

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION—CIVIL

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LINCOLN ON LOCUST, L.P.,	:	July Term, 2010
ADAR, LLC, ANDRE ENGEL and JACOB UNGAR	:	Case No. 01320
<i>Plaintiffs</i>	:	
v.	:	Commerce Program
PRATPAL BAGGA, KHUSHVINDER BAGGA and	:	
BHUMI REAL ESTATE	:	Control No. 12012221
<i>Defendants</i>	:	

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DOCKETED  
JUL 10 2012  
SUPERIOR COURT  
CIVIL ADMINISTRATION

**MEMORANDUM OPINION**

Count VI of Plaintiffs’ Complaint asserts the claim of Business Disparagement against Defendants Pratpal Bagga and Khushvinder Bagga. Specifically, the Complaint alleges that Defendants “executed and drafted declarations containing statements which they knew were false pertaining to Plaintiff Jacob Ungar...”<sup>1</sup>

The Supreme Court of Pennsylvania has held that—

When alleged libelous or defamatory matters, or statements, or allegations and averments in pleadings or in trial or argument of a case are pertinent, relevant and material to any issue in a civil suit, there is no civil liability for making any of them....<sup>2</sup>

Addressing whether the same protection applies to alleged libelous statements made in anticipation of a judicial proceeding, the Pennsylvania Supreme Court stated that—

[w]ith respect to communications made prior to the institution of proceedings, the protected communication would need to have been pertinent and material and would need to have been issued in the regular course of preparing for contemplated proceedings.<sup>3</sup>

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<sup>1</sup> Complaint, ¶ 94.

<sup>2</sup> *Post v. Mendel*, 510 Pa. 213, 220; 507 A.2d 351, 355 (Pa. 1986).

<sup>3</sup> *Post v. Mendel*, 510 Pa. at 223; 507 A.2d at 356 (Pa. 1986).



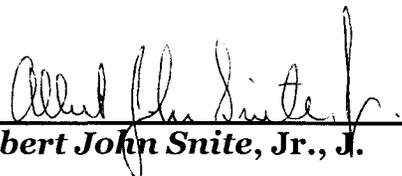
In this case, Plaintiffs' Complaint specifically asserts that Defendants "made ... their false statements in an effort to assist [certain non-parties in this action] with their factually unsupported claims"<sup>4</sup> in a separate legal action. This assertion leaves the Court with no doubt: the alleged disparaging statements of Defendants Pratpal Bagga and Khushvinder Bagga were "pertinent and material" to the contemplated proceeding, and were "issued in the regular course of preparing" such a proceeding. There is no genuine issue of material fact regarding the claim of Business Disparagement asserted in Count VI of Plaintiffs' Complaint, and the Motion for Summary Judgment is granted as to that claim.<sup>5</sup>

**ORDER**

**And Now**, this 15<sup>th</sup> day of June, 2012, upon consideration of the Motion for Summary Judgment of Defendants Pratpal Bagga, Khushvinder Bagga and Bhumi Real Estate, the Response in Opposition of Plaintiffs Lincoln on Locust, L.P., Adar, LLC, Jacob Ungar and Andre Engel, the respective memoranda of law, the supplemental memorandum of Defendants and the sur-reply of Plaintiffs, it is **Ordered** that the Motion for Summary Judgment is **Granted-in-part** and **Denied-in-part** as follows:

1. The Motion for Summary Judgment is **Denied** as to Counts III and IV of the Complaint;
2. The Motion for Summary Judgment is **Granted** as to Count VI of the Complaint.

**BY THE COURT,**

  
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**Albert John Snite, Jr., J.**

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<sup>4</sup> Complaint, ¶ 40.

<sup>5</sup> "Summary judgment may be granted only in the clearest of cases where the record shows that there are no genuine issues of material fact and also demonstrates that the moving party is entitled to judgment as a matter of law." Trowbridge v. Scranton Artificial Limb Co., 560 Pa. 640, 644; 747 A.2d 862, 864 (Pa. 2000).