

January 8, 2024

ST. JOSEPH CIRCUIT & SUPERIOR COURT
EB

STATE OF INDIANA
IN THE COUNTY OF ST. JOSEPH
2023 TERM

TAMARA KAY,

Plaintiff

v.

THE IRISH ROVER, INC

Defendant

St. Joseph Superior Court No. 4
Civil Division
Cause No. 71D04-2305-CT-000264

Findings of Fact and Conclusions of Law

This matter came on for hearing on December 20, 2023. A virtual hearing was held upon mutual agreement of the parties and not as a result of any invitation or request from the Senior Judge. The parties appeared via counsel for the Oral Argument on the Defendant’s Motion to dismiss made pursuant to Indiana’s Anti-SLAPP law. Oral Argument was held. Proposed findings of Fact and Conclusions of Law were ordered to be filed no later than December 22, 2023, as agreed to by counsel for the parties. Having taken the matter under advisement and having reviewed the volumes of documents submitted by counsel for the Plaintiff and Defendant, as well as the proposed findings of facts and conclusions of law, the Court now enters the following Findings of Fact and Conclusions of Law.

Introduction

Plaintiff Tamara Kay (“Dr. Kay”) alleges that two articles written and published by The Irish Rover on October 12, 2022, (“October Article”) and March 22, 2023, (“March Article”), contain false statements, defamation, and other inaccuracies. Dr. Kay further alleges that as a result of the October and March Articles (collectively, “Articles”), she has been harassed, threatened, and experienced damage to her residential property.

Procedural History

1. Dr. Kay filed suit against The Irish Rover on May 22, 2023.
2. The Irish Rover timely filed its Motion to Dismiss Under Indiana's Anti-SLAPP Law, along with its Memorandum in Support of the same on July 12, 2023.
3. The Irish Rover also timely filed an Answer on July 12, 2023, amending it on July 13, 2023.
4. This Court granted Dr. Kay's motion to stay pending discovery on September 28, 2023. *See Order Granting Stay*. This Court also set a briefing schedule for Dr. Kay's Response and The Irish Rover's Reply related to the Motion to Dismiss. Dr. Kay timely filed her Response in Opposition to Defendant's Motion to Dismiss on November 3, 2023.
5. After receiving an extension, The Irish Rover timely filed its Reply in support of the Motion to Dismiss on November 27, 2023.
6. Both parties filed designated evidence in this matter.
7. This Court held a hearing on the Motion to Dismiss on December 20, 2023.

Findings of Fact

I. Parties

8. Dr. Kay holds a Ph.D. in Sociology from the University of California, Berkeley and joined the faculty of the University of Notre Dame on July 1, 2016. She works as a tenured professor in the Keough School of Global Affairs and the Sociology Department.
9. Dr. Kay's research and teaching focuses on trade, labor, social movements, globalization, organizations, and global health, which includes reproductive health and reproductive rights.
10. Defendant the Irish Rover is an independent, student newspaper at the University of Notre Dame in South Bend, Indiana, committed to preserving the Catholic character of the university.

II. Facts Relevant to Allegations

The Irish Rover

11. The Irish Rover is prepared, edited, and published by Notre Dame students.
12. The Irish Rover's printed newspaper is free to anyone on campus, is available to the public via subscription, and is publicly available on its website.
13. The Irish Rover's board of directors is comprised of alumni, and several faculty advisors support it, along with subscribers and donors, although they defer to student writers on most editorial decisions.
14. William J. DeReuil is an undergraduate student at Notre Dame who was the Editor-in-Chief for The Irish Rover during the 2022-2023 academic year. Mr. DeReuil wrote the October Article.
15. Luke Thompson is an undergraduate student at Notre Dame who was politics editor in March 2023 when he attended Dr. Kay's presentation to Notre Dame College Democrats meeting. He wrote the March Article.

The Sycamore Trust

16. The Sycamore Trust is a Notre Dame alumni association formed by Bill Dempsey. While the Sycamore Trust does not control, direct, supervise, or edit The Irish Rover, it does frequently promote Irish Rover articles. Mr. Dempsey sometimes promotes Irish Rover articles and therefore periodically promote Irish Rover articles.

Dr. Kay

17. Dr. Kay's academic research and teaching is focused on "trade, labor, social movements, globalization, organizations, and global health which *includes reproductive health and rights.*"

18. Dr. Kay has written extensively in academic journals, newspaper articles, and on Twitter advocating abortion legalization.

19. Much of this work was done at times relevant to and during the time period that serves as the basis for the Plaintiff's lawsuit.

20. Dr. Kay became more outspoken on the issue of abortion access, writing more articles and posting frequently on Twitter with the leak of the draft opinion and subsequently after the U.S. Supreme Court overturned *Roe v. Wade* on June 24, 2022. *Dobbs v. Jackson Woman's Health Org.* decision. 142 S. Ct. 2228 (2022) (overturning *Roe v. Wade*, 410 U.S. 113 (1973)).

21. Because Dr. Kay has written extensively in academic journals, newspapers, and other publications about abortion access and rights, and because she has posted about the same on her personal social media accounts, the Court finds that Dr. Kay has publicly advocated for abortion rights and access in numerous public statements and published articles throughout the United States and, thereby, has intentionally placed herself into the national discussion on abortion.

22. After a draft of the *Dobbs* opinion leaked in May 2022 hinting that *Roe* would be overturned, Dr. Kay wrote to her colleague Ted Beatty, asking if it would be a violation of academic rules for professors to “potentially provide housing and transportation for women from Indiana who will need to seek abortions in Illinois, or help them get Mifepristone and Misopristol [commonly referred to as abortion pills].”

23. One day before the Supreme Court issued its highly anticipated *Dobbs* decision, Notre Dame Gender Studies Ph.D. student, Eli Williams, co-published an op-ed in *Ms. Magazine* entitled, “Learn From Early Organizers How To Protect Access to Abortion.” Siebert Decl. ¶ 9, Att. 5. The *Ms. Magazine* Article described early organizers in the Chicago area, known as the Jane Collective. *Id.* The Jane Collective and other abortion supporters also offered quiet

networks that transported women across state lines to obtain abortion care.

24. Dr. Kay's colleague, Dr. Abigail Ocobock, shared the article with Dr. Kay and others in the Sociology Department, asking for the article to be linked on the Sociology Department website. Dr. Kay responded to the email chain stating "[I]f you ever need help to access health care, you can ALWAYS come to me for financial, logistical, emotional support, etc. and I will give it to you confidentially and without questions, judgment, stigma or shame."

25. One of the articles Dr. Kay co-authored is entitled, "Access to Health Care Means Access to Abortion: How the UK and US Compare."

26. Throughout this article, Dr. Kay equates and evaluates access to health care generally within the context of access to abortion services.

27. Dr. Kay asserts that her public statements and the poster on her office door were motivated by her desire to offer support to sexual assault victims at Notre Dame and in "response to the lack of healthcare that Notre Dame was providing to students who are sexually assaulted."

28. Such efforts are extremely laudable. There is no place for sexual violence anywhere. Dr. Kay should be commended and praised for all of her efforts to help victims of sexual violence.

29. And she most certainly has the right to express her opinions concerning abortion and abortion rights.

30. The Court finds that all of Dr. Kay's communication about the lack of healthcare at Notre Dame for victims of sexual assault involved private communications between Dr. Kay, an alleged victim of sexual assault, and Notre Dame officials.

31. The Court finds that there is no evidence of Dr. Kay making any public statements about the lack of healthcare provided by Notre Dame for students who are sexually assaulted during 2022 and 2023.

32. Further, the Court finds that, at all relevant times, The Irish Rover had no knowledge of Dr. Kay being concerned about, or advocating for health care, to be provided by Notre Dame for students who are sexually assaulted.

33. The Court finds that Dr. Kay’s references to “healthcare” at issue here specifically includes abortion services and access to the same.

The October Article

34. On September 15, 2022, Indiana S.B.1 took effect, limiting abortion in Indiana, although the law was enjoined shortly thereafter.

35. In addition, on the same day, Dr. Kay affixed a poster to her office door that read: “This is a SAFE SPACE to get help and information on ALL healthcare issues and access –confidentially and with care and compassion. My non-ND email is reprohealthhumanright@pm.me.”

36. Dr. Kay also put a J surrounded by a circle on her door.

37. Around this same time, Dr. Kay tweeted: “Such a devastating day to be a woman in IN. But women faculty @NotreDame are organizing. We are here (as private citizens, not representatives of ND) to help you access healthcare when you need it, & we are prepared in every way. Look for the “J” Spread the word to students!”

38. Dr. Kay also tweeted links to organizations providing Plan B and Plan C abortifacient pills. Dr. Kay Tweets. Both Abortion Finder and Catholics for Choice provide information on how to receive reimbursement for costs for traveling out of state for abortion and how to get abortion pills by mail and describe what the woman will have to do if her state does not legally permit such abortions.

39. The Catholics for Choice tweet publicized a Twitter account “@PlanCpills,” which

provides a guide for abortion pills by mail in all 50 States and encourages women to “Get Abortion Pills Now, Just In Case.” *See id.* Dr. Kay’s September 16, 2022, tweet, in which she shared photos of “Need to be un-pregnant” stickers with QR codes that led to “PlanCPills.org,” preceded by the text, “DM me if you want some physical stickers. A lot have been ordered. Sharing information is still legal in Indiana!”

40. The J symbol, which was on Dr. Kay’s door, was commonly understood by some people on Notre Dame’s campus, and some people outside Notre Dame to symbolize those who were upset about abortion bans/or fighting for abortion rights/access.

41. Dr. Kay maintained that the “J” in the tweet was only meant to indicate that she was an advocate for victims of sexual assault.

42. The Court finds that the “J” on Dr. Kay’s door, particularly when read in context with the other words and statements on her door, and her statements and tweets and work that was being done contemporaneous to this relevant time, can most reasonably mean to infer something much broader than just being an advocate for victims of sexual assault but was being used, in conjunction with the other statements on the door, and her other statements, tweets, writings and social media, to identify her as one who is “willing to help students access abortions,” including abortion pills, as well as assist victims of sexual violence.

43. This is consistent with her position on abortion as set forth in her articles and social media communications.

44. The Court finds that the reference to “All healthcare issues and access” on Dr. Kay’s door refers to global health care issues, including access to abortion, including abortion pills, not just assistance for victims of sexual violence.

45. On or about Monday, September 26, 2022, Dr. Kay met with associate provost Maura

Ryan and Scott Appleby, Dean of the Keough School, about concerns from alumni and faculty about the poster on her door and her tweets.

46. A spokesman for Notre Dame said the school “would never tell faculty, students, or staff what they can or can’t say about abortion or any other topic” but in the case of the sign on Dr. Kay’s door, the spokesman said “a reasonable person could understand Professor Kay to be giving medical advice (on becoming ‘unpregnant’ by taking abortion pills without knowing any details about an individual student’s health). This seemed unwise from both the perspective of faculty members and students.

47. The Irish Rover received several communications from professors and students about Dr. Kay’s advocacy, her tweets, the poster she placed on her office door, and the Post-Roe panel where Dr. Kay would be speaking.

48. Alumni organizations were concerned about Dr. Kay’s statements and actions.

49. Campus organizations, including Notre Dame Right to Life, were concerned about Dr. Kay’s statements and actions.

50. Dr. Kay spoke at a panel event called “Post-Roe America: Making Intersectional Feminist Sense of Abortion Bans” on September 21, 2022.

51. Mr. DeReuil attended and recorded the Post-Roe panel, as part of his research for writing the October Article.

52. After the panel concluded, DeReuil approached Dr. Kay and introduced himself as the Editor of The Irish Rover. He proceeded to interview Dr. Kay for 20 minutes, recording the interview to verify quotes later on, in compliance with Indiana’s one-party consent recording law.

53. Mr. DeReuil sent Dr. Kay an email on or about October 5, 2022, requesting a meeting to discuss her position on abortion and pro-life issues, as well as the relationship of both to Catholic

teaching and to her position as a professor at a Catholic university.

54. Mr. DeReuil signed this email as “Editor-in-Chief, *Irish Rover*.”

55. After sending this email to Dr. Kay, Mr. DeReuil received what appeared to be an automatically generated “bounce back” message from Dr. Kay’s email. Dr. Kay never responded in any other way to Mr. DeReuil’s request for a follow up meeting.

56. Dr. Kay did receive the aforementioned email from Mr. DeReuil but did not respond to it.

57. Before Mr. DeReuil wrote the October Article, he looked at the language of the poster on Dr. Kay’s door, her tweets regarding abortion rights, her tweets linking to sources for Plan B and Plan C pills, her published writings on abortion rights and access, and her public meetings at which she spoke about abortion rights and access.

58. The Court finds that Mr. DeReuil reasonably believed that the plain language and context of all of the information he reviewed before writing the October Article was clear and truthful and he did not harbor any doubts as to the meaning and truth of this information.

59. The *Irish Rover* published its October Article, which included information about the September 21, 2022, Post-Roe panel discussion.

60. The headline for the October Article was “Keough School Professor Offers Abortion Access to Students,” with a sub headline of, “Abortion assistance offered to students despite IN law, ND policy.”

61. The October Article also stated, relevant to Dr. Kay’s defamation claims: These professors, including Kay, offer help in obtaining both Plan B morning after pills and Plan C abortion pills, which are efficacious up to 12 weeks of pregnancy. Much of Kay’s efforts to help students obtain abortion services have been directed through her personal social media. From the same account, she retweeted posts from “Abortion Finder” and “Catholics for Choice,”

which explained how to reimburse costs for traveling out of state to obtain an abortion and how to get abortion pills by mail, especially where doing so is against the law. Kay used this panel as a platform to explain why she thought abortion bans are ineffective and immoral, complementing her work to bring abortion to Notre Dame students.

62. The October Article also contained the following statements: To this end, she posted a sign on her office door on campus stating, “This is a SAFE SPACE to get help and information on ALL Healthcare issues and access—confidentially with care and compassion,” providing her non-Notre Dame email by which students could reach her. Kay’s door also contained a capital letter, “J.” The letter “J” on office doors denotes Notre Dame professors who are willing to help students access abortions. Kay explained in a social media post, ‘We are here (as private citizens not representatives of ND) to help you access healthcare when you need it, and we are prepared in every way. Look for the “J”, Spread the word to students!’”

63. The Irish Rover posted a link to the October Article on its Twitter page, with a headline that stated, “Notre Dame Professors Help Students Obtain Abortions.”

64. The October Article did not assert that Dr. Kay was providing abortions. Rather the article stated, “Much of Kay’s efforts to help students obtain abortion services have been directed through her personal social media.”

65. The Irish Rover relied on Dr. Kay’s public statements, publications, tweets, op-eds, and poster, taken together, to prepare its October Article.

66. Subsequently, Mr. DeReuil, the author of the October Article, affirmed in his deposition that the choice of article title was a true statement.

67. Such title choice was not unreasonable given all of the facts of this case.

68. In early November 2022, Dr. Kay was criticized by some fellow faculty members at the

Faculty Senate for her op-ed about abortions.

69. On December 6, 2022, Father Jenkins published a brief letter to the editor of The Chicago Tribune affirming Dr. Kay's academic freedom, while disagreeing with the content of her earlier Chicago Tribune op-ed as it related to Notre Dame's stated positions on the issue of abortion.

70. The Court finds that the October Article reasonably accurately quoted and summarized Dr. Kay's poster on her office door, her social media posts, and her public statements, including at the Post-Roe event.

71. The Court finds that The Irish Rover did not knowingly publish anything false, nor did it entertain serious doubts about the truth about any statement in the March Article before they published it.

The March Article

72. On March 7, 2023, Dr. Kay delivered a talk for Notre Dame College Democrats that, in part, covered in part her advocacy for abortion legality.

73. Mr. Thompson attended the talk on behalf of the Irish Rover and recorded this meeting.

74. The Irish Rover included a transcript of Mr. Thompson's recording of the College Democrats in its evidence.

75. Dr. Kay also included a transcript of a recording of the College Democrats meeting in her evidence.

76. Mr. Thompson wrote the wrote the March Article, relying on a recording of the lecture, handwritten notes from the event, and his own recollections of the same.

77. Although Thompson did not interview Dr. Kay, he did include comments from Merlot Fogerty, student President of the Notre Dame chapter of Right to Life, in the final article.

78. The March Article contained quotes based on a combination of his lecture notes and the

recording of the meeting.

79. Mr. Thompson did not knowingly publish anything false, nor did he entertain serious doubts about the truth of the March Article before he wrote it.

80. The March Article cited to The Irish Rover’s October Article with a hyperlink—when a reader of the March Article clicked on the hyperlink, she would be taken directly to the October Article.

81. The March Article stated that Dr. Kay had “been subject to national uproar over the past few months over her support for abortion at a Catholic university, which included posting offers to procure abortion pills on her office door.”

82. In the March Article, The Irish Rover stated, “The audience questions mostly focused on her recent controversial support for abortion since *Dobbs*.”

83. Indeed, out of six questions posed by audience members, five explicitly or implicitly referred to the topic of abortion, and all six included references to abortion in Dr. Kay’s response.

84. At the meeting of the Notre Dame College Democrats, an unidentified student asked Dr. Kay, “I’m curious how you ended up here [meaning Notre Dame] and possibly, like, go into it, how your research and how your experience and beliefs have affected you.”

85. In her response to the question, Dr. Kay referred to her initial understanding about academic freedom at Notre Dame in the context of abortion.

86. The Irish Rover accurately described this interaction between the unidentified student and Dr. Kay without a specific quote from either Dr. Kay or the student. The Irish Rover added context to this interaction by quoting Notre Dame’s Institutional Statement Supporting the Choice for Life.

87. Notre Dame’s Institutional Statement Supporting the Choice for Life states, “Consistent

with the teaching of the Catholic Church on such issues as abortion, research involving human embryos, euthanasia, the death penalty, and other related life issues, the University of Notre Dame recognizes and upholds the sanctity of human life from conception to natural death.”

88. The March Article reasonably accurately summarized this interaction and accurately quoted Notre Dame’s Institutional Statement as follows, “Another student asked how Kay—as someone who supports abortion—ended up at Notre Dame, a Catholic university that ‘recognizes and upholds the sanctity of human life from conception to natural death,’ as stated by President Jenkins in Notre Dame’s Institutional Statement Supporting the Choice for Life.”

89. Irish Rover wrote, “Kay also remarked that she was surprised that Father Jenkins’s recent letter distancing the university from her views ‘suggested that students also have academic freedom.’ She suggested that ‘if you have that academic freedom, you should use it.’”

90. The transcript of the recording of this event shows that Dr. Kay told students, “[Y]ou know I think Jenkins’—Jenkins’ statement—basically I was surprised. It actually suggests that students also had academic freedom. So that was something I was quite tickled by, and you know so you have it. Right? I mean, if you don’t have academic freedom, you don’t have a university. . . why would you go after someone who has used [academic freedom].”

91. One student asked “[I]f you were in our position during this time when you an undergrad student, especially at a university that said ‘We have academic freedom for the students as well,’ but there’s that [inaudible] about sexual reproductive health are not allowed [inaudible]—certain things we talk about, how would you suggest students to have the conversation about these topics?”

92. Dr. Kay replied “[Y]ou have to really be fully committed to activism to be able to stick your neck out like I am—right?—because I can’t impose that or say you should do it. You know you have to do what you have to do. And I think what I’ve come to is I’m doing me, and other folks do

them.”

93. When describing this interaction, The Irish Rover wrote, “Kay answered a question about what pro-abortion students at Notre Dame could do given the fact that clubs that promote abortion and contraception are not allowed on campus. Kay replied ‘It’s a hard thing; you have to really be fully committed to activism to stick your neck out like I am.’ She acknowledges that not all the students in the crowd could be as forward in their pro-abortion activities as she is: ‘I can’t impose that on you . . . but I’m doing me and you should do you.’”

94. The Court finds that the March Article accurately quoted and accurately summarized the interactions between Dr. Kay and students at the College Democrats meeting, which were largely centered on Dr. Kay’s work on abortion rights and the related issue of academic freedom at Notre Dame for students and professors.

95. Again, Dr. Kay’s work in support of victims of sexual violence is to be applauded and praised and her advocating for abortion rights should not be condemned or result in threats against her person or property.

96. The subject of abortion is a difficult conversation for most Americans and many have strong opinions on the subject which can’t always be reconciled, but we are a nation of ideas and opinions and our democratic form of government provides for free speech and the citizens of our country must be able to have the difficult discussions on controversial matters with respect for the opinions of others and with respect for the individual expressing those opinions. We cannot survive as a nation without civil public discourse. Disagreement should not translate into contempt or hatred.

97. It is unreasonable to confine Dr. Kay’s work on sexual violence from being entirely separate from her work on abortion rights and abortion access. The Defendant’s interpretation of

her writings, statements, door material, and other forms of communication have to be taken together in context.

98. Dr. Kay supports assistance for women of sexual violence and Dr. Kay supports abortion rights and support for abortion information and access.

99. While she should be able to make any statements she wants about anything she wants, she cannot pick or choose what she meant or which subject she was speaking about or writing about at her discretion. Instead the context of the communication must be determined in the context of a number of different factors.

100. The Court finds that the March Article accurately quoted and summarized Notre Dame's Institutional Statement Supporting the Choice for Life.

101. Since The Irish Rover's mission is to uphold the Catholic identity of Notre Dame, it tries to discuss the legal issue surrounding abortion from a Catholic viewpoint.

102. Mr. Thompson, as the politics editor of The Irish Rover, thought Dr. Kay's lecture to the Notre Dame College Democrats would be newsworthy.

103. The Court finds that the March Article reasonably accurately quoted and summarized Dr. Kay's poster on her office door and her public statements, including at the College Democrat event.

104. The Court finds that The Irish Rover did not knowingly publish anything false, nor did it entertain serious doubts about the truth of any statement in the March Article before they published it.

105. Dr. Kay alleges her property was vandalized on two occasions. That is very unfortunate, inexcusable, and reprehensible.

106. Dr. Kay complained to Scott Appelby, a colleague of hers, that her home had been

vandalized, but she links this to Father Jenkins' "vapid letter in the Chicago Tribune" and to a postcard sent by the Sycamore Trust.

107. The Court finds that there is no evidence that the vandalism of her property was linked in any way to the Articles.

108. Dr. Kay provided copies of "threatening" emails she received.

109. However, the Court finds that there is no evidence that these threatening emails were linked in any way to the Articles.

110. Dr. Kay provided copies of a letter from the Sycamore Trust, dated September 26, 2022, and an undated postcard from the same.

111. While it is undisputed that The Irish Rover received information from various sources about Dr. Kay's public speech and actions, the Court finds that there is no evidence that The Irish Rover's intention when it published the Articles was to damage Dr. Kay's career, nor was it malicious or reckless.

112. It is undisputed that the Sycamore Trust does not control The Irish Rover.

113. It is undisputed that the Notre Dame chapter of Right to Life does not control The Irish Rover.

114. It is undisputed that Individual professors do not control The Irish Rover and did not exert editorial control over the Articles.

115. It is undisputed that The Irish Rover never called for Dr. Kay's termination by Notre Dame.

116. There is certainly evidence that a faculty advisor to the Irish Rover emailed the prior Editor and requested they cover Dr. Kay's position on abortion. A picture of Dr. Kay was also sent.

117. There is certainly evidence that other faculty members and others supported doing a story or stories about Dr. Kay and her position on abortion.

118. There was communication regarding the fact that Dr. Kay's position on abortion was inconsistent with the policies of Notre Dame.

119. However, none of the communications directed or ordered the Irish Rover to do anything or write any particular word. There were those affiliated with Notre Dame that did not like Dr. Kay's position on abortion.

120. Dr. Kay did not like the abortion positions of some of those affiliated with Notre Dame.

121. Dr. Kay expressed her first amendment right to freedom of speech.

122. However, she cannot voluntarily put herself into the national abortion issue either on the campus of Notre Dame or in a broader, national forum, by making multiple strong statements in favor of abortion rights and access to abortion and expect that it will not become newsworthy at Notre Dame and elsewhere.

123. The Court finds that there is a reasonable basis in fact for describing Dr. Kay as "willing to help students access abortion," as providing "abortion assistance," or "offers abortion access to student, " and as "posting offers to procure abortion pills on her office door," and other substantively similar statements..

Conclusions of Law

Relevant Legal Standards

I. Indiana's Anti-SLAPP law

124. Indiana's Anti-SLAPP law provides an affirmative defense when citizens are faced with meritless lawsuits designed to chill their constitutionally protected speech.

125. The Indiana Anti-SLAPP law protects a person who has been sued for "an act or

omission of that person in furtherance of the person’s right of petition or free speech” under the United States Constitution or Indiana Constitution “in connection with a public issue” and “taken in good faith and with a reasonable basis in law and fact.”

126. Under the Indiana Anti-SLAPP law, the Court must grant the motion to dismiss if it finds that the person filing the motion has proven that “the act upon which the claim is based is a *lawful* act in furtherance of the person’s right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana.”

127. “Upon receiving an anti-SLAPP motion to dismiss, the court must determine three things: “(1) whether an action was in furtherance of the person’s right of petition or free speech; and (2) if so, whether the action was in connection with a public issue. If both these threshold requirements are satisfied, the court then analyzes (3) whether the action was taken in good faith and with a reasonable basis in law and fact.”

128. Under *401 Public Safety v. Ray*, The Irish Rover must show only that there is no genuine issue as to whether it acted in good faith.

129. The third element of whether the action was taken in good faith and with a reasonable basis in law and fact requires an analysis of whether the defendant’s statement is “lawful” under IC § 34-7-7-9(d). A statement has a reasonable basis in law and fact if it is “lawful.” In the context of a defamation suit, “lawful” means the statement is not defamatory. A statement is not defamatory under Indiana law if one or more of the elements required for a defamation claim under the law fails.

II. Indiana’s defamation law

130. In order to be defamatory, a statement must (as relevant here): (1) be false; (2) be made with actual malice---that is, made while knowing it was false or made with reckless disregard to

the truth; (3) contain a defamatory imputation; and (4) have caused damage to the plaintiff. *See Bd. of Trustees of Purdue Univ.*, 87 N.E.3d at 499; *see also Love v. Rehfus*, 946 N.E.2d 1, 15 n.13 (Ind. 2011); *accord Doe v. Methodist Hosp.*, 690 N.E.2d 681, 687 (Ind. 1997), abrogated in part on other ground by *Cnty. Health Network, Inc. v. McKenzie*, 185 N.E.3d 368 (Ind. 2022)

131. “Both a public figure and a private individual bringing a defamation action over a matter of public or general concern must prove by clear and convincing evidence that the defendant made the alleged defamatory statement with ‘actual malice.’” *Shine v. Loomis*, 836 N.E.2d 952, 958 (Ind. Ct. App. 2005) (citing *Journal-Gazette Co. v. Bandido’s, Inc.*, 712 N.E.2d 446, 452 (Ind.1999)). Therefore, a Public Issue Plaintiff or a plaintiff in a Public Issue Case bears the burden of proof to show that the defendant published the statement knowing it was false or recklessly disregarding whether it was. *401 Pub. Safety*, 80 N.E.3d at 901.

132. To prove reckless disregard for the truth, a plaintiff must sufficiently show “‘that the defendant in fact entertained serious doubts as to the truth of his publication,’” *Id.* at 958–59 (quoting *St. Amant v. Thompson*, 390 U.S. 727 (1968)), or had a “‘high degree of awareness of [the statement’s] probable falsity.’” *401 Pub. Safety*, 80 N.E.3d at 959 (citation omitted).

133. “Moreover, a speaker is not required to verify facts before speaking unless he or she has some reason to doubt the veracity of those facts.” *Love*, 946 N.E.2d at 15.

134. The actual malice standard imposes strong protections for speech, going so far as to protect even “those negligent or careless false statements of fact that are inevitable in free debate, as is required by the Constitution.” *Id.*

135. If a Public Issue Plaintiff alleges defamation, but fails to offer evidence that the allegedly defamatory statement was published with actual malice, the defendant is entitled to summary judgment. *Wells v. Bernitt*, 936 N.E.2d 1242, 1247-48 (Ind. Ct. App. 2010).

III. Summary Judgment

136. Motions to dismiss made pursuant to Indiana’s Anti-SLAPP law are treated as motions for summary judgment, Indiana code section 34-7-7-9, with the general summary judgment standard being applied. *Stabosz*, 199 N.E.3d at 808.

137. In order to prevail on a motion for summary judgment, the movant must show “there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. All factual inferences must be construed in favor of the non-moving party, and all doubts as to the existence of a material issue must be resolved against the moving party.” *Burris v. Bottoms Up Scuba - Indy, LLC*, 181 N.E.3d 998, 1003–04 (Ind. Ct. App. 2021) An interplay exists between the summary judgment standard applicable here and the elements required to be proven by a plaintiff in a defamation case. “A defendant in a defamation case is entitled to summary judgment if he demonstrates that the undisputed material facts negate at least one element of the plaintiff[’]s claim.” *Wells*, 936 N.E.2d at 1248 (citing *Kitco v. Corp. for Gen. Trade*, 706 N.E.2d 581, 587 (Ind. Ct. App.1999)).

138. The burden of proof at trial is also a factor that impacts a court’s consideration of summary judgment pursuant to the Anti-SLAPP law. “A party who bears the burden of proof on a particular issue may not rest on its pleadings, but must affirmatively demonstrate, by specific factual allegations, that there is a genuine issue of material fact that requires trial.” *Turner v. Miller*, No. 4:20-cv-00152-TWP-DML, 2021 U.S. Dist. LEXIS 21370, at *8-9 (S.D. Ind. Feb. 4, 2021).

139. The material facts relevant to an Anti-SLAPP motion to dismiss in a Public Issue Case will relate to only three prongs of evaluation: (1) whether the allegedly defamatory statements were made in the furtherance of the defendant’s right to free speech; (2) whether the allegedly defamatory statements were made in connection to a public issue; (3) whether the allegedly

defamatory statements were made with a good faith and with a reasonable basis in law and fact, I.C. §§ 34-7-7-5. As relevant here, the third prong must consider whether any statements were defamatory—that is, whether they: (a) were false; (b) were made with actual malice; (c) contained a defamatory imputation; and (d) caused damages.

140. If there is no genuine question of fact of whether the statements were truthful, the Anti-SLAPP motion to dismiss must be granted. Likewise, even if there are false statements, if there is no genuine issue that the false statements were not defamatory, were made without actual malice, or did not cause damage, the Anti-SLAPP motion to dismiss must be granted.

141. The Irish Rover has First Amendment rights which are protected by Indiana’s Anti-SLAPP defense.

142. Indiana law provides for an affirmative *defense* to claims in its Anti-SLAPP law, where the claims are based on the Defendant’s exercise of free speech in both the Indiana and United States Constitutions. I.C. §§ 37-7-7-5; 37-7-7-9.

143. The purpose of an Anti-SLAPP law is to prevent the chilling of free speech that can be caused by frivolous lawsuits brought by private individuals or entities. *See Gresk v. Demetris*, 96 N.E.3d 564, 566 (Ind. 2018). In other words, Anti-SLAPP laws are a tool designed to prevent private individuals from using the government, via the courts, to punish and chill people who are exercising their free speech rights. *See id.*

144. First Amendment rights belong to the individual or entity in question. U.S. Const. amend. I (“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”).

145. The Court concludes that even though The Irish Rover is a student newspaper at a private

university, it is entitled to assert a *defense* rooted in the Indiana State law’s enhanced protection of free speech rights, when the exercise of those rights concerns a public issue. I.C. § 34-7-7-9.

146. The Irish Rover’s Articles were publicly available to anyone who picked up the printed edition on campus or who accessed them on The Irish Rover’s publicly available website. The Court concludes this material fact is not in dispute.

147. It is undisputed that one of the missions of The Irish Rover is “to articulate and defend the Catholic character of the University.” The Irish Rover’s desire to publicly defend Notre Dame’s Catholic character necessarily involves an exchange of ideas to bring about political and social change to the people associated with Notre Dame and its Catholic purpose and character.

148. However, the Court concludes The Irish Rover’s motivation is immaterial to the issue of whether The Irish Rover was exercising its First Amendment right to free speech. A specific motivation to speak publicly about a specific individual’s actions does not remove that speech from the public exchange of ideas.

149. The Court finds that the Irish Rover did not motivated by ill-will or malice toward Dr. Kay.

150. The Court concludes that the Irish Rover’s Articles were written in furtherance of its exercise of its right to free speech.

151. The Supreme Court of Indiana has held that speech is in connection with a matter of public concern if it is addressed to “any matter of political, social, or other concern to the community, as determined by its content, form, and context.” *Gresk*, 96 N.E.3d at 571 (quoting *Love*, 946 N.E.2d at 9 n.6).

152. The *Kadambi v. Express Scripts, Inc.* Court recognized that Indiana courts had noted with approval that California courts “recognized three non-exclusive categories of statements that

have been given anti-SLAPP protection:”

- (1) cases where the statement or activity precipitating the underlying cause of action was a person or entity in the public eye;
- (2) cases where the statement or activity precipitating the underlying cause of action involved conduct that could affect large numbers of people beyond the direct participants; and
- (3) cases where the statement or activity precipitating the claim involved a topic of widespread, public interest. 86 F. Supp. 3d 900, 908 (N.D. Ind. 2015).

153. The Articles align perfectly with the three *Kadambi* categories of speech that have been afforded anti-SLAPP protection and cited to positively by Indiana courts. *See* 86 F. Supp. 3d at 908.

154. Because Dr. Kay has written extensively in academic journals, newspapers, and other publications about abortion access and rights, and because she has posted about the same on her personal social media accounts, the Court concludes that Dr. Kay is in the public eye on the issue of abortion access and rights.

155. The Court concludes that Dr. Kay’s plethora of published articles on abortion rights, her social media posts regarding abortion and abortion access, the poster Dr. Kay placed on her door, and her public statements at various Notre Dame events could affect large numbers of people beyond the direct participants.

156. The Court concludes that the Articles were written not only to highlight one of the preeminent political public issues of our time—abortion rights and access—but also to bring public attention to Dr. Kay’s actions and public statements regarding this public issue, which have a bearing on the mission and identity of the most prominent Catholic university in the

nation, which is also a public issue of concern to the Notre Dame community. Specifically, that a well-known, tenured professor at Notre Dame wrote and spoke about abortion rights and access in very public forums in direct contrast to Notre Dame's stated position on the public issue of abortion.

157. Therefore, the Court concludes that The Irish Rover's Articles were made in connection with a public issue of concern both to the general public and to the Notre Dame community, as well as beyond the Notre Dame community.

158. Indiana's Anti-SLAPP law also requires that the allegedly defamatory statements were made with a good faith and with a reasonable basis in law and fact, I.C. § 34-7-7-5.

159. If a publication is "fabricated, is the product of imagination, or is wholly based on unverified, anonymous sources, a defendant's professions of good faith "would likely be unpersuasive." *St. Amant*, 390 U.S. at 731.

160. The Articles were written based upon the author's own verified research, as well as notes and recordings of the relevant public meetings referenced and that the statements in the Articles had sufficient support to conclude that they were true and the Court concludes that The Irish Rover wrote the Articles in good faith.

161. Indiana's Anti-SLAPP law requires that the statements had a reasonable basis in law and fact, I.C. § 34-7-7-5, and were "a lawful act in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana." I.C. §§ 34-7-7-9(d).

162. As to a "reasonable basis in fact," this Court has already concluded that the statements in the Articles were true and accurate, which the Court concludes satisfies this element.

163. As to the requirement that the statements in the Articles were "in furtherance of the

person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana," this Court has already concluded that they were, so this Court concludes that this element is satisfied.

164. As to the requirement that the statements in the Articles be "lawful," Dr. Kay's Complaint alleges a claim for defamation. In order to determine if the statements were lawful, the Court needs to determine whether the claim for defamation has merit because all the elements of a defamation claim have been demonstrated. In a defamation action, the Plaintiff is required to "set out the alleged defamatory statement in his complaint." *Bd. of Trustees of Purdue Univ. v. Eisenstein*, 87 N.E.3d 481, 499 (Ind. Ct. App. 2017). "When specific statements that are alleged to be defamatory have not been sufficiently identified in the plaintiff's complaint, an award of summary judgment for the defendant is proper." *Miller v. Cent. Indiana Cmty Found.*, 11 N.E.3d 944, 956 (Ind. Ct. App. 2014) (citation omitted).

165. In her Complaint, Dr. Kay does not specify identify any allegedly defamatory statement in the October Article and only four allegedly defamatory statements from the March Article.

166. The Court, therefore, concludes that Dr. Kay's defamation claim against the October Article does not meet the requirements of Indiana law and only the allegedly defamatory statement from the March Article should be considered by the Court.

167. However, Dr. Kay has alleged in her declaration that certain statements in the October Article were defamatory, Pl.'s Evid., Ex. 1, Kay Decl. ¶¶ 46-53, so, in the interest of completeness, the Court will consider, on the merits, these statements as well.

168. In order to be defamatory, Indiana law requires a plaintiff to prove the allegedly defamatory statement is (as relevant here): (1) false; (2) made with actual malice---that is, knowing it was false or made with reckless disregard to the truth; (3) contains a defamatory

imputation; and (4) damages arising from the alleged defamation. *See Bd. of Trustees of Purdue Univ.*, 87 N.E.3d at 499; *see also Love*, 946 N.E.2d at 15.

169. Under Indiana’s Anti-SLAPP law, “a defendant in a defamation case is entitled to summary judgment if he demonstrates that the undisputed material facts negate at least one element of the plaintiff[’]s claim.” *Wells*, 936 N.E.2d at 1248 (citing *Kitco*, 706 N.E.2d at 587).

170. The Court finds that undisputed facts demonstrate that all of the allegedly defamatory statements were true, not made with actual malice, and did not contain a defamatory inference, and that there is no evidence that any alleged harm to Dr Kay was linked to or caused by the Articles.

171. Under Indiana defamation law, falsity “requires more than minor inaccuracies . . . ‘[which] do not amount to falsity so long as the substance, the gist, the sting, of the libelous charge be justified,’” *Love*, 946 N.E.2d at 15 (quoting *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 517 (1991)) (nested quotation marks omitted).

172. An allegedly defamatory statement must “be viewed in context and given its plain and natural meaning.” *Gatto v. St. Richard Sch., Inc.*, 774 N.E.2d 914, 923 (Ind. Ct. App. 2002); *see also Bandido’s*, 712 N.E.2d at 461 (considering the similarity between the “sting” of an inaccurate newspaper headline referring to a restaurant having “rats” and the “gist of the truth” that only “rodent” droppings were found at the restaurant; finding headline to be substantially true because any technical differences between “rats” and “rodents”—and their presence and the presence of their dropping—would create the same reaction in readers, even though “the word ‘rat’ conjures up more bad connotations than ‘rodents’ . . .”).

173. As to headlines, “a headline cannot be severed from the body of the article when undertaking defamation analysis; the entire body of the article serves as the context for the

headline and must be considered in determining whether a headline has a defamatory meaning.”
Hogan v. Winder, 762 F.3d 1096, 1108 (10th Cir. 2014).

174. Because this Court found that there is a reasonable basis in fact for describing Dr. Kay as “willing to help students access abortion,” as providing “abortion assistance,” “offers abortion access to students,” and as “posting offers to procure abortion pills on her office door,” and substantively similar statements, the Court concludes that such statements in the October Article were true under Indiana defamation law.

175. Because this Court found that Dr. Kay’s references to “healthcare” included abortion and access to abortion, the undisputed material facts show that Dr. Kay publicly posted information about abortion access, including access to abortion pills. The undisputed material facts show that Dr. Kay was willing to offer financial, logistical, and emotional support to students within the context of a conversation concerning abortion access.

176. Furthermore, the Court finds that the statements concerning Dr. Kay’s willingness to help students access abortion services in the October Article were true and reasonable, based upon this Court’s findings regarding the plain language of the poster on her office door, the timing and context of when she placed the poster on her door, her private communications, her public tweets, and her awareness of her colleague’s article referencing the Jane Collective.

177. The Court concludes that there is no genuine issue of material fact regarding the statements in the October Article.

178. The Court concludes that the statements in the October Article were true, made in good faith, and with a reasonable basis in law and fact.

179. Because the Court found that the March Article accurately quoted and summarized the interactions between Dr. Kay and students at the College Democrats meeting, the Court

concludes that those statements were true under Indiana's defamation law.

180. Furthermore, the Court finds that the statements concerning Dr. Kay's willingness to help students access abortion services in the March Article were true and reasonable, based upon this Court's findings regarding the plain language of the poster on her office door, the timing and context of when she placed the poster on her door, her private communications, her public tweets, and her awareness of her colleague's article referencing the Jane Collective.

181. The Court concludes there is no genuine issue of material fact that the statements in the March Article were true.

182. The Court concludes that the statements in the March Article were true, made in good faith, and with a reasonable basis in law and fact.

183. Both public and private figures when suing for defamation in Indiana must prove a statement was made with "actual malice." *Shine*, 836 N.E.2d at 958. Actual malice is a legal term of art and "is not to be confused with the ordinary definition of malice as an evil intent or motive arising from spite or ill will." *Id.*

184. Because the Court has found that Dr. Kay voluntarily inserted herself into the public issue of abortion, which she had every right to do, the Court concludes she is a public figure as it relates to the issue of abortion and abortion rights. Therefore, the Court concludes actual malice is a required element in this defamation action.

185. Actual malice, as an element of the tort of defamation, exists when the defendant publishes a defamatory statement "with knowledge that it was false or with reckless disregard of whether it was false or not." *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 279-80 (1964). "Reckless disregard" requires "sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication." *St. Amant*, 390 U.S. at 731.

186. Under Indiana law, “Publications are made with ‘reckless disregard’ of the truth when the publisher has a high degree of awareness of their probable falsity.” *Kitco, Inc*, 706 N.E.2d at 588 (citing *Indianapolis Newspapers, Inc. v. Fields*, 259 N.E.2d 651, 661 (1970)). Reckless disregard of probable falsity is not based on whether a reasonably prudent person would have published or investigated before publishing, but rather “there must be sufficient evidence to permit the conclusion that the defendant . . . in fact entertained serious doubts as to the truth of his publication.” *Id.*

187. Applying a similar standard, the Indiana Court of Appeals held that “a defendant’s mental state when making the publication is a ‘critical factor’ . . . that may be shown by indirect or circumstantial evidence.” *Poyser v. Peerless*, 775 N.E.2d 1101, 1107 (Ind. Ct. App. 2002) (holding no reckless disregard for truth because official who directed publication testified she believed truthfulness of the source and his report to her).

188. The *Poyser* court stated, “In defamation cases arising in the journalism arena, we have held that it is not sufficient to show that the reporting in question was speculative or even sloppy . . . and that the failure to investigate does not in itself establish malice.” *Id.* (citing *Cochran v. Indianapolis Newspapers, Inc.*, 175 Ind. App. 548 (1978) and *Kitco*, 706 N.E.2d at 589).

189. However, if a published statement is fabricated, is the product of imagination, is based wholly on unverified, anonymous sources or is “inherently improbable,” this would indicate that the statements were made with reckless disregard for the truth. *St. Amant*, 390 U.S. at 732.

190. Under the summary judgment standard applicable to this Anti-SLAPP motion to dismiss, the Court concludes there must be evidence that would lead a reasonable trier of fact to conclude that The Irish Rover had such doubts *before* it published the Articles.

191. The Court concludes that Dr. Kay does not present any evidence that shows that The Irish

Rover had any doubts about the truth of their statements in the Articles before they were published.

192. By failing to present such evidence, the Court concludes that Dr. Kay's defamation claim fails as a matter of law.

193. Furthermore, the Court concludes that any of the statements in The Irish Rover's Articles were not "so inherently improbable that only a reckless man would have put them in circulation." *See Kitco, Inc.*, 706 N.E.2d at 588.

194. The Court concludes that it is undisputed that The Irish Rover did not know or believe that the Articles were false prior to publishing.

195. The Court concludes that The Irish Rover did not act with reckless disregard to the truth or falsity of any statement in the Articles.

196. The Court concludes that the statements in the Articles were published without actual malice.

197. Under Indiana defamation law, in order to be defamatory, a factual statement must be both false and contain a defamatory imputation.

198. Dr. Kay's assertions that the Articles' statements were false and defamatory are unfounded.

199. A statement is defamatory if it tends "to harm a person's reputation by lowering the person in the community's estimation or deterring third persons from dealing or associating with the person." *Kelley v. Tanoos*, 865 N.E. 2d 593, 596 (Ind. 2007).

200. Communication is defamatory per se if it imputes: (1) criminal conduct; (2) a loathsome disease; 3) misconduct in a person's trade, occupation, profession, office, or occupation, or (4) sexual misconduct. *Hamilton v. Prewett*, 860 N.E. 2d 1234, 1243 (Ind. Ct. App. 2007).

201. Remarks are not defamatory *per se* unless they are “so obviously and naturally harmful that proof of their injurious character can be dispensed with.” *Baker v. Tremco Inc.*, 917 N.E.2d 650, 657-58 (Ind. 2009) (quoting *Levee v. Beeching*, 729 N.E.2d 215 (Ind. Ct. App. 2000)). In *Levee*, the court found that calling someone a liar and that she “favored some staff” was not defamatory *per se*. *Id.* at 220. Likewise, in *Baker*, the court found stating that the plaintiff engaged in “inappropriate sales practices” could not sustain an action for defamation *per se*. 917 N.E.2d at 658.

202. The Court concludes that the Articles did not accuse Dr. Kay of a crime or professional misconduct.

203. The Court concludes that a defamation *per se* claim here has no merit.

204. Because the Court found Dr. Kay has publicly advocated for abortion access and rights and that the Articles which accurately summarize and quote this abortion advocacy, the alleged defamatory statements in the Articles did not contain a defamatory imputation under a defamation *per quod* claim.

205. The Court concludes that a defamation *per quod* claim has no merit.

206. The Court concludes that there is no dispute of material fact that the Articles did not contain false statements with defamatory imputation.

207. The Court concludes that, because there is no defamatory imputation in any alleged false statements in the Articles, Dr. Kay’s defamation claim fails as a matter of law.

208. Indiana law provides for two different types of defamation: (1) *per se*, and (2) *per quod*. *Kelley*, 865 N.E.2d at 597. These two different actions for defamation “are susceptible to different requirements with regard to the showing of damages.” *Id.*

209. In an action for defamation *per se*, the plaintiff is entitled to presumed damages “as a

natural and probable consequence of the *per se* defamation.” *Rambo v. Cohen*, 587 N.E.2d 140, 145 (Ind. Ct. App. 1992).

210. In an action for defamation *per quod*, the plaintiff must demonstrate special damages. *Id.* at 146 (citing cases). “Similarly, a plaintiff in a *per quod* defamation action can recover for emotional and physical harm only upon a showing of special damages,” *Id.* (citing Restatement (Second) of Torts § 623 (1977); W. Prosser and W. Keeton, *Prosser and Keeton on Torts*, § 112, p. 794 (5th ed. 3rd printing 1989)). Special damages are financial damages arising as a consequence of the defamation. *Cortez v. Jo-Ann Stores, Inc.*, 827 N.E.2d 1223, 1230 (Ind. Ct. App. 2005). Emotional and physical harms are considered “parasitic damages,”—if special damages are alleged and proved, recovery for parasitic damages is possible; if special damages are not alleged and proved, there can be no recovery for the parasitic damages. *Rambo*, 587 N.E.2d at 146 (internal citations omitted). A plaintiff required to prove special damages must demonstrate that the special damages were incurred as a natural and proximate consequence of the wrongful act. *State Farm Fire & Cas. Co. v. Radcliff*, 987 N.E.2d 121, 153 (Ind. Ct. App. 2013).

211. Because the Court has concluded that Dr. Kay has not made a valid defamation *per se* claim, the Court concludes that she must prove special damages incurred as a natural and proximate consequence of the alleged defamatory statements.

212. None of Dr. Kay’s alleged damages are linked to or resulted from the statements made in the articles, and the Court concludes that Dr. Kay has not suffered any damages as a result of the statements in the Articles.

213. Because Dr. Kay failed to demonstrate any damages, the Court concludes that her defamation claim fails as a matter of law.

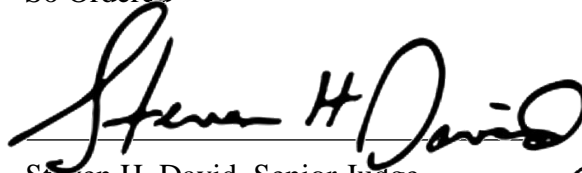
214. Because the Court has found that the alleged defamatory statements were true, within the meaning of the law, not made with actual malice, did not contain a defamatory inference, and there were no damages that were causally linked to The Irish Rover Articles, Dr. Kay's defamation claim fails and the statements in the Articles were lawful.

215. The Court concludes that the allegedly defamatory statements were made in the furtherance of the defendant's right to free speech, were made in connection with a public issue, were made with good faith and with a reasonable basis in law and fact.

216. Therefore, the Irish Rover is entitled to have Dr. Kay's Complaint dismissed under Indiana's Anti-SLAPP law.

217. Counsel may petition the Court for a hearing on attorney fees and costs.

So Ordered


Steven H. David, Senior Judge

January 8, 2024

Distribution to all counsel of record via IEFS

