STATE OF MICHIGAN

COURT OF APPEALS

GROUP 7500, INC.,

Plaintiff-Appellant,

v

KLIMIST, MCKNIGHT, SALE, MCCLOW, & CANZANO, P.C.,

Defendant-Appellee.

UNPUBLISHED
July 6, 2006

No. 258293
Oakland Circuit Court
LC No. 2003-048823-CZ

Before: Fort Hood, P.J., and Cavanagh and Servitto, JJ.

PER CURIAM.

Plaintiff appeals as of right the summary dismissal of its claims of corporate defamation and tortious interference with a business relationship and expectancy pursuant to MCR 2.116(C)(10). We affirm.

In its brief on appeal, plaintiff sets forth a statement of four issues presented, none of which have been properly addressed. Plaintiff first seeks this Court's ruling on the issue whether the "substantial truth" doctrine is a defense against its claim of defamation. However, in its brief on appeal, plaintiff does not address the "substantial truth" doctrine or address the trial court's findings thereon. Plaintiff next seeks a ruling on the issue whether defendant's statements were subject to a "shared interest" qualified privilege. Again, plaintiff's brief does not address the "shared interest" qualified privilege or the trial court's findings as to that privilege. Finally, plaintiff seeks a ruling on the issue whether a qualified privilege provides a complete defense to its tortious interference claims. But, again, plaintiff fails to address the effect of the qualified privilege on its claim for tortious interference or address the trial court's findings in that regard.

Where an appellant fails to dispute or address the basis of the trial court's ruling, this Court need not grant the relief sought. *Derderian v Genesys Health Care Systems*, 263 Mich App 364, 381; 689 NW2d 145 (2004). Further, the failure to properly address the merits of an assertion of error constitutes abandonment of the issue. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002). Nevertheless, in the interest of justice, we will consider the dispositive issue whether the trial court properly concluded that the substantial truth defense applies in this case so as to entitle defendant to judgment as a matter of law. See *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

To establish liability for defamation, a plaintiff must show:

> 1) a false and defamatory statement concerning the plaintiff, 2) an unprivileged communication to a third party, 3) fault amounting to at least negligence on the part of the publisher, and 4) either actionability of the statement irrespective of special harm or the existence of special harm caused by publication. [*Rouch v Enquirer & News of Battle Creek (After Remand)*, 440 Mich 238, 251; 487 NW2d 205 (1992).]

The falsity required as an element of defamation is material falsity and '"slight inaccuracies of expression are immaterial provided that the defamatory charge is true in substance."' *Id*. at 258-259, quoting 3 Restatement Torts, 2d, 581A, comment f, p 237. In Michigan, the "substantial truth" doctrine is an absolute defense to a defamation claim. *Rouch*, *supra* at 259-260; *Collins v Detroit Free Press, Inc*, 245 Mich App 27, 33; 627 NW2d 5 (2001). Under that doctrine,

> the test to determine material falsity is whether the evidence supports a finding that the "sting" or "gist" of the article would have a different effect upon the mind of the reader than would the literal truth. Under the test, minor differences are immaterial if the literal truth produces the same effect. [*Koniak v Heritage Newspapers, Inc (On Remand)*, 198 Mich App 577, 580; 499 NW2d 346 (1993) (citations omitted).]

Here, plaintiff contends that it was defamed by a statement contained in a letter written by defendant's employee on behalf of its client, Allied Printing Trades Council of Detroit. In particular, plaintiff claims that the final sentence of the second paragraph was defamatory because plaintiff had, in fact, applied for a license to use the label. The letter reads:

> We have been informed that the UAW has contracted with a firm called "Group 7500" to print materials for the UAW Ford Joint Education program, as well, perhaps, for other UAW programs.
>
> We have also been informed that Group 7500 has represented that it has the right to use the Allied Printing Trades Council label. Unfortunately, Group 7500 does not currently have the right to use this label. *The firm has not applied for a license to use the label.*

Defendant argues, as it did in the trial court, that the letter was "simply advising the UAW that one of its vendors did not currently have the right to use its label, which was absolutely, unequivocally true." The trial court agreed, noting that plaintiff had failed to address the issue in its response to defendant's motion for summary disposition. On appeal plaintiff again fails to address this argument. In any event, we agree with defendant and the trial court. The purpose of defendant's letter, when read in context, was to inform the UAW that plaintiff was using the union label when it was not authorized to do so. The point was not that plaintiff failed to apply for a license. The literal truth, that plaintiff was not authorized to use the union label even though it had applied for a license, would still deter the UAW from dealing with plaintiff. The fact that plaintiff may have been taking steps to become authorized "would have little effect on the reader." *Koniak*, *supra* at 581. Plaintiff was not authorized to use the label, should not have been using it, and was acting improperly by doing so. Under the circumstances,

the allegedly defamatory communication was substantially true, and the false part of the communication was immaterial. Thus, defendant was entitled to the "substantial truth" defense. Consequently, the trial court appropriately granted defendant's motion for summary disposition.

In light of our resolution of this dispositive issue, as well as plaintiff's failure to properly argue the merits, we need not address plaintiff's other issues on appeal.[1]

Affirmed.

/s/ Karen M. Fort Hood
/s/ Mark J. Cavanagh
/s/ Deborah A. Servitto

[1] We note that plaintiff's claim that defendant was not entitled to an absolute privilege is moot because the trial court found in favor of plaintiff on this argument. See *Morales v Parole Bd*, 260 Mich App 29, 32; 676 NW2d 221 (2003).