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Orange Crushed: D.C. Court Dismisses Politician's SLAPP Suit

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A District of Columbia politician failed to assert viable claims against a newspaper over coverage of his departure from government service and his “rocky” tenure at the D.C. Chamber of Commerce, a D.C. Superior Court judge ruled in August. [Orange v. The Washington Business Journal, et al.](#), No. 2022 CA 001258 B.

Granting a special motion to dismiss brought under the D.C. Anti-SLAPP Act, Superior Court Judge Heidi M. Pasichow dismissed Vincent Orange's suit against the *Washington Business Journal* and its former reporter, Alex Koma. In particular, the court held that statements about Orange in articles published in 2020 and 2021 either were non-actionable interpretations of disclosed, and admittedly true, facts or were substantially true.

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Background

Orange has run for D.C. Council and mayor more than half a dozen times since 1990. His last term on the Council ended in 2016, when Orange announced—shortly after losing his re-election bid—that he would soon serve as the next president and CEO of the D.C. Chamber of Commerce. When he also said that he intended to work there while serving out his final months on the Council, a public outcry over the double-dip erupted. In response, Orange changed course, resigned his Council seat, and took the helm at the Chamber.

About three years later, in a fee dispute with its prior attorneys, the Chamber said in a court filing that it may need to cease operations if forced to pay a roughly \$70,000 judgment rendered against it. The *Washington Business Journal* in February 2020 published an article by Koma that assessed the Chamber's health and performance since 2013. Based on the Chamber's court filing, interviews with Orange, and information provided by the Chamber and disclosed in its publicly available tax forms, the article generally concluded that the Chamber had seen “a persistent slide in its fortunes” and was facing other “problems” with membership and governance. The article also recalled that controversy clouded Orange's arrival at the Chamber, noting he had resigned from the Council “under pressure from ethics groups.”

Shortly after that article, Orange quit the Chamber to run, again, for a seat on the Council. In an article about that exit, the *Washington Business Journal* reported, linking to its February 2020 article, that the Chamber had “seen many of its financial fortunes decline in the last few years.” The paper included similar language in a March 2021 article about the Chamber's naming of Orange's replacement as president and CEO.

Orange lost his effort to return to the Council in 2020. But he announced in November 2021 that he would try yet again. Four months later, as an attorney acting *pro se*, Orange sued the *Washington Business Journal* and Koma.

Plaintiff's Claims

The complaint targeted the February 2020 and March 2021 articles. Orange failed to identify any particular statement as allegedly false and defamatory. Instead, he generally asserted falsity as to any suggestion that the Chamber had performed poorly on his watch. He argued the defendants should have emphasized what Orange believed to be his great successes there. Orange also alleged that it was false and defamatory to report that he resigned his Council seat in 2016 under pressure from ethics groups, asserting that he had never been found to have violated ethics rules applicable to the Council. Orange pleaded claims for defamation and intentional infliction of emotional distress, seeking damages of at least \$25 million.

Court's Ruling on Defendants' Anti-SLAPP Motion

Defendants filed a special motion to dismiss the complaint under D.C.'s Anti-SLAPP Act. The court on August 15, 2022, held a nearly three-hour hearing, largely focused on getting Orange to identify what particular statements were at issue. Ultimately, with the court's prodding, Orange identified five statements. Three were from the February 2020 article: (1) a statement that various Chamber metrics "show a persistent slide in its fortunes," (2) an assertion that the Chamber's "own financial documents hint at other potential problems facing the organization," and (3) the assertion that Orange "resign[ed] from the council under pressure from ethics groups." The fourth appeared in a June 2020 article that noted the Chamber had seen "seen many of its financial fortunes decline in the last few years." And the fifth statement was the opinion asserted in the March 2021 article the Chamber "was on some rocky financial footing" when Orange left.

Three days later, the court issued an order granting the Anti-SLAPP motion.

The court first held that Defendants met their initial burden to show that the reporting fell within the protection of the Anti-SLAPP Act. It reasoned that the articles unquestionably related to a public figure and his dealings with the Chamber, "a body related to economic and community well-being."

The court next assessed Orange's claims under the Rule 12(b)(6) standard, holding that they failed as a matter of law. First, the court emphasized that Orange did not dispute the veracity of any of the *facts* reported in the articles. The court rejected Orange's assertion that the newspaper was required to tell the "whole truth," at least as *the Plaintiff* saw it, implicitly crediting Defendants' argument "that the press are not obligated to follow Plaintiff's preferred narrative." The court thus held that statements characterizing the Chamber's financial stability were not actionable because they were based on disclosed, undisputed facts and did not imply any actionably defamatory meaning.

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Next, the court evaluated the statement that Orange left the Council under "pressure from ethics groups." At the hearing, Orange had identified multiple ethics groups that, he said, had not called for resignation. But given the many public calls for Orange to resign—and in particular by several of his fellow Councilmembers, the D.C. Attorney General, the Washington Post editorial board, the Washington Business Journal's then-editor-in-chief, and at least one government-watchdog group—the court ruled that the Defendants' assertion was substantially true and therefore non-actionable.

Finally, the court dismissed Orange's IIED claim, ruling that because it arose from the same statements as his defamation claims, it was subject to the same, successful defenses as his defamation claims.

Orange has publicly vowed to appeal. The parties submitted a joint motion to defer briefing on attorneys' fees pending the completion of any appeal.

Matthew Cate, Chad R. Bowman, and Charles D. Tobin of Ballard Spahr LLP represent Defendants Washington Business Journal and Alex Koma. Plaintiff Vincent Orange is pro se.

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