UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0367

September Term, 2014

ANTHONY PAUL BELLEZZA

v.

GREATER HAVRE DE GRACE YACHT CLUB, INC., ET AL.

Krauser, C.J.,
*Zarnoch,
Nazarian,

JJ.

Opinion by Krauser, C.J.

Filed: October 22, 2015

*Zarnoch, Robert A., J., participated in the hearing and conference of this case while an active member of this Court; he participated in the adoption of this opinion as a retired, specially assigned member of this Court.

Anthony Paul Bellezza, appellant, brought suit, in the Circuit Court for Harford County, against the Greater Havre de Grace Yacht Club, Inc.; eleven members of its Board of Directors; and Tidewater/Havre de Grace, Inc., d/b/a Tidewater Marina,[1] for, among other things, "false light invasion of privacy" and "civil conspiracy."[2] Specifically, his complaint averred that appellees had portrayed him "in a false light" by posting a "humiliating and insulting" note, written on toilet paper, in the bathrooms and keg room of the Tidewater Marina; by accusing him of speeding in the marina's parking lot; and by using an "offensive term" to refer to him. Those actions were taken, alleged the complaint, in furtherance of a "civil conspiracy" to harass Bellezza and ultimately to force him out of the Yacht Club.

In response, the appellees—that is, the Yacht Club, eleven members of the Board of Directors, and the Tidewater Marina—filed, either separately or in concert, motions seeking dismissal of the counts for false light invasion of privacy, based on the complaint's failure to state a claim upon which relief could be granted, and dismissal of the count of civil conspiracy, on the grounds that, under Maryland law, civil conspiracy could not be alleged as a separate count. After the circuit court granted all of appellees' motions and

[1] The eleven members of the Board, who were named as "defendants" in the suit below, were Bill Fitzgerald, Bruce Taylor, Candy Bossoli, Robert Bossoli, Don Clemens, Jennifer Brown, Robert J. Mellinger, David Cook, Julie Heffner, Sheri Marley, and Robert Marley.

[2] Bellezza's complaint also alleged intentional infliction of emotional distress, "improper appropriation of name or likeness," and breach of contract. The circuit court dismissed those counts for failure to state a claim, and Bellezza does not challenge that dismissal.

dismissed Bellezza's complaint, Bellezza noted this appeal, presenting two questions for our review:

> I. Did the circuit court err in holding that Bellezza failed to set forth sufficient facts in his complaint as to the required element of publicity in order to maintain his claims for false light invasion of privacy?
>
> II. Did the circuit court err in dismissing Bellezza's claim for civil conspiracy on the grounds that there was no independent tort on which that claim could be based?

Finding no error, we affirm.

Background

On November 20, 2012, Bellezza filed a complaint, in the Harford County circuit court, alleging that appellees had engaged in, among other things, false light invasion of privacy and civil conspiracy, for the purpose of forcing him out of the Yacht Club. The Yacht Club, according to Bellezza's complaint, was a "corporation licensed to conduct business" under the name "Greater Havre de Grace Yacht Club, Inc." and was "controlled" by a "Board of Directors." The Yacht Club's operations were conducted from a marina that was owned and managed by Tidewater.

After Bellezza became a member of the Yacht Club in 1986, he spent "a significant amount of time sailing and racing" at the Yacht Club. He also promoted and attended fundraisers and other social events there, and he served on the Yacht Club's "Board and Committees."[3] At some point, however, the relationship between Bellezza and other Board

[3] We presume that the complaint's reference to Bellezza's service on the "Board" is a reference to the Club's Board of Directors.

members soured. It was then, asserted Bellezza's complaint, that the Yacht Club's Board members "planned a course of conduct" designed to "humiliate him, injure him, to ruin his reputation and to discriminate against him."

The first series of events in this "course of conduct," which gave rise to the first of Bellezza's two claims for false light invasion of privacy, occurred in September of 2010. On September 1st of that year, when Bellezza purchased four tickets to the "Bob McVey Memorial Race" that was to be held at the Yacht Club later that month, he requested a receipt for his tickets, but the appellees, according to his complaint, refused to issue a receipt.

The next day, a note, written on toilet paper, was "taped on the mirrors" of both the men's and women's bathrooms, as well as on the door of the "keg room," stating: "To all that care, Paul B. the loser has paid $40 for 4 tickets to the Bob McVey. This receipt is written on T.P. because every asshole large or small needs some. JHVC." While the letters "JH" were the initials of Julie Heffner, one of the appellee Board members, it is unclear what the letters "VC" stood for. The complaint was also silent as to the where, within the Tidewater Marina, the bathrooms and the keg room were located.

Bellezza asserted, in his complaint, that this note was posted by Julie Heffner after the Board members had consulted with each other and "determined that they would humiliate" Bellezza. Despite the note's reference to Bellezza by his middle name (Paul) rather than by his first name (Anthony), and its use of only the first letter of his last name, the complaint averred that the note's reference to "Paul B." was a "clear and understood

reference" to Bellezza. What is more, "all members of the club and public," the complaint claimed, saw this note the day it was posted, September 2, 2010.

The complaint further asserted that, on that same day, another Board member, "in furtherance" of the other Board members' "desire to humiliate" Bellezza, "falsely accus[ed] [Bellezza] of speeding in the marina's parking lot." This accusation was, maintained the complaint, "published . . . to members of the Yacht Club and such false information was spread as well by the Board." But specifically how that information was spread was left to the reader's imagination.

Then, eight months later, the event that purportedly gave rise to Bellezza's second claim for false light invasion of privacy occurred. Specifically, the complaint alleged that, on May 24, 2011, "in a public venue and before the Board," appellee and Board member, David Cook, referred to Bellezza "by a reprehensible and offensive term which falsely accused him of an immoral activity which would expose him to public loathing." This statement, which Cook "knew" was "untrue," was intended, asserted the complaint, to subject Bellezza to "scorn and ridicule in the community."

The complaint further alleged that the appellees had "engaged in a civil conspiracy for the improper purpose of harming [Bellezza] and forcing him out of the Yacht Club." Among the actions undertaken in furtherance of this "civil conspiracy" were, according to the complaint, the three events that gave rise to Bellezza's two claims for false light invasion of privacy, namely, the posting of the toilet paper note, the speeding accusation, and the reference to Bellezza by a "reprehensible and offensive term."

In response, the Yacht Club and seven of the eleven Board members[4] named in Bellezza's complaint filed a motion to dismiss that complaint on the grounds that it failed to state a claim upon which relief could be granted. As for the two counts of false light invasion of privacy, they contended that Bellezza's complaint had failed to plead "publicity," an essential element of such a claim. Specifically, the complaint, they asserted, did not allege sufficient facts showing that the statements giving rise to the claims at issue met the "publicity" component of this tort.

Appellee David Cook filed a separate motion to dismiss, claiming that not only had Bellezza's claims of false light invasion of privacy failed to plead the required element of "publicity," but also that the complaint neither alleged "sufficient evidence to show that [Bellezza] was placed in a false light which was highly offensive to a reasonable person" nor met "the standards for defamation, as required by Maryland law." That motion was, in turn, followed by a motion for summary judgment filed by Tidewater Marina and a motion for dismissal filed by the three remaining individual Board members (Julie Heffner, Robert Marley, and Sheri Marley), adopting and incorporating the arguments that had been made in the motions to dismiss filed by the other appellees.

On March 26, 2013, the motion to dismiss filed by the Yacht Club and the seven Board members was heard, in chambers, by the Harford County circuit court. During that hearing, the circuit court, in response to Bellezza's charge that the motion "went outside

[4] The seven Board members who joined the Yacht Club's motion, and in its subsequent filings in the circuit court, were Bill Fitzgerald, Bruce Taylor, Candy Bossoli, Robert Bossoli, Don Clemens, Jennifer Brown, and Robert J. Mellinger.

the matters alleged in the complaint and, as such, was not ripe for a hearing," ordered the Yacht Club and the seven Board members to "re-file their motion as a motion to dismiss, or in the alternative, motion for summary judgment."

Two weeks later, in accordance with the court's order, the Yacht Club and the seven Board members filed such a motion. It contained the same contentions as the first motion with regard to Bellezza's claims for false light invasion of privacy, alleging that the "publicity" element had not been sufficiently pleaded, but, as to the count of civil conspiracy, it added that that count must be dismissed because "civil conspiracy is not recognized as a separate cause of action in Maryland" and, therefore, was improperly alleged as "a separate count."

On May 21, 2013, the circuit court held what was described in the court's docket as a "discussion in chambers" on the motions pending before it,[5] and the "matter [was] held sub curia." Then, on March 24, 2014, the circuit court granted all of the appellees' motions.

[5] At oral argument before this Court, Bellezza asserted, for the first time, that this case should be remanded "for a hearing" because the circuit court had not held a hearing "on the record" on the appellees' motions, even though Bellezza had requested a hearing. He cites Maryland Rule 2-311(f), which provides, in part, that, if a party "desiring a hearing on a motion" has requested a hearing in his "motion or response," the court "shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section." But nowhere in Bellezza's brief does he argue that it was reversible error for the circuit court to not hold a hearing on the record as requested, nor did he request that this case be remanded for that purpose. As Maryland Rule 8-504(a) requires an appellate brief to contain "[a]rgument in support of the party's position on each issue" and a "short conclusion stating the precise relief sought," we decline to consider Bellezza's contention. *See, e.g., Uninsured Emp'rs Fund v. Danner*, 388 Md. 649, 664 n.15 (2005) (declining to address an argument, made for the first time at oral argument, which was neither raised in the petition for writ of certiorari nor in any brief that was filed).

In granting those motions, the court prefaced its written opinion with the observation that the second motion requesting dismissal or, alternatively, summary judgment filed by the Yacht Club and the seven Board members was "the one that [was] properly before" it. It then further noted that all of the other appellees had "incorporated the Yacht Club's motion into their own motions" and, as such, "that motion [was] the one the court [would] primarily focus on to the extent the arguments made by the other [appellees] not a party to the motion are the same."

The court then turned to appellees' argument that Bellezza's claims for false light invasion of privacy lacked the essential element of "publicity," which, as the court noted, requires "the matter to be disclosed beyond the purview of a single individual or small group of persons." As Bellezza's complaint failed to identify "those person[s] outside the Yacht Club members to whom the [offensive] statement was transmitted and only posit[ed], generally, that anyone using the public restrooms while the note was hanging on the mirrors there could have seen it," the complaint contained "nothing more," declared the court, than "bald, conclusory allegations" with regard to "publicity." Based on Bellezza's failure to allege facts in support of a required element of the tort, the court dismissed his false light claims for failure to state a claim upon which relief could be granted.

After dismissing Bellezza's claims for false light invasion of privacy (along with the other tort claims Bellezza had alleged) for failure to state a claim upon which relief could be granted, the court then dismissed his civil conspiracy claim, explaining that civil conspiracy is "not a separate tort" and, consequently, must be based on "some unlawful or

tortious act." As all of Bellezza's other tort claims, including those for false light invasion of privacy, had been dismissed, "there [was] no overt action left upon which the conspiracy could possibly be based" and therefore it too must be dismissed, explained the court. Finally, because the remaining four Board members and the Tidewater Marina had, in the court's words, "incorporate[d] all arguments made by the Yacht Club[']s" motion into their own motions, and as that motion to dismiss had been "granted as to all counts," the court granted the Board members' motions to dismiss and Tidewater's motion for summary judgment as well.

Discussion

I.

Bellezza contends that the circuit court erred in dismissing the two counts of false light invasion of privacy contained in his complaint on the grounds that he had failed to plead "publicity," an element of that tort. He maintains that, despite this omission, his complaint alleged facts from which the element of "publicity" could be inferred.

Under Maryland Rule 2-305, a complaint setting forth a claim for relief "shall contain a clear statement of the facts necessary to constitute a cause of action and a demand for judgment for the relief sought," or face dismissal. In determining whether that rule has been met, a trial court must "assume the truth of, and view in a light most favorable to the non-moving party, all well-pleaded facts and allegations contained in the complaint, as well as all inferences that may reasonably be drawn from them." *RRC Northeast, LLC. v. BAA Md., Inc.*, 413 Md. 638, 643 (2010) (internal citations omitted). The "universe of

'facts' pertinent to the court's analysis" should be drawn from "the four corners of the complaint and its incorporated supporting exhibits, if any." *Id.* at 643–44. Moreover, the facts setting forth the cause of action "must be pleaded with sufficient specificity; bald assertions and conclusory statements by the pleader will not suffice." *Id.* at 644. And, finally, once a circuit court has granted a motion to dismiss a complaint for failure to state a claim upon which relief may be granted, our review is limited to whether the court's decision was legally correct. *Id*. at 643.

This Court has adopted the definition of "false light invasion of privacy" set forth in Section 625E of the Restatement (Second) of Torts. *Bagwell v. Peninsula Reg'l Med. Ctr.*, 106 Md. App. 470, 513–14 (1995). That section defines the tort of "false light invasion of privacy" as follows:

> One who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability to the other for invasion of his privacy, if
>
> (a) the false light in which the other was placed would be highly offensive to a reasonable person, and
>
> (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.

Although this section of the Restatement does not expressly define "publicity," a comment that attends that section specifically advises that "Comment a" to another section, that is, section 625D, does. Section 652D of the Restatement defines the tort of "Publicity Given to Private Life," which requires the giving of "publicity to a matter concerning the private life of another . . . if the matter publicized is of a kind that (a) would be highly

offensive to a reasonable person, and (b) is not of legitimate concern to the public." Then, as to the element of "publicity," an essential component of that tort, "Comment a" explains:

> "Publicity," as it is used in this Section, differs from "publication," as that term is used . . . in connection with liability for defamation. "Publication," in that sense, is a word of art, which includes any communication by the defendant to a third person. "Publicity," on the other hand, means that the matter is made public, by communicating it to the public at large, or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge. The difference is not one of the means of communication, which may be oral, written or by any other means. It is one of a communication that reaches, or is sure to reach, the public.
>
> Thus it is not an invasion of the right of privacy . . . to communicate a fact concerning the plaintiff's private life to a single person or even to a small group of persons. On the other hand, any publication in a newspaper or a magazine, even of small circulation, or in a handbill distributed to a large number of persons, or any broadcast over the radio, or statement made in an address to a large audience, is sufficient to give publicity within the meaning of the term as it is used in this Section. The distinction, in other words, is one between private and public communication.

In accordance with this description, we have said that "publicity," in the context of "false light invasion of privacy," means that the "disclosure of the private facts must be a public disclosure, and not a private one," *Furman v. Sheppard*, 130 Md. App. 67, 77 (2000) (quoting *Hollander v. Lubow*, 277 Md. 47, 57 (1976)), a sentiment reiterated by the United States District Court for Maryland in *Henderson v. Claire's Stores, Inc.*, 607 F.Supp.2d 725 (D.Md. 2009). There, that federal district court explained that the "publicity" element is not satisfied when the statement placing a person in a false light is communicated only "to a single person or even to a small group of people.[6]" *Id.* at 733. The communication

[6] The requirement that the communication be made to more than one person distinguishes the tort of false light invasion of privacy from the tort of defamation. (cont.)

must be, it surmised, "sufficiently broad such that the fact becomes one of public knowledge." *Id.* It then went on to speculate that the publicity element might be satisfied if the defendant tortfeasor "broadcasted insults about [the plaintiff] over a loudspeaker or . . . insulted [the plaintiff] in a voice loud enough to permit everyone in [a] store to hear." *Id.* Or it might be met by sending a letter containing a false statement about the plaintiff "to a large group of people." *Mazer v. Safeway, Inc.*, 398 F.Supp.2d 412, 431 (D.Md. 2005).

A.

With the foregoing description of the element of "publicity" in mind, we return to the two counts of false light invasion of privacy in Bellezza's complaint. The first of those counts focused on both the posting of the toilet paper note and the accusation that Bellezza had been speeding in the parking lot of the Tidewater Marina. We hold, as did the circuit court, that Bellezza's complaint did not set forth sufficient facts to plead the required element of "publicity" for this count, because the facts alleged in Bellezza's complaint do not establish that those statements were, in the words of the Restatement, communicated

(cont.) To prove defamation a plaintiff must establish four elements: "(1) that the defendant made a defamatory statement to a third person, (2) that the statement was false, (3) that the defendant was legally at fault in making the statement, and (4) that the plaintiff thereby suffered harm." *Offen v. Brenner*, 402 Md. 191, 198 (2007). While a claim for false light invasion of privacy must also satisfy the elements of a claim for defamation, *Piscatelli v. Smith*, 424 Md. 294, 306 (2012), a claim for false light invasion of privacy also requires disclosure to more than one person, or even a group of persons, although a disclosure to even one other person would be sufficient for a defamation claim.

"to the public at large," or to enough people that they were "substantially certain to become . . . public knowledge."

As for the toilet paper note, the only statements in the complaint regarding the publicity generated by that note were that the note was "publically posted," with the speculation that "all members of the club and public saw" the note. Nowhere in the complaint was there the slightest indication of how many copies of this note were posted, for what period of time they were posted, or who actually saw the note, if anyone other than the poster of the note and Bellezza. In fact, even though the complaint did indicate on what surfaces the notes were posted—"on the mirrors" of the men's and women's bathrooms and on the door of the "keg room"—it gave no hint as to where, within the marina, the bathrooms and keg room were located, and, thus, whether those locations were readily accessible to the general public. Moreover, after stating that "all members of the club and public" saw the note, the complaint did not provide the slightest indication of how many members of the Yacht Club there were,[7] or any indication as to the number of visitors to the marina, who might have viewed the note on the day it was posted.

[7] While Bellezza contends, in his brief, that the Yacht Club's membership is "extensive" and that the "club membership itself could be considered a large enough group to warrant the label of publication," his complaint made no such assertion. Moreover, although, as Bellezza points out, the Yacht Club did include, as an exhibit to its reply to Bellezza's opposition to its motion to dismiss, a "2011 yearbook" that included a fourteen-page membership list, that document, contrary to what Bellezza suggests, was of no relevance to the issue before the circuit court. In considering a motion to dismiss for failure to state a claim, the "universe of pertinent to the court's analysis of the motion [is] limited generally to the four corners of the complaint and its incorporated supporting exhibits, if any." *RRC Northeast, LLC. v. BAA Md., Inc.*, 413 Md. 638, 643–44 (2010) (internal (cont.)

Without more, the complaint's assertion that "all members of the club and public" saw a note that was taped in two bathrooms and on one door, somewhere within the Tidewater Marina, did not satisfy the "publicity" element of a claim of false light invasion of privacy. As appellees point out, the taping of a note to mirrors and a door is strikingly different from the publication of facts in a newspaper of general circulation, the broadcasting of a remark over the radio, or the distribution of handbills to a large number of persons—the examples, provided by the Restatement, of "publicity" necessary to support a claim of false light invasion of privacy. In short, the mere posting of a note at several locations was not sufficient to support the claim that the statement contained in the note was, as expressed by the Restatement, communicated to the public or "substantially certain to become . . . public knowledge," particularly when, as we have noted, there was no indication of the degree of visibility or public accessibility of those locations, how long the notes were posted, the size of the membership of the Yacht Club, or whether, as will be discussed later in more detail, Bellezza was known to others as "Paul B.," that is, his middle name and the first initial of his last name, or could be readily identified by that designation.

Nor does Bellezza's reliance on *Harris v. Easton Pub. Co.*, 483 A.2d 1377 (Pa.Super.Ct. 1984), a decision of the Superior Court of Pennsylvania, persuade us otherwise. In that case, the plaintiff, Brigitte Harris, "filled out an application for medical

(cont.) citations omitted). Bellezza's complaint, the focus of the circuit court's review, was silent as to the number of members of the Yacht Club.

assistance and food stamps," on behalf of herself and several members of her family, and submitted it to the Pennsylvania Department of Welfare. *Id.* at 1381. She subsequently withdrew her application because she refused to allow a Department "caseworker" to "photocopy certain documents" and because "there was some question regarding [her] household size." *Id.* After withdrawing her application, Harris called the Department to discuss "her difficulties in applying for benefits." *Id.* The Department then "altered some of the facts in order to disguise" the identities of Harris and her family "and fashioned a fictionalized account of the inquiry," which it then "sent to various newspapers in northeast Pennsylvania for inclusion as part of a public service column regularly provided by the Department." *Id.*

Harris brought an action against the Easton Publishing Company for "unreasonable intrusion upon [her] seclusion" and "publicity given to [her] private [life]," as it had published the Department's fictionalized account in its "general circulation" newspaper. *Id.* For reasons not explained by the Pennsylvania intermediate appellate court, the trial court granted summary judgment in the publishing company's favor, a ruling it promptly reversed. *Id.* at 1381, 1388.

In so doing, Pennsylvania's Superior Court addressed the question of "whether the evidence as presented satisfies the element of publicity, as a matter of law." *Id.* at 1385. The Restatement's definition of "publicity," that court noted, "requires that the matter is made public, by communicating it to the public at large, or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge." *Id.*

at 1384. Although Harris's complaint indicated that the column had been published in the Easton Publishing Company's "general circulation newspaper," that fact standing alone, the court was quick to point out, was "insufficient to establish publicity." *Id.* at 1385. The facts printed in the newspaper, the Pennsylvania court explained, "must necessarily be identified" with Harris, for, "[a]bsent an ability to identify the complainant, there can be no communication and hence, no publicity." *Id.* Thus, the issue in *Harris* was not the number of persons who had seen the column in the newspaper, but the number of persons who were able to identify Harris from the facts set forth in the column. *Id.*

To answer that question, Harris's complaint had "alleged that from the information which appeared in the column, numerous persons had indicated" to Harris that, "from reading the column, they had immediately recognized" her as the subject of the "purportedly fictional" account. *Id.* at 1382. Then, in her answers to the defendant's interrogatories, she listed seventeen people who had identified her from the column. *Id.* "Under the facts of this case . . . the communication to seventeen individuals," the Pennsylvania court declared, "is a large enough group that the matter must be regarded as substantially certain to become one of public knowledge." *Id.* at 1385. The case was nevertheless remanded for further proceedings on Harris's claim for publicity given to her private life, notwithstanding the court's determination that the "element of publicity ha[d] been established" as a matter of law, because there remained a genuine dispute of material fact as to whether "the publicity given to these facts was highly offensive to a reasonable person." *Id.* at 1385–87.

Bellezza relies on *Harris* for the proposition that the viewing of the toilet paper note by "seventeen individuals would have been sufficient to meet the [publicity] element" for his claim for false light invasion of privacy. Asserting, without elaboration, in his brief that the Yacht Club has an "extensive" membership, Bellezza contends that the statement, in his complaint, that all the members of the Yacht Club viewed the note was sufficient to establish "publicity." But Bellezza's reliance on *Harris* is misplaced.

To begin, as we have noted, it is not at all clear, despite the complaint's assertion that "all members of the club and public" saw the note, how many people could have seen the note, whether that number was seventeen or less. But, more importantly, the *Harris* decision turned, not on the number of people who saw the newspaper column, but on whether a significant number of people could identify Harris from the facts in the column, such that "the matter must be regarded as substantially certain to become one of public knowledge." *Id.* at 1385.

Bellezza's complaint alleged no facts showing that members of the public or of the Yacht Club could identify him as the subject of the note. It merely asserted that "the 'Paul B.' on the toilet paper was a clear and understood reference" to him, without providing any information as to why this was so, given that the note did not refer to Bellezza by either his first or last name but by his middle name and the first letter of his last name; did not identify Bellezza as a member of the Yacht Club; and did not contain other identifying characteristics beyond a reference to "Paul B." And, by failing to proffer facts indicating

that members of the public could identify Bellezza as the subject of the note, Bellezza's complaint did not adequately allege the element of "publicity."[8]

The second event that gave rise to Bellezza's first claim of false light invasion of privacy was the accusation that Bellezza was speeding in Tidewater Marina's parking lot. Although the complaint asserted that this accusation was "published . . . to members of the Yacht Club," there is no indication of how, when, or where it was transmitted, or specifically to whom. Moreover, though the complaint did allege that the speeding allegation was "spread as well by the Board," it gave no indication of the number of people to whom it was communicated or whether it became, or was sure to become, a matter of public knowledge.

[8] Although the circuit court relied solely on the failure to adequately allege facts constituting "publicity" in dismissing the first false light count of Bellezza's complaint, this count, at least as it pertains to the toilet paper note, was deficient in one other respect: there was no allegation that anything in that note was "false." Truth of a statement is a complete defense to a false light claim. *Furman v. Sheppard*, 130 Md. App. 67, 77 (2000). Here, the note's statement that Bellezza had paid $40 for tickets to an upcoming race was, in fact, true. And as for the remaining statements in the note, that Bellezza was a "loser" and an "asshole," "the common law" of defamation "has always differentiated sharply between genuinely defamatory communications as opposed to obscenities, vulgarities, insults, epithets, name-calling, and other verbal abuse." R.A. Smolla, *Law of Defamation*, § 4:7 (1986, 1998 Supp.). Indeed, a statement does not rise to the level of defamation "simply because the subject of the publication finds the publication annoying, offensive, or embarrassing." *Id.* The note's references to Bellezza as a "loser" and an "asshole" appear to be precisely the kind of name-calling that does not amount to defamation. *Cf. Meier v. Novak*, 338 N.W.2d 631, 635 (N.D. 1983) (holding that a reference to the plaintiff as an "asshole" was not slanderous or defamatory). As such, these statements also fail to sustain an action for false light invasion of privacy, as such a claim must "meet the same legal standards as an allegation of defamation." *Piscatelli*, 424 Md. at 305.

In sum, Bellezza's complaint did not set forth sufficient facts to support its first count of false light invasion of privacy, as it failed to proffer any facts showing that the statements made could be identified with him, were communicated to the public at large, or were certain to become public knowledge. Hence, the circuit court did not err in dismissing that count based on the failure to adequately allege facts in support of the required element of publicity.

B.

Bellezza's second false light count was based on the claim that appellee and Yacht Club Board member David Cook, in a "public venue and before the Board," referred to Bellezza "by a reprehensible and offensive term" and "falsely accused him of an immoral activity." But this count of false light invasion of privacy suffered from the same flaw exhibited by the first count. That is, it, too, failed to plead facts sufficient to establish "publicity." Indeed, the complaint contained no facts indicating that Cook's statement had reached the public at large or was substantially certain to become public knowledge.

To begin with, there was no indication in the complaint of the nature or character of this "public venue" or where it was located. And, although the "venue" itself may have been of a public nature, the complaint was silent as to whether members of the public were actually present and had overheard Cook's remark. Moreover, although the statement was allegedly made "before the Board," there was no indication of how many individuals comprised the Board or how many members were actually present at the "public venue" when this remark was made. And while Cook's remark may have been intended to harm

Bellezza's "reputation among his peers and within his community," there was no allegation that the comment—whatever its content—ever reached the community at large or that Bellezza's reputation suffered as a result of Cook's statement.

In sum, Bellezza's second count of false light invasion of privacy was not supported by any facts establishing that "publicity" had occurred. It was therefore not error for the circuit court to dismiss this count for failure to state a claim.

II.

Bellezza contends that, because his claims for false light invasion of privacy should be "reinstated," we must find that the circuit court erred in dismissing his claim for civil conspiracy. Appellees respond that, as all the other counts of Bellezza's complaint, including the two false light claims, were dismissed, there was no "underlying tort" upon which an action for civil conspiracy could be based and thus the circuit court did not err in dismissing that claim as well.

A claim of civil conspiracy requires proof of three elements: (1) "a confederation of two or more persons by agreement or understanding"; (2) "some unlawful or tortious act done in furtherance of the conspiracy or use of unlawful or tortious means to accomplish an act not in itself illegal"; and (3) "actual legal damage resulting to the plaintiff." *Lloyd v. Gen. Motors Corp.*, 397 Md. 108, 154 (2007). But civil conspiracy is not a "separate tort capable of independently sustaining an award of damages in the absence of other tortious injury to the plaintiff." *Alleco, Inc. v. Harry & Jeanette Weinberg Found., Inc.*, 340 Md. 176, 189 (1995) (quoting *Alexander v. Evander*, 336 Md. 635, 645 n.8 (1994)).

In other words, "it is not . . . for simply conspiring to do the unlawful act that the action lies," but rather it is "for doing the act itself, and the resulting actual damage to the plaintiff, that afford the ground of the action." *Id.* at 190 (quoting *Kimball v. Harman & Burch*, 34 Md. 407, 409–11 (1871)). For that reason, civil conspiracy has been described as a "parasite tort" that "cannot stand alone." *Kramer v. Mayor of Balt.*, 124 Md. App. 616, 642 (1999).

Once the circuit court had dismissed all the tort claims alleged in Bellezza's complaint, it found that there was "no overt action left upon which the conspiracy could possibly be based." That is to say, that, since civil conspiracy is not a separate tort, it must be dismissed in the absence of an underlying tort. As we have held that Bellezza's claims for false light invasion of privacy were properly dismissed by the circuit court, we find that the circuit court did not err in dismissing Bellezza's claim for civil conspiracy, given that there was no underlying tort to support that claim.

III.

Finally, there is one procedural wrinkle in this case that we feel compelled to address, briefly. While nearly all appellees filed, or joined in the filing of motions to dismiss, Tidewater Marina filed only a motion for summary judgment. But, in that motion, it "adopt[ed] and incorporat[ed] by reference the reasons set forth "in the motions to dismiss filed by all other appellees,[9] as acknowledged by the circuit court. Thereafter, in

[9] Tidewater Marina's only independent contention in its motion was that "Bellezza [did] not even mention Tidewater" in the counts for civil conspiracy, "improper (cont.)

its written opinion, the circuit court analyzed and dismissed each count of Bellezza's complaint before reaching Tidewater's motion for summary judgment. It then stated that, having "already addressed the various counts and arguments for dismissal" and "dismissed all counts of [Bellezza's] complaint," the motion for summary judgment would "also be granted."

We review a circuit court's grant of a motion for summary judgment de novo and, if there is no dispute of material fact, we determine whether the circuit court correctly granted summary judgment as a matter of law. *Ross v. State Bd. of Elections*, 387 Md. 649, 659 (2005). Bellezza does not contend, before this Court, that the circuit court erred in granting Tidewater's motion for summary judgment because there existed a dispute of material fact. In fact, he acknowledges that Tidewater's motion was granted because the circuit court had already dismissed all the counts of his complaint. He therefore claims that, because the dismissal of his claims for false light invasion of privacy and civil conspiracy was erroneous, that the grant of summary judgment as to those counts was erroneous as well.

But, as explained, the court did not err in dismissing the two counts of false light invasion of privacy on the grounds that Bellezza's complaint had not stated a claim for which relief could be granted, and did not err in dismissing the civil conspiracy count on the grounds that there was no underlying tortious act. And, once all of the counts of

(cont.) appropriation of name or likeness," and breach of contract, and that there was no allegation in any of those counts "that Tidewater was in any way involved in that alleged activity."

Bellezza's complaint had been dismissed and there were no claims pending against Tidewater left for the circuit court to address, Tidewater was entitled to judgment as a matter of law.

JUDGMENT OF THE CIRCUIT COURT FOR HARFORD COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.