Circuit Court for Anne Arundel County
Case No.: C-02-CV-22-000854

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 513

September Term, 2024

DDL GROUP, LLC

v.

GLORIA DENT

Tang,
Albright,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: May 9, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant, DDL Group, LLC ("DDL"), appeals the grant by the Circuit Court for Anne Arundel County of a motion for judgment in favor of appellee, Gloria Dent. DDL presents four questions for this Court's review,[1] which we have consolidated and rephrased, as follows:

1. Did the circuit court err in finding that DDL failed to make a prima facie case for defamation?

2. Did the circuit court err in requiring evidence of harm in a per se defamation case, and if not, did the court err in refusing to admit testimony concerning harm?

For the reasons that follow, we affirm the circuit court's grant of the motion for judgment.

BACKGROUND

Carolyn Davis ("Carolyn")[2] is the CEO of DDL. Other DDL officers include President Correy Davis ("Correy") and Vice President Warwin Davis ("Warwin"). Carolyn met appellee, Gloria Dent, through Melvin Woodard, a DDL employee who suggested that it would be a good idea for Carolyn's and Dent's companies to work together. Dent was not a DDL employee at the time.

[1] DDL presented the following questions on appeal:

1. Whether the trial court erred in finding DDL had not provided evidence of a defamatory statement to a third party.
2. Whether the trial court erred by finding DDL failed to establish malice.
3. Whether the trial court erred in requiring evidence of harm in a *per se* defamation case.
4. Whether the trial court erred in refusing to admit testimony concerning harm.

[2] Where individuals share surnames, we refer to them by their forenames for the sake of clarity, and intend no disrespect in doing so.

At some point, the United States Air Force ("USAF") engaged DDL to provide construction services at Andrews Air Force Base.[3] Specifically, DDL won a bid for the mechanical hangar renovation for Air Force One. Federal contracts like this one are managed by individuals known as "contracting officers." Anita Brown ("Ms. Brown"), a contracting officer with USAF, contacted Carolyn to inform her that DDL had won the contract. At some point, Dent reached out to Carolyn and recommended the services of her brother, Gregory Wilson, on the Andrews Air Force Base project. Wilson worked as a subcontractor on the project "on and off" for "months."[4] However, he was eventually terminated from the project in an email dated October 30, 2021. Carolyn gave several reasons for Wilson's termination, explaining that he "was caught several times sleeping on the job[;]" that he "constantly" referred to Carolyn as "baby," "sweetheart," and "honey[,]" which she considered to be sexual harassment; and that he provided confidential information to "people outside of the company" when he was not authorized to do so.

Following his termination by DDL, Wilson sent numerous emails to Correy over the next few months requesting payment for his work. Then, on April 27, 2022, Wilson emailed Ms. Brown, requesting a form to file a complaint against DDL for the balance due for work performed at Andrews Air Force Base. He claimed that he was owed $28,000 for

[3] It is unclear from the record exactly when this occurred.

[4] Carolyn testified that she could not recall when Wilson started working for DDL. However, the record suggests that Wilson had worked for DDL for five months at the time he was terminated, which would place his start date around May of 2021.

the work. Shortly thereafter, Wilson forwarded this email to several email addresses that, according to Carolyn's testimony, belonged to Correy, Carolyn, Warwin, and Dent.[5]

Correy responded to that email on April 28, 2022, wherein he disputed Wilson's allegations and informed him that DDL's attorney was cc'd on the email. Correy also questioned why Dent was included on Wilson's email, claiming that "[s]he is the cause of this problem for recommending you in the first place knowing you were unqualified, and misrepresenting your capabilities." Importantly, Correy also cc'd Ms. Brown on this email.

Later on April 28, 2022, Dent responded to Correy's email. Her response included a litany of allegations against DDL, including that (1) DDL failed to pay Wilson for work performed; (2) DDL violated "the Department of Labor, IRS, and the FAR"[6] by failing to pay their employees on time; (3) DDL is a "desperate and underfunded poor performing company"; (4) DDL "lied to" and "falsely terminated" Wilson; and (5) DDL's "business practices are unethical." Dent's response was sent to Correy, Warwin, Carolyn, Wilson, Woodard, the parties' attorneys, and, importantly, Ms. Brown.

Correy responded to that email later on April 28, 2022. In his response, he informed Dent that her "insults are falling on deaf ears, considering YOUR own reputation[.]" Correy again explained that Wilson would "not be receiving any more money from this

[5] Wilson forwarded his email to the following email addresses:

(1) correy.davis@ddlgroupllc.org;
(2) cdavis@cdagroupinternational.com;
(3) warwin.davis@ddlgroupllc.org; and
(4) gloria.d.dent@gmail.com.

[6] FAR stands for "Federal Acquisition Regulations." Carolyn described the FAR as "the Bible for U.S. government contracting," containing "all the legal requirements for contract performance[.]"

company," and suggested that if Dent wanted to "go there with a fight with your Attorney," she should "bring it on."

Then, on April 29, 2022, Dent responded to Correy. In this response, Dent again alleged that DDL failed to pay Wilson. Additionally, she alleged that Correy's email threads were "a threat, stalking and harassment." She warned that all future responses should be directed to her attorney.

Instead of directing his response to her attorney, Correy again responded directly to Dent later that day. In this final response, he provided Dent with his phone number, which he suggested she call "if you need confirmation of my existence." Then, he asked Dent to "tell your brother to stop including you on emails and dragging you into this situation[,]" and to "advise him to stop harassing this company."

On May 20, 2022, DDL filed a Complaint for Defamation against Dent, alleging that Dent made "several defamatory statements" to Ms. Brown "concerning DDL's payment of subcontractors, performance as a company and overall contractor responsibility, and DDL's ostensible failure to comply with certain laws." The complaint alleged that the statements were "made in writing to third persons" and were "unequivocally false[,]" that Dent made the statements "purposefully and knowingly[,]" and that "DDL suffered harm to its reputation and status in the community[.]"

Trial commenced on DDL's defamation claim on April 9, 2024, in the Circuit Court for Anne Arundel County. DDL's case-in-chief hinged on Dent's email and Carolyn's testimony, which took the balance of the first day of trial to complete. At the end of the first day of trial, DDL rested their case.

On the morning of April 10, 2024, while Carolyn and Woodard were on their way to court for the second day of trial, Woodard suffered an apparent heart attack which then led to a car accident. This forced him and Carolyn to go to the hospital and miss the second day of trial. Apparently shaken by the accident, Carolyn initially indicated that she wished to dismiss the case against Dent. However, after Dent's counsel indicated that he would seek attorney's fees as a sanction if the case was dismissed, Carolyn instead sought a continuance until the next day. The circuit court initially appeared inclined to grant the continuance, but at the urging of Dent's counsel, the court instead decided to consider Dent's motion for judgment. After hearing argument from both parties, the circuit court granted Dent's motion for judgment, finding that DDL failed to make a prima facie case for defamation.

DDL filed a timely notice of appeal on May 9, 2024.

STANDARD OF REVIEW

Maryland Rule 2–519 states that "[a] party may move for judgment on any or all of the issues in any action at the close of the evidence offered by an opposing party, and in a jury trial at the close of all the evidence." Md. Rule 2–519(a). "[W]hen a defendant moves for judgment based on ... the legal insufficiency of the plaintiff's evidence, the trial judge must determine if there is any evidence, no matter how slight, that is legally sufficient to generate a jury question[.]" *Webb v. Giant of Md., LLC*, 477 Md. 121, 136 (2021) (quoting *Thomas v. Panco Mgmt. of Md., LLC*, 423 Md. 387, 394 (2011)). On a motion for judgment, "[t]he court considers the evidence and reasonable inferences drawn from the evidence in the light most favorable to the non-moving party." *Id.* (quoting *Sugarman v. Liles*, 460 Md.

396, 413 (2018)). "It is only when the facts and circumstances only permit one inference with regard to the issue presented, that the issue is one of law for the court and not one of fact for the jury." *Id.* (quoting *Thomas*, 423 Md. at 394).

"We review the trial court's decision to grant or deny a motion for judgment in a civil case without deference." *Id.* (quoting *Sugarman*, 460 Md. at 413). In so doing, "[w]e conduct the same analysis that [the] trial court should make when considering the motion for judgment." *Id.* (quoting *District of Columbia v. Singleton*, 425 Md. 398, 406–07 (2012)).[7]

DISCUSSION

I. Law of Defamation

To make a prima facie case of defamation, a plaintiff must "ordinarily establish" the following four elements: (1) "the defendant made a defamatory statement to a third person;" (2) "the statement was false;" (3) "the defendant was legally at fault in making the statement;" and (4) "the plaintiff thereby suffered harm." *Seley-Radtke v. Hosmane*, 450 Md. 468, 471 n.1 (2016) (quoting *Gohari v. Darvish*, 363 Md. 42, 54 (2001)).

A. Defamatory Statement

A defamatory statement is one "which tends to expose a person to public scorn, hatred, contempt or ridicule, thereby discouraging others in the community from having a good opinion of, or from associating or dealing with, that person." *Batson v. Shiflett*, 325

[7] DDL argues that this Court should limit its review to the first element of the prima facie case for defamation since the circuit court decided the motion for judgment on that element. However, because our review is de novo, we decline to limit our review to the first element, and we consider the prima facie case in its totality.

Md. 684, 722–23 (1992). Maryland recognizes a distinction between defamation per se and defamation per quod. *Samuels v. Tschechtelin*, 135 Md. App. 483, 548–49 (2000); *Shapiro v. Massengill*, 105 Md. App. 743, 773 (1995). A statement is defamatory per se if it is defamatory on its face; a statement is defamatory per quod if extrinsic facts are needed to establish that it is defamatory. *Samuels*, 135 Md. App. at 549. "The determination of whether an alleged defamatory statement is per se or per quod is a matter of law." *Shapiro*, 105 Md. App. at 773.

False statements denigrating a person's professional competence, or that otherwise negatively affect that person's employability or community reputation, are classic examples of defamation per se. *See generally Shapiro*, 105 Md. App. at 775 (recognizing that defamation may be predicated on a false statement impairing or harming the plaintiff's trade or livelihood by "adversely affect[ing] [his] fitness for the proper conduct of his business"). For instance, this Court has recognized as defamatory per se a statement by a stadium vendor that an usher "is a thief[,]" *Carter v. Aramark Sports and Ent. Servs., Inc.*, 153 Md. App. 210, 238 (2003); a college president's statement that a professor was discharged for "poor performance[,]" *Samuels*, 135 Md. App. at 544, 550; and a union agent's statement insinuating that a union member "was untrustworthy and not a fit person to perform the type of work in which he specialized; that is, the installation of safes, bank vaults, safe deposit boxes, and other similar items." *Nistico v. Mosler Safe Co.*, 43 Md. App. 361, 367 (1979).

In an instructive case involving defamatory statements bearing on a professional practice, a law firm principal's statements to firm employees that a discharged attorney

was "the 'subject' and the 'target' of a criminal investigation[,]" "could be indicted[,]" "had intentionally concealed this damaging information[,]" and "was evasive, secretive, dishonest, dishonorable, and perhaps even a criminal" were defamatory per se because they "impute ... incapacity or lack of due qualification" that "would disqualify him or render him less fit properly to fulfill the duties incident' to the practice of law." *Shapiro*, 105 Md. App. at 775, 777 (citations and quotation marks omitted).

B. Falsity

"A false statement is one that is not substantially correct." *Batson*, 325 Md. at 726. The plaintiff has the burden of proving falsity. *Id.* In *Lindenmuth v. McCreer*, 233 Md. App. 343 (2017), we held that the plaintiff, Lindenmuth, failed to produce any evidence of falsity where "the undisputed facts demonstrate[d] that McCreer accurately relayed to his supervisor what [a] co-worker said to McCreer about Lindenmuth." *Lindenmuth*, 233 Md. App. at 361 (cleaned up). Since "Lindenmuth could point to no evidence that would have contradicted these facts[,]" we held that he did not meet his burden of proving falsity, and therefore could not establish a prima facie case of defamation. *Id.*

C. Fault

"'Fault,' for the purposes of the prima facie case, may be based either on negligence or constitutional malice." *Shapiro*, 105 Md. App. at 772. Constitutional malice, which is also referred to as actual malice, must be "established by clear and convincing evidence that a statement was made 'with knowledge that it was false or with reckless disregard of whether it was false or not.'" *Amalgamated Transit Union v. Lovelace*, 441 Md. 560, 575

n.12 (2015) (quoting *Batson*, 325 Md. at 728). "In contrast, negligence need only be shown by a preponderance of the evidence." *Shapiro*, 105 Md. App. at 773.

D. Harm

"The significance of whether the defamation is per se or per quod is intertwined with the issue of fault." *Shapiro*, 105 Md. App. at 773. The importance of this distinction in satisfying the final element of harm was set forth in *Samuels*:

> If the statement is per quod, then the jury must decide whether the statement does, in fact, carry defamatory meaning. But if the statement is defamatory per se, and the defendant was merely negligent in making the false statement, the plaintiff must still prove actual damages. In contrast, when a plaintiff establishes that a statement was defamatory per se and, by clear and convincing evidence, demonstrates that it was made with actual malice, a presumption of harm to reputation ... arises from the publication of words actionable per se. A trier of fact is not constitutionally barred from awarding damages based on that presumption in [an actual] malice case. In other words, if the statement is defamatory per se, damages are presumed when a plaintiff can demonstrate actual malice, by clear and convincing evidence, even in the absence of proof of harm.

Samuels, 135 Md. App. at 549–50 (citations and quotation marks omitted).

To put it more succinctly, a statement satisfies the first element if it is defamatory per se. Additionally, if the statement was made with actual malice, then it also satisfies the third and fourth elements. But if the defamatory statement was merely the product of negligence, then the third element is satisfied, but the fourth element—harm—must still be proven by extrinsic evidence. Thus, contrary to DDL's assertions, the fact that a statement is defamatory per se does not automatically obviate the need for evidence of harm. Only if the statement is both defamatory per se *and* made with actual malice are damages presumed.

II. DDL Failed to Make a Prima Facie Case of Defamation Against Dent

To reiterate the standard of review in this case, this Court must reverse the circuit court's order granting Dent's motion for judgment "if there is any evidence, no matter how slight, that is legally sufficient to generate a jury question" as to *each* element of defamation. *Webb*, 477 Md. at 136 (quoting *Thomas*, 423 Md. at 394). However, this Court will affirm the circuit court's order if DDL failed to make a prima facie case of defamation in its case-in-chief.

Here, the first element is satisfied because Dent's statements were defamatory per se, and they were communicated to a third party. In her email, Dent accused DDL of (1) violating federal law by failing to pay its employees on time; (2) being an "underfunded poor performing company;" (3) lying to and falsely terminating Wilson; and (4) having unethical business practices. These statements clearly denigrated DDL's professional competence and, if believed, would negatively affect DDL's reputation in the community. Making matters even worse, the third party to whom Dent sent the email was Ms. Brown, USAF's contracting officer overseeing the Andrews Air Force Base Project. Carolyn testified that successful performance and smooth operations under one federal contract is often a factor in a company receiving additional contracts. Viewing the evidence in the light most favorable to DDL, the non-moving party, this Court can infer that seeing such

disparaging statements about DDL's business practices would make USAF less likely to award contracts to DDL in the future.[8] Thus, the statements were defamatory per se.[9]

The second element is also satisfied because there was evidence that the defamatory statements were not substantially correct. Carolyn testified that DDL has never been charged by the IRS or the Department of Labor for failing to pay its employees on time, nor was she aware of any investigation into DDL by any agency for failure to pay its employees on time. She also testified that DDL was able to financially meet the requirements of performing on the Andrews Air Force Base project, that DDL had sufficient resources in order to carry out its operations, and that DDL has never been identified as failing to properly perform its contracts. Finally, she testified that the federal government never brought to DDL's attention that it was engaging in unethical business practices, and that Dent's statements to that effect were false. To defeat a motion for judgment, the non-moving party need only point to "any evidence, no matter how slight, that is legally sufficient to generate a jury question[.]" *Webb*, 477 Md. at 136 (quoting *Thomas*, 423 Md. at 394). Thus, while it is merely the testimony of one witness, Carolyn's testimony is still sufficient to generate a jury question on the falsity of Dent's statements.

[8] Carolyn testified to this potential outcome, explaining that "in government contracting, any email to a federal employee really becomes a part of the permanent record. Even if Ms. Anita Brown leaves the service of the Air Force, her emails are still the property of the U.S. government and would be available for review" by other individuals in the government.

[9] Dent argues that the first element fails because there was no evidence that the statements were actually sent by Dent or received by Ms. Brown. However, Carolyn testified that the statements were sent from an email address belonging to Dent, and that after the email was sent, Ms. Brown forwarded a copy of the email to Carolyn, indicating that she had received it. This testimony is sufficient for purposes of the prima facie case.

The third element was not satisfied, however, because there was no evidence of negligence or actual malice. Counsel for DDL never mentioned negligence in their arguments to the circuit court, nor did Carolyn's testimony include any evidence that Dent negligently sent the defamatory statements to Ms. Brown. Rather, DDL focused its argument on proving malice. As explained earlier, actual malice is "established by clear and convincing evidence that a statement was made 'with knowledge that it was false or with reckless disregard of whether it was false or not.'" *Amalgamated Transit Union*, 441 Md. at 575 n.12 (quoting *Batson*, 325 Md. at 728). "Clear and convincing evidence 'must be more than a mere preponderance but not beyond a reasonable doubt.'" *Att'y Grievance Comm'n of Md. v. Smith*, 376 Md. 202, 229 (2003) (quoting *Att'y Grievance Comm'n of Md. v. Harris*, 366 Md. 376, 389 (2001)).

In support of its argument that Dent made the statements either knowing they were false or with reckless disregard as to whether they were false, DDL points to Carolyn's testimony that

> Dent would not have had any basis to know of [DDL's] payroll or payments to employees, its financial statements, its income or contracts, its performance on contracts, its business practices, or its funding. She had no role with the company, had not worked for the company and other than an occasional effort to develop work for their respective companies, Dent had no relationship to DDL.

First, even accepting Carolyn's testimony as true, it fails to provide evidence that Dent actually *knew* her statements were false when she made them. At most, Carolyn's testimony indicates that at the time Dent made the defamatory statements, she did not have enough information to know whether the statements were true, given her limited relationship with DDL. However, testimony that Dent did not have enough information to know her

statements were true is *not* the same as proving that Dent actively knew her statements were false, which is what the actual malice standard requires.

Additionally, Carolyn's testimony does not provide any evidence that Dent made the statements with "reckless disregard" of whether they were false or not. The Supreme Court of Maryland explained how the "reckless disregard" standard should be applied in *Attorney Grievance Commission of Maryland v. Stanalonis*, 445 Md. 129 (2015):

> [R]eckless disregard for truth or falsity is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact *entertained serious doubts* as to the truth of his publication. Publishing with such doubts shows reckless disregard for truth or falsity.... The subjective test thus focuses on *what the defendant personally knew and thought*.

Stanalonis, 445 Md. at 143 (citations and quotation marks omitted) (emphasis added). Carolyn's testimony provides no evidence of what Dent knew or thought, nor does it indicate whether Dent "entertained serious doubts as to the truth" of her statements before she sent them in the email. *Id.* Dent may have believed her statements to be true, even if she did not have a sufficient relationship with DDL to know for sure. Thus, DDL failed to make a prima facie case of defamation against Dent, because there was no evidence that Dent was "legally at fault in making the statement[.]" *Seley-Radtke*, 450 Md. at 471 n.1 (quoting *Gohari*, 363 Md. at 54).

Since the prima facie case fails on the third element, the final element—harm—is irrelevant. However, even if there was evidence of negligence, DDL still failed to prove damages. Carolyn testified that DDL has not "gotten any work" since Dent sent her defamatory statements to Ms. Brown. She added, "I don't think that's the – maybe it's not

as a result of [the statements], but we have not been able to get any work[.]" Thus, there was no evidence connecting Dent's statements to DDL's loss of business. Carolyn also expressed her fear that Dent's statements would negatively impact DDL's reputation and potentially cause DDL to lose contracts. However, fear of future harm is not evidence of *present* harm.

Finally, to the extent that the circuit court refused to admit testimony concerning harm, that decision is reviewed for an abuse of discretion. *State v. Simms*, 420 Md. 705, 724 (2011). At trial, DDL proceeded in its case-in-chief on a theory of actual malice, not on a theory of negligence. Evidence of actual damages is unnecessary when there is actual malice, so the circuit court did not abuse its discretion in excluding further testimony concerning harm.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IS AFFIRMED. COSTS TO BE PAID BY APPELLANT.