

Please reply to Dominique R. Scalia
dscaliam@lawdbs.com
(206) 489-3818

July 27, 2021

VIA Email

Jeffrey A. Meyer, Esq.
Klein, Stoddard, Buck & Lewis, LLC
2045 Aberdeen Ct
Sycamore, IL 60178
jmeyer@kleinstoddard.com

Re: *Jeff Ward/Patch.com*

Dear Mr. Meyer,

This firm represents Planck, LLC dba Patch Media Corporation (“Patch”). My client has asked me to respond to allegations of defamation raised in a series of emails by your client, Jeff Ward, regarding an article published by Patch titled *Political Advisor Accused of Pushing Wife in Front of Police* (the “Article”). As outlined below, your client has no valid claims against Patch.

Freedom of the press to report on public process is broadly protected by the First Amendment. “The general proposition that freedom of expression upon public questions is secured by the First Amendment has long been settled by our decisions. The constitutional safeguard, we have said, was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 269 (1964). Where media defendants report on the actions of governments and public agencies, constitutional protections are all the more important. Your client’s emails seem designed to attempt to chill the media’s right to free speech with regard to such public actions, including the arrest and subsequent prosecution of your client and his successful appeal. While the First Amendment does not foreclose every possible claim for defamation made by a private individual, those plaintiffs will always bear the burden of proving that the allegedly defamatory statements were, at a bare minimum, untrue. See *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 776-77 (1986).

Mr. Ward’s emails fail to even allege that Patch made an untrue statement about him. Patch’s articles accurately recount the arrest, prosecution, and Mr. Ward’s successful appeal, and include a true and accurate photograph of him. “To state a defamation claim, a plaintiff must present facts showing that the defendant made a false statement about the plaintiff ...” *Solaia Tech., LLC v. Specialty Pub. Co.*, 221 Ill. 2d 558, 579, 852 N.E.2d 825, 839 (2006).

Furthermore, with respect to the repetition of any untrue allegations by the government officials, “[t]he fair-report privilege protects news accounts of written and verbal statements made by

governmental agencies and officials acting in their official capacities.” *Hill v. Schmidt*, 2012 IL App (5th) 110324, ¶ 12, 969 N.E.2d 563, 568-69. The investigation by the Geneva Police Department and subsequent prosecution were both official proceedings by governmental agencies, and records related to that investigation were official written statements by those officials involved. Unlike other privileges, the fair-report privilege in Illinois would not even be defeated by actual malice. *Solaia Tech., LLC*, 221 Ill. 2d at 587 (“In fact, the first amendment itself prevents actual malice from defeating the privilege. We hold that the fair report privilege overcomes allegations of either common law or actual malice.”) (internal citations omitted). Patch’s article was a fair and accurate summary of these proceedings. Accordingly, the statements in Patch’s article are entirely accurate and the fair-report privilege provides a complete defense for Patch in any defamation action.

In sum, your client has no valid claims against Patch. The only articles published by Patch regarding Mr. Ward were covered by the fair-report privilege, and no independent statement made by Patch is even alleged to be false.

Sincerely,

DBS | Law

A handwritten signature in black ink, appearing to read 'D. Scalia', with a stylized flourish at the end.

By

Dominique R. Scalia

cc: Client