

IN THE IOWA DISTRICT COURT IN AND FOR STORY COUNTY

ALEXANDRA “SONDRA” WILSON,)	
)	Case No. LACV053674
Plaintiff,)	
)	
v.)	DEFENDANTS’ STATEMENT OF
)	MATERIAL FACTS AND
RELIABLE STREET INC., LOCKWOOD)	MEMORANDUM OF AUTHORITIES IN
CAFÉ, LYND SAY NISSEN, SHARON)	SUPPORT OF SUMMARY JUDGMENT
STEWART, WILLA COLVILLE, DENISE)	
MARTINEZ, and CHARLIE ESKER.)	
)	
Defendants.)	
)	

Defendants Reliable Street Inc., Lockwood Café, Lyndsay Nissen, Sharon Stewart, Willa Colville, Denise Martinez, and Charlie Esker (collectively, “Defendants”), by and through the undersigned counsel, provide this Statement of Material Facts and Memorandum of Authorities in Support of Summary Judgment.

INTRODUCTION

This case has been narrowed to a single claim: Count II alleges that Defendants defamed Plaintiff by submitting statements to the Iowa Civil Rights Commission as part of an investigation of civil rights claims filed by Plaintiff. Defendants move for summary judgment because those statements — made in direct response to a formal government investigation that Plaintiff herself initiated — are absolutely privileged and cannot give rise to a cognizable defamation claim. The litigation privilege bars any claim for defamation based on statements made in the course of judicial or quasi-judicial proceedings.

Plaintiff’s Amended Petition establishes every element needed to apply the absolute litigation privilege and dismiss Count II: Plaintiff filed a formal ICRC complaint; the ICRC investigated; Defendants submitted statements to the ICRC; and those responses — made to a

government investigator as part of a judicial proceeding — are the exclusive basis of Count II. Viewing the record in the light most favorable to Plaintiff — in fact, viewing Plaintiff’s allegations alone — the litigation privilege applies, and Count II fails as a matter of law.¹

Alternatively, even without the absolute privilege, Count II fails on three independent grounds, any one of which is sufficient for dismissal. *First*, the statements are protected by conditional privilege, which Plaintiff cannot overcome without evidence of actual malice — evidence directly contradicted by the ICRC’s own closure of the matter and by this Court’s prior findings. (*See, e.g.*, D0036, Order at 26) (“There is no evidence that Sondra was asked to leave because she is a trans woman . . . Just the opposite – it appears that each of the individual defendants went out of their way to be nice to Sondra”). *Second*, the statements were true, and truth is an absolute defense. *Third*, Plaintiff cannot establish damages. The Court may grant summary judgment on the absolute litigation privilege alone, but these three additional grounds each independently compel the same result.

STATEMENT OF UNDISPUTED MATERIAL FACTS

1. Defendant Reliable Street is an Ames nonprofit; Defendant Lockwood Café operates a small café in Reliable Street’s building; the personally named defendants are owners, officers, former employees, or customers at Reliable Street and Lockwood. (D0020, Amended Petition at 2).

2. Plaintiff Alexandra “Sondra” Wilson (“Plaintiff”) was a customer at Reliable Street Inc. and Lockwood Café, who also volunteered with events at Reliable Street beginning in September 2021. (D0036 at 3; D0020 at 13-14, ¶¶ 21–23).

¹ Defendants did not raise litigation privilege in the Motion to Dismiss (D0022) because litigation privilege is an affirmative defense, and thus must be pleaded and then raised in summary judgment. Defendants pleaded the litigation privilege defense in the Answer.

3. On March 31, 2022, Plaintiff was informed that she was no longer welcome at Reliable Street and Lockwood Café due to complaints from employees and patrons. (D0020 at 25-26, ¶¶ 58–61).

4. On April 12, 2022, Plaintiff filed a formal complaint with the Iowa Civil Rights Commission, alleging she had been discriminated against on the basis of gender identity. (D0020 at 43-44, ¶¶ 99–101).

5. In response to Plaintiff’s complaint, the ICRC opened an investigation and sent written questionnaires to the Defendants named in the ICRC Complaint. (D0020 at 45, ¶ 102).

6. Defendant Sharon Stewart submitted a response to the ICRC on behalf of Defendant Lockwood Café (incorporating a statement from Defendant Denise Martinez), and Defendant Lyndsay Nissen submitted a response to the ICRC on behalf of Defendant Reliable Street (incorporating statements from Defendants Willa Colville and Denise Martinez); Defendant Charlie Esker also submitted a written statement to the ICRC. (D0036, Order at 6; D0020 at 45, ¶¶ 103-104).

7. Count II of Plaintiff’s Amended Petition is based exclusively on statements made by Defendants to the ICRC. (D0036, Order at 11–17; D0020 at 31-32, ¶¶ 71-73; and 45-46, ¶¶ 102-106; and 47-58, ¶¶ 111-121).

8. Plaintiff alleges that Defendants’ ICRC submissions contained defamatory statements. (*Id.*)

9. On August 3, 2022, the ICRC administratively closed Plaintiff’s complaint, finding no civil rights violation. (D0020 at 45, ¶ 103).

10. Defendants’ Answer pleaded the litigation privilege as an affirmative defense to Count II. (D0047, Answer at p. 5, Aff. Def. ¶ 2.).

STANDARD OF REVIEW

Summary judgment shall be rendered “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Iowa R. Civ. P. 1.981(3); *Grunwald v. Wells Fargo Bank, N.A.*, 725 N.W.2d 324, 325 (Iowa Ct. App. 2005). “A genuine issue of fact exists if reasonable minds can differ on how an issue should be resolved. When a fact's determination might affect the outcome of the suit, it is material.” *Walker v. State*, 801 N.W.2d 548, 554 (Iowa 2011) (citation omitted).

A party resisting summary judgment may not rest upon the mere allegations or denials in the pleadings to create a genuine issue of fact, but instead must set forth specific facts showing a genuine issue for trial. Iowa R. Civ. P. 1.981(5); *Buboltz v. Birusingh*, 962 N.W.2d 747, 754 (Iowa 2021). “[A]n inference based upon speculation or conjecture does not generate a material factual dispute to defeat summary adjudication.” *Butler v. Hoover Nature Trail, Inc.*, 530 N.W.2d 85, 88 (Iowa Ct. App. 1994). “Summary judgment is proper if the only issue is the legal consequences flowing from the undisputed facts.” *Huber v. Hovey*, 501 N.W.2d 53, 55 (Iowa 1993).

Where the issue is one of pure law — as is the case when an absolute privilege applies — there are no facts for a jury to resolve, and the Court may grant summary judgment. An absolute privilege is a purely legal question because it turns on the nature of the proceeding in which statements were made, not on the content or truth of those statements. In this case, there are no factual disputes regarding the venue of the alleged defamatory statements that are at issue in Count II.

ARGUMENT

I. Count II is Barred by the Absolute Litigation Privilege.

The absolute privilege for statements made in judicial proceedings is a foundational rule of Iowa defamation law. Under the Restatement (Second) of Torts, “a party to a private litigation . . . is absolutely privileged to publish defamatory matter concerning another in communications preliminary to a proposed judicial proceeding, or in the institution of, or during the course and as a part of, a judicial proceeding in which he participates, if the matter has some relation to the proceeding.” Restatement (Second) of Torts § 587 (1977). The privilege extends as well to witnesses who provide statements in connection with a judicial proceeding. *Id.* § 588.

a. Iowa Law Recognizes an Absolute Privilege for Statements Made in Judicial and Quasi-Judicial Proceedings, or made “preliminary to a proposed judicial proceeding.”

Iowa courts follow the Restatement on this point. *See Hintermeister v. Belin McCormick, PC*, 2019 WL 3317365 (Iowa Ct. App. July 24, 2019). The absolute privilege is distinct from the qualified or conditional privilege: it applies regardless of whether the statement was false, regardless of whether it was made with ill will, and regardless of whether it caused serious harm. Restatement (Second) of Torts § 587, cmt. a. Iowa Courts apply the absolute privilege because parties and witnesses must be free to participate fully in judicial and administrative proceedings without fear of retaliatory defamation suits. *Spencer v. Spencer*, 479 N.W.2d 293, 295 (Iowa 1991) (applying Restatement (Second) of Torts §§ 586–88) (the litigation privilege “encourage[s] the open resolution of disputes by removing the cloud of later civil suits from statements made in judicial proceedings”).

b. The Iowa Civil Rights Commission Investigative Process Is a Judicial Proceeding — or at a minimum, was “preliminary to a proposed judicial proceeding.”

The absolute litigation encompasses all “judicial proceedings.” *See* Restatement (Second) of Torts § 587 cmt. f (“Judicial proceedings include all proceedings in which an officer or tribunal exercises judicial functions . . .”) (citing § 585 cmts. c and f). This includes “proceedings” before a state agency in connection with a quasi-judicial function of an administrative body. *See, e.g., Magnan v. Anaconda Indus., Inc.*, 37 Conn. Supp. 38, 45, 429 A.2d 492, 496 (Super. Ct. 1980) (“The absolute privilege is extended to preliminary statements made in connection with a quasi-judicial function of an administrative board”). An administrative body acts in a quasi-judicial capacity when it conducts hearings, takes evidence, makes factual determinations, and renders decisions that are subject to judicial review.

Crucially, the absolute litigation privilege also extends to “communications preliminary to a proposed judicial proceeding” as long as “the communication has some relation to a proceeding that is contemplated in good faith and under serious consideration.” Restatement (Second) of Torts § 587 cmt. e (1977)

The ICRC satisfies every criterion for a judicial proceeding. Under Iowa Code chapter 216, when a complaint is filed, the ICRC has authority to: (1) investigate the complaint and gather evidence, Iowa Code § 216.5; (2) issue subpoenas and compel the production of documents, § 216.5(6)(c); (3) conduct formal hearings at which parties may present evidence and cross-examine witnesses, §§ 216.5(6), 216.15; (4) issue findings of fact, conclusions of law, and binding orders including back pay, reinstatement, and injunctive relief, § 216.15(9); and (5) have those decisions enforced by, and subjected to review in, the district court, § 216.17. The ICRC’s formal investigative and adjudicative structure is the hallmark of a quasi-judicial proceeding.

Courts across the country have held that statements made to EEOC investigators, in Title VII proceedings, or to other civil rights commissions or unemployment commissions, in the course of formal administrative investigations, are absolutely privileged because they are preliminary to a quasi-judicial proceeding. *See Visnick v. Caulfield*, 901 N.E.2d 1261, 1264 (Mass. Ct. App. 2009); *Egei v. Johnson*, 192 F. Supp. 3d 81, 88 (D.D.C. 2016); *Pettway v. Am. Cast Iron Pipe Co.*, 411 F.2d 998, 1000 (5th Cir. 1969); *Hawkins v. Miller*, 301 S.W.3d 507, 508 (Ky. Ct. App. 2009) (“[S]tatements were made” during Kentucky Unemployment Insurance Commission and EEOC proceedings “in a quasi-judicial setting”); see also *Sams v. Wal-Mart Stores E., LP*, 2010 WL 4740330, at *2–3 (Ky. Ct. App. Nov. 24, 2010) (treating “statements ... made at ... unemployment compensation hearings” as occurring in a “judicial proceeding” for purposes of privilege analysis); *Grimes v. Kentucky Unemployment Ins. Comm'n*, 340 S.W.3d 104, 106 (Ky. Ct. App. 2011) “[A] quasi-judicial agency such as the [Kentucky Unemployment Insurance] Commission, like a court, has the implied authority to determine its own jurisdiction.”). These decisions rest on the same rationale as the Iowa rule: allowing defamation claims based on responses to government civil rights investigations would chill participation in those proceedings and undermine their investigative function.

c. All Statements at Issue in Count II Were Made in the Course of the ICRC Proceeding.

The nature of the proceeding is not disputed. Plaintiff’s Amended Petition establishes that the allegedly defamatory statements were made to the ICRC investigator in response to Plaintiff’s formal complaint. Count II does not allege any defamatory statements made outside the ICRC proceeding. Accordingly, every statement at issue falls squarely within the scope of the absolute privilege.

Plaintiff herself initiated this proceeding and formal investigation. She cannot now use defamation law to penalize Defendants for responding to an investigation she set in motion. To permit that result would allow plaintiffs to weaponize civil rights proceedings against the very parties those proceedings are designed to investigate fairly and impartially.

d. The Absolute Privilege Bars Count II Regardless of the Truth or Falsity of the Statements.

The dispositive feature of the absolute privilege is that it bars recovery even if the plaintiff can prove the statements were false, made with actual malice, and caused serious harm. This distinguishes the absolute privilege from the qualified privilege discussed below and makes it particularly well-suited for resolution on summary judgment before discovery. No matter what discovery might reveal about the content of Defendants' statements or Defendants' subjective state of mind, those facts cannot defeat an absolute privilege.

This Court need go no further than Argument I. Because the absolute privilege applies as a matter of law, the Court should enter summary judgment for Defendants on Count II without the need for further proceedings.

II. Alternatively, Even Without The Absolute Privilege, Count II Fails On Three Independent Grounds

Even setting aside the absolute litigation privilege, Count II cannot survive summary judgment. A defamation claim under Iowa law requires proof of six elements: (1) publication, (2) of a defamatory statement, (3) which was false, (4) and malicious, (5) made of and concerning the plaintiff, (6) and which caused injury. *Bierman v. Weier*, 826 N.W.2d 436, 443 (Iowa 2013). Count II fails in at least three ways, any one of which independently requires dismissal: first, the statements are protected by conditional privilege, which Plaintiff cannot overcome for lack of actual malice; second, the undisputed facts establish that the statements were true, and truth is an

absolute defense to defamation; and third, Plaintiff cannot establish injury given the narrow, private nature of the only alleged publication.

a. Even Without the Absolute Privilege, Conditional Privilege Bars Count II.

Iowa recognizes a conditional or qualified privilege when a communication is made (1) in good faith, (2) by a person with a legal, moral, or social duty or interest in making it, (3) to a person with a corresponding duty or interest in receiving it, (4) on a proper occasion, and (5) in a proper manner to proper parties only. *Brown v. First National Bank of Mason City*, 193 N.W.2d 547, 552–53 (Iowa 1972).

All five elements are met here. Defendants had both a legal obligation and a substantial interest in cooperating fully and honestly with a government investigation directed at their conduct. Responding to a state civil rights investigator is a civic duty; it is also in a respondent's direct legal interest to provide a complete and accurate account. The ICRC, as the state agency charged with enforcing the Iowa Civil Rights Act, had a direct and obvious interest in receiving Defendants' statements. The statements were made in the proper forum (the ICRC investigation), on a proper occasion (in response to official questionnaires), and to proper parties only (the ICRC investigator). The qualified privilege plainly attaches.

To overcome a qualified privilege, the plaintiff must demonstrate that the defendant acted with actual malice — that is, “knowing or reckless disregard of the truth.” *Bandstra v. Covenant Reformed Church*, 913 N.W.2d 19, 47–48 (Iowa 2018). Absent evidence of actual malice, summary judgment is appropriate.

There is no evidence of actual malice in this record. The ICRC itself, after receiving Defendants' statements and conducting its investigation, found no civil rights violation and administratively closed Plaintiff's complaint — an outcome consistent with Defendants having

made accurate, good-faith statements. This Court’s October 4, 2024 Order likewise concluded that Defendants “went out of their way to be nice to Sondra” and found “no evidence that Sondra was asked to leave because she is a trans woman” and “no evidence that any of the Defendants ever said or did anything to treat Sondra differently due to her identity.” (D0036 at 26). These findings are directly inconsistent with the proposition that Defendants made intentionally false statements designed to injure Plaintiff. Plaintiff has had the complete ICRC investigative file since 2022, initiated the proceeding herself, and has identified nothing suggesting actual malice.

b. Truth Is an Absolute Defense, and the Undisputed Facts Establish the Statements Were True.

Truth is an absolute defense to defamation. *See Bierman*, 826 N.W.2d at 443 (element three). A plaintiff cannot recover for defamation based on a statement that was true, regardless of any other element of the claim.

The record establishes the truthfulness of Defendants’ ICRC statements. Those statements reported that: Plaintiff visited the café during every shift of a particular employee; Plaintiff contacted that employee constantly by text and email; the employee began hiding in the kitchen when she saw Plaintiff approaching; the employee expressed to management that she no longer wanted to come to work; and Plaintiff had, in Lyndsay Nissen’s words, become “quite frankly obsessed” with that employee. Plaintiff’s own Amended Petition quotes these statements at length without denying the underlying conduct. Thus, on this summary judgment record, the truth of the alleged defamatory statements is undisputed. This Court’s October 4, 2024 Order confirmed the core: employees complained about Plaintiff’s conduct, Defendants acted on those complaints in good faith, and there was no discriminatory motive. (D0036 at 5-6, 26). The ICRC’s own investigation, conducted after receiving all parties’ statements, found no civil rights violation — consistent with the accuracy of what Defendants reported.

Plaintiff bears the burden at summary judgment of identifying specific facts in the record from which a jury could find that Defendants' ICRC statements were false. She cannot do so. The factual narrative underlying her libel claim — that Defendants fabricated or materially misrepresented the complaints against her — is contradicted by this Court's own findings on the very same factual record. Because the statements were true, Count II fails as a matter of law on this independent ground.

c. Plaintiff Cannot Establish That the Statements Were Understood as Defamatory or That They Caused Any Cognizable Injury.

Defamation requires proof that the allegedly defamatory statement caused actual damage to the plaintiff. *See Bierman*, 826 N.W.2d at 443 (element six). Plaintiff has not established any harm in this summary judgment record, particularly where the alleged publication is narrow and confined to a private government investigation.

The only "publication" at issue in Count II is Defendants' written responses to the ICRC investigator — a single government official conducting a confidential administrative investigation. ICRC documents are subject to a confidentiality policy, and the investigation was closed without any public findings of misconduct by Plaintiff. The statements were never disseminated beyond the investigator; no public record of their content exists. Iowa law is clear that "[t]he key to whether [a] statement meets the publication requirement is whether [the receiver] heard and understood the statement to be defamatory." *Huegerich v. IBP, Inc.*, 547 N.W.2d 216, 222 (Iowa 1996). An ICRC investigator receiving official responses to a civil rights complaint from the subjects of that complaint would understand those statements as factual accounts of workplace conduct submitted for investigative purposes — not as reputational attacks. The narrow, confidential, single-recipient nature of the publication does not support an inference that Plaintiff's reputation suffered harm as a result.

Plaintiff has alleged generalized harm to her reputation and businesses, but she has identified no specific instance in which Defendants' ICRC statements — as opposed to the underlying events themselves, which were known to Plaintiff — caused any identifiable damage. Without evidence tracing actual reputational harm to the private ICRC submission specifically, the damages element fails, and Count II must be dismissed on this independent ground as well.

CONCLUSION

Count II rests entirely on statements Defendants made to a government investigator in a formal quasi-judicial proceeding — a proceeding initiated by Plaintiff herself. Iowa's absolute litigation privilege was designed precisely for these circumstances. No genuine issue of material fact exists, and Defendants are entitled to judgment as a matter of law. For these reasons, Defendants respectfully request that the Court grant this Motion, enter summary judgment on Count II, dismiss Plaintiff's Amended Petition with prejudice in its entirety, and assess all costs to Plaintiff.

/s/ Paul J. Esker

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CERTIFICATE OF SERVICE

I certify that a true copy of this document was served upon each of the attorneys of record of all parties to this action at the addresses disclosed by the pleadings on April 6, 2026.

By: ___ U.S. Mail ___ Hand Delivered
 ___ Email _X_ EDMS/ECF
 ___ Other

Signature: /s/ James Phan