

**LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COURT**

3031 Domres Road · Manistee, MI 49660
(231) 398-3406

SHANNON PAUL CRAMPTON,
Plaintiff

Case No. 22-062-GC

Honorable Angela Sherigan

v.

LITTLE RIVER CASINO RESORT,
Defendant

_____/

SHANNON PAUL CRAMPTON
Plaintiff, In Pro Per
6735 E. M-72
Williamsburg, MI 49690

CRAIG W. ELHART (P26369)
Attorney for Defendant
329 South Union
Traverse City, MI 49684

_____/

**ORDER AFTER HEARING ON DEFENDANT'S
MOTION FOR SUMMARY DISPOSITION**

A hearing was held on May 26, 2022, on Defendant's Motion for Summary Disposition, in which all parties and/or their attorneys were present.

The Motion was made under LRCR 4.116(c)(8), for failure to state a claim upon which relief can be granted. Defendant argues that:

1. Plaintiff failed to specifically identify any untrue statements that are harmful to his esteem, respect, or goodwill.
2. That he failed to identify the speaker of any defamatory statements and any potential connection to the defendant.
3. That Plaintiff failed to allege malice or any suffering as to any statements made.
4. On its face, the pleading has failed to state a claim upon which relief can be granted.
5. Additionally, at the hearing, Defendant argued that the Little River Casino Resort is not a person and therefore cannot be sued under the Protection Against Defamation Act.

The Plaintiff did not file a written response, but did argue at the hearing that the pleadings are sufficient and that the Casino is a person for purposes of the Act, and provided case law to the court.¹ He also argued that Defendant could not bring this motion as it was in default and orally moved for an entry of default, arguing that the defendant's Answer was filed late and that the timing of this Motion hearing was improper. The Court ruled in the hearing that the motion was properly before it and continued with the hearing.

A Motion for Summary Disposition based on failure to state a claim upon which relief can be granted, which tests the legal sufficiency of the pleadings. In ruling on a motion for summary disposition under Rule 4.116(c)(8) the Court considers only the pleadings.

However, before that Court addresses the sufficiency of the pleadings, it will first deal with the procedural matters.

1. Default.

LRCR 4.603(b) states as follows:

(B) Default Judgment.

(1) Notice of Request for Judgment.

(a) A party seeking a default judgment must give notice of the request for judgment to the defaulted party

(i) if the party against whom the judgment is sought has appeared in the action;

(ii) if the request for entry of judgment seeks relief different in kind from, or greater in amount than, that stated in the pleadings; or

(iii) if the pleadings do not state a specific amount demanded.

(b) The notice required by this subrule must be served at least 7 days before entry of the requested judgment.

(c) If the defaulted party has appeared, the notice may be given in the manner provided by Rule 4.107. If the defaulted party has not appeared, the notice may be served by personal service, by ordinary first-class mail at the defaulted party's last known address or the place of service, or as otherwise directed by the court.

...

At (B)(2), (2) Default Judgment Entered by Clerk. On request of the plaintiff supported by an affidavit as to the amount due...

At (B)(3) Default Judgment Entered by Court. In all other cases the party entitled to a judgment by default must apply to the court for the judgment.

¹ As this defense was not in written form in the Motion for Summary Disposition, the Plaintiff was given additional time to provide the case law to the Court.

- (a) A judgment by default may not be entered against a minor or an incompetent person unless the person is represented in the action by a conservator, guardian ad litem, or other representative.
- (b) If, in order for the court to enter judgment or to carry it into effect, it is necessary to
 - (i) take an account,
 - (ii) determine the amount of damages,
 - (iii) establish the truth of an allegation by evidence, or
 - (iv) investigate any other matter,the court may conduct hearings or order references it deems necessary and proper.

This must be done in writing. The Court does not have a written request for entry of default, and thus proceeded with the Motion for Summary Disposition, finding it is properly before the Court.

2. Timing.

The Court has reviewed the Register of Actions and the Court Rules regarding timing of hearings on Motions for Summary Disposition. The Court Rules state that a hearing on a Motion for Summary Disposition cannot be heard until 28 days after service.

Defendant filed a Motion for Summary Disposition on April 8, 2022, and the Court set the hearing date for May 13, 2022.

The Defendant filed an Amended Motion for Summary Disposition, which the Court received via US Mail on April 28, 2022. The Proof of Service indicated that it was mailed to the Court and to Mr. Crampton on April 26, 2022.

A scheduling conference was held on April 28, 2022, in which the Motion for Summary Disposition hearing was rescheduled to May 26, 2022. All parties attended the scheduling conference.

A Scheduling Order was issued on April 29, 2022 and sent via email to the parties along with a notice of the amended Motion hearing date for the Motion for Summary Disposition.

At the hearing held May 26, Plaintiff claims that he did not receive the Amended Motion for Summary Disposition until May 3, 2022. Plaintiff also argues that, because he and the Defendant's attorney signed the electronic service consent forms, that is the only way that he should be served. He did not mention how he received the Amended Motion.

The Service Consent Form does not mandate that this is the only acceptable form of service. LRCR 4.107 (C)(3) states that service by mail is complete at the time of mailing, which was April 26, 2022. The Motion hearing was held 30 days later on May

26, 2022. Additionally, Plaintiff had plenty of time to object to the hearing date, as it was discussed on April 28, 2022 at the Scheduling Conference and notice of the hearing date was sent on April 29, 2022. Responses to Motions for Summary Disposition are due 21 days after service, LRCR 4.107 (3). The Plaintiff did not file an answer, nor did he file an objection to the hearing date within the 21 days, counting either from April 26, 2022, or May 3, 2022. The Court finds that the matter is properly in front of the court.

The Motion for Summary Disposition proceeded. In reviewing the pleadings, there is nothing in the written pleadings that addresses whether or not the Casino is a person for purposes of liability under this act. While the parties did argue their positions at the hearing, the Court will not address this at this time as 4.116(G)(5) states that the Court may only look at the pleadings in analyzing a motion brought under 4.116(C)(8).

Turning to the arguments in the pleadings, the Defendant argues that Plaintiff failed to specifically identify any untrue statements that are harmful to his esteem, respect, or goodwill, and that Plaintiff has failed to identify the speaker of any defamatory statements and any potential connection to the Defendant. The Plaintiff's Amended Complaint states that Ogema Romanelli accused Plaintiff of election fraud, and that the Casino "in associating with or participating in the defamatory statements made on its property and not denouncing or correcting the statements it possessed constructive knowledge were untrue, has added weight by endorsing those statements that would not exist otherwise." The Defendant argues that the Casino was simply the forum/property that the meeting was held at. The Court agrees with the Defendant. Statements made by any person, group, association, or otherwise that holds an event at the Casino cannot be attributed to the Casino. Additionally, the Casino is under no obligation to fact check every statement made to ensure its accuracy.

This issue of malice is not an element when a public official is not a party to the case.

Plaintiff has failed to make a prima facie showing of the elements to continue with the case.

THEREFORE, Defendant's Motion for Summary Disposition is GRANTED. This case is dismissed.

Dated: June 6, 2022


Hon. Angela Sherigan



CERTIFICATION OF SERVICE

I certify a copy of this document was served via USPS mail and via email for service to the parties and/or their attorneys of record on this day.

6-6-22
Date

Spring Medacco
Court Clerk/Court Administrator