16th day of August, 2000.

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23 District Judge
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CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Second
Judicial District Court; that on the 11 day of August, 2000,
I deposited for mailing a copy of the foregoing Order addressed
to the following persons:

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