

STATE OF MICHIGAN
COURT OF CLAIMS

CHRISTOPHER L. JOHNSON,

Plaintiff,

v

OPINION AND ORDER

Case No. 22-000131-MZ

DANA NESSEL,

Hon. Thomas C. Cameron

Defendant.

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Pending before the Court are defendant's MCR 2.116(C)(8) motion for summary disposition and defendant's motion for a more definite statement in this libel action. The Court dispenses with oral argument under LCR 2.119(A)(6). For the reasons discussed below, the Court GRANTS the motion for summary disposition and DISMISSES the motion for a more definite statement as moot.

In early March 2022, plaintiff requested an expungement of a prior criminal conviction in the 52-3 District Court. In the process of doing so, plaintiff was required to request assistance from the Attorney General, defendant Dana Nessel, and to submit his fingerprints to the Michigan State Police. On May 12, 2022, defendant and her Assistant Attorney General, Michael Ajami, allegedly submitted a document to the district court opposing the expungement request. According to plaintiff, that document stated, "**'Johnson's criminal record reveals that he was convicted of the following offenses: 1 Felony 12/20/1999 Malicious Destruction of Property over \$100 MCL750.337a.'**" Plaintiff does not provide a copy of the opposition brief as an attachment to his complaint or his response brief.

In late July 2022, plaintiff sued defendant in the 52-3 District Court. His complaint, which appears on a State Court Administrative Office approved Affidavit and Claim, Small Claims, form, states that the reason for plaintiff's claim is "ACT 236 of 1961 (Revised [Judicature] act of 1961), 600.2911-Libel sec 2911(6) . . . 2 counts." The complaint also refers to a prior criminal action, Docket No. 11-000855, and states that the libel occurred on May 12, 2022. The complaint provides no further details about the nature of plaintiff's claim or the reason he believes defendant committed libel. Plaintiff alleges that he suffered \$6,000 in damages.

While the matter was pending in the district court, in mid-August 2022, defendant moved for a more definite statement. Defendant argued that plaintiff failed to explain how his allegations applied to defendant, and failed to include specific times, locations, or other details in support of his claim, leaving defendant unable to respond adequately to the complaint. Less than a week later, when defendant learned that the district court was sending the parties to mediation, defendant noticed the transfer of the case to this Court.

Once the matter was before this Court, defendant moved for summary disposition under MCR 2.116(C)(8). Defendant argues that plaintiff's complaint fails to provide any specific allegations that would reasonably inform defendant of the claims against her, in violation of MCR 2.111(B)(1). In response, plaintiff argues that defendant's statement that he was convicted of a felony was untrue and was made with reckless disregard of whether the statement was true.

A motion to dismiss under MCR 2.116(C)(8) tests the legal sufficiency of the complaint. *Bailey v Antrim Co*, ___ Mich App ___; ___ NW2d ___ (2022); slip op at 5. "A motion under MCR 2.116(C)(8) may . . . be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery." *Id.* The Court will consider the factual allegations

in the complaint as true. *Jawad A Shah, MD, PC v State Farm Mut Auto Ins Co*, 324 Mich App 182, 206; 920 NW2d 148 (2018).

MCR 2.111(A)(1) provides that “[e]ach allegation of a pleading must be clear, concise, and direct.” MCR 2.111(B)(1) adds that the complaint must contain “[a] statement of the facts, without repetition, on which the pleader relies in stating the cause of action, with the specific allegations necessary reasonably to inform the adverse party of the nature of the claims the adverse party is called on to defend[.]” Plaintiff’s complaint originally took the form of a small-claims statement of claim in the 52-3 District Court. MCR 4.302(A) governs the process for filing a statement of claim and provides, in relevant part, “The statement of the claim must be in an affidavit in substantially the form approved by the state court administrator. . . . The nature and amount of the claim must be stated in concise, nontechnical language, and the affidavit must state the date or dates when the claim arose.” Thus, the Court Rules governing pleadings in this Court and small claims in District Court each require plaintiff to explain the nature and amount of his claim in clear language so that defendant could understand and respond to the claims. This rule is particularly applicable in the context of defamation claims. “[A] plaintiff claiming defamation must plead a defamation claim with specificity by identifying the exact language that the plaintiff alleges to be defamatory.’” *Ghanam v Does*, 303 Mich App 522, 543; 845 NW2d 128 (2014) (citation omitted); see also *Thomas M Cooley Law Sch v Doe 1*, 300 Mich App 245, 263; 833 NW2d 331 (2013) (“For a claim of libel, a plaintiff must plead *the very words of the libel . . .*.”) (Citation and quotation marks omitted.)

Plaintiff’s complaint lacked any specificity that would have informed defendant of the nature of the claims she was called to defend. The affidavit of claim provided four lines for plaintiff to explain the reasons for his claim, but plaintiff only stated, “Act 236 of 1961 (Revised

[Judicature] act of 1961), “600.2911-Libel sec 2911(6),” and “2 Counts.” Plaintiff did not mention the May 12, 2022 opposition brief or the reason plaintiff believed that document was defamatory or libelous. Plaintiff revealed the nature of his claim only through the briefing in this Court. And plaintiff does not provide this Court or defendant with a copy of the document that contained the alleged defamatory statement. Finally, plaintiff does not ask this Court to grant leave to amend the complaint to provide more specificity. For these reasons, plaintiff’s complaint does not conform to the pleading requirements in MCR 2.111(A)(1) and (B)(1), and defendant is entitled to summary disposition under MCR 2.116(C)(8).

IT IS HEREBY ORDERED that defendant’s motion for summary disposition is GRANTED. Defendant’s motion for a more definite statement is DISMISSED AS MOOT.

This is a final order that dispenses with the final claim and closes the case.

Date: November 14, 2022



Thomas C. Cameron
Judge, Court of Claims