

**IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

**GLADE SPRINGS VILLAGE PROPERTY
OWNERS ASSOCIATION, INC.,
a West Virginia non-profit corporation,**

Plaintiff,

vs.

**Civil Action No.: 19-C-357
Presiding: Judge Reeder
Resolution: Judge Lorensen**

**EMCO GLADE SPRINGS HOSPITALITY, LLC,
a West Virginia limited liability company;
ELMER COPPOOLSE, an individual;
JAMES TERRY MILLER, an individual;
R. ELAINE BUTLER, an individual; and
GSR, LLC, a West Virginia limited liability company,**

Defendants,

and

**EMCO GLADE SPRINGS HOSPITALITY, LLC,
a West Virginia limited liability company, and
GSR, LLC, a West Virginia limited liability company,**

Counterclaim Plaintiffs,

vs.

**Civil Action No.: 19-C-357
Presiding: Judge Reeder
Resolution: Judge Lorensen**

**GLADE SPRINGS VILLAGE PROPERTY
OWNERS ASSOCIATION, INC.,
a West Virginia non-profit corporation**

Counterclaim Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS COUNT VIII –
DEFAMATION OF GSR'S FIRST AMENDED COUNTERCLAIM**

This matter came before the Court this _____ day of May, 2024, upon Plaintiff Glade Springs Village Property Owners Association, Inc.’s Motion to Dismiss Count VIII – Defamation of Defendant/Counterclaim Plaintiff GSR, LLC’s First Amended Counterclaim. The Plaintiff, Glade Springs Village Property Owners Association, Inc. (hereinafter “the POA” or “Plaintiff”), by counsel, Ramonda C. Marling, Esq., and Defendant, GSR, LLC, (hereinafter “Defendant” or “GSR”), by counsel, Arie M. Spitz, Esq., have fully briefed the issues necessary. The Court dispenses with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process. So, upon the full consideration of the issues, the record, and the pertinent legal authorities, the Court rules as follows.

FINDINGS OF FACT

1. This matter surrounds the claims in the Second Amended Complaint¹, wherein Plaintiff, Glade Springs Village Property Owners Association, Inc., asserted claims against Defendants, EMCO Glade Springs Hospitality, LLC, GSR, LLC, Elmer Coppoolse, James Terry Miller, and R. Elaine Butler premised upon their alleged respective breach of various contracts with GSVPOA, as well as accounting claims and a claim of unjust enrichment. *See* Second Am. Compl. On October 31, 2023, Plaintiff filed its Third Amended Complaint in this civil action.

2. On a prior day, GSR filed its First Amended Counterclaim. Relevant to this motion is Count VIII for Defamation. In Count VIII, GSR alleges:

Since the inception of this lawsuit, GSVPOA has made certain defamatory statements regarding GSR, including that (1) “GSR fundamentally has set the budget for Security and Public Works for [GSV] since the inception of [GSVPOA] in 2001 under [the DOE]”; (2) “GSR has overreached, in violation of GSVPOA’s rights, in its

¹ The Court notes that by Agreed Order Granting Plaintiff’s Motion for Leave to File Second Amended Complaint, entered May 20, 2021, the Second Amended Complaint in this civil action is deemed filed as of May 20, 2021. *See* Ord., 5/20/21.

efforts to control the amount of association's funds each year for the repairs, repaving and maintenance of roads within Phase I and The Farms"; (3) "GSR invoices GSVPOA regardless and in spite of GSVPOA's annual budget for all of Glade Springs as approved by its Membership"; (4) "[a]ll of this is being done to hurt GSVPOA"; (5) GSR's action with respect to the transponder fees are "simply another attempt by GSR to harass and harm [GSVPOA] for the legal action it has taken against GSR and former GSVPOA board members for actions it took during its control of GSVPOA from 2010 to 2019"; and (6) "GSR's actions [with respect to the transponder fees] are unjustified and improper" and "just another one of the many actions taken by GSR and its manager to hurt and harm GSVPOA." *See* Email from GSVPOA to Members dated October 24, 2023, attached as Exhibit 1; Email from GSVPOA to Members dated September 30, 2022, attached as Exhibit 2; Email from GSVPOA to Members dated September 19, 2022, attached as Exhibit 3; Email from GSVPOA to Members dated September 13, 2022, attached as Exhibit 4."

See Amended Counterclaim ¶ 18.

3. The full text of the subject statements, referred to as Member Communications by the POA, upon which GSR predicates its defamation claim against the POA is set forth below:

Exhibit 1:

GSR RESPONSIBLE FOR ITS COMMON PROPERTIES. GSR fundamentally has set the budget for Security and Public Works for Glade Springs Village since the inception of our POA in 2001 under an agreement between the Resort and Cooper Land Development, Inc., the original Glade Springs Village developer called the Deed of Easements and Licenses (DOEL). GSVPOA members who own lots in Phase I and The Farms have distinct, preexisting rights of access unrelated to the DOEL. **On October 17, 2023, Lewis Gianola sent GSR's lawyer stating that under West Virginia law GSR as the developer that claims development rights to the roads in Phase I and The Farms has the financial responsibility alone to pay for the upkeep of the roads in those two communities. For further information on this matter, please see Lewis Gianola's letter by clicking [HERE](#).** Despite the GSR's clear financial responsibility for Phase I and The Farms roads, GSVPOA will endeavor to equitably spend association funds on repairing and maintaining all roads in Phase I, The Farms and Glade Springs Village. GSVPOA reserves the right to demand reimbursement from GSR for those costs incurred for the roads in Phase I and The Farms. GSR has overreached, in violation of GSVPOA's rights, in its efforts to control the amount of association's funds each year for the repairs, repaving and maintenance of roads within Phase I and The Farms. GSR invoices GSVPOA regardless and in spite of GSVPOA's annual budget for all of Glade Springs as approved by its Membership. The Board of Directors of GSVPOA has tried unsuccessfully to convince GSR to determine jointly a road repair budget that is equitable and fair to all the Members of GSVPOA that addresses the repair of roads in the most need of repair while taking into consideration that 72% of all roads and 84% of all lots in Glade Springs are located within Glade Springs Village. Over the past few years, the majority of road repaving work has occurred in Phase I

on GSR owned roads and is planned again by GSR this year, regardless of what GSVPOA has budgeted or the overall condition of roads in GSV. All of this is being done to hurt GSVPOA. **In the Justice Holdings v. GSVPOA matter, the West Virginia Supreme Court ruled on June 15, 2023, the Uniform Common Interest Ownership Act (“UCIOA”), applies to Glade Springs Village. As such, it is the opinion of our legal counsel, Lewis Gianola, that Phase I and thus GSR also are subject to UCIOA. In respect of the foregoing, GSVPOA will protect the rights of owners within Glade Springs Village, The Farms and Phase I and will spend the financial resources of its Members only in accordance with its obligations under the declarations for those communities while pursuing GSR to honor its obligations and to pay its liabilities.**

Exhibit 2:

As an update to our communication two weeks ago with regard to transponder fees, **your POA board of directors has authorized the filing of a Motion for a Temporary Restraining Order and Preliminary Injunction regarding Transponder Fee Revenue in Business Court (“Motion”) to stop GSR from claiming ownership of the transponder fees.**

The Motion was filed today and if you would like to learn more about it, please log in to the member only portal on our website at **gladespringspoa.com** and you will find a complete copy along with all exhibits. If you have any issues with accessing the member only portal, please call the POA office and they would be happy to assist you.

Our attorneys, Lewis Glasser, have requested an emergency conference before Judge Dent to address this matter as soon as possible to stop GSR from taking any action with regard to the transponder fees and inconveniencing members by interrupting access to the transponder lane. We should know early next week if the judge will schedule the emergency conference.

In summary, the reason the Motion had to be filed is because GSR is now falsely claiming these transponder fees belong to it since it is responsible to provide security and has notified members purchasing transponders of such claim beginning October 1st. GSR is reimbursed 100% of all security costs; yet, claims ownership of these fees.

It is the POA’s position that GSR has no legal or other right to the transponder fees. This is simply another attempt by GSR to harass and harm your POA for the legal action it has taken against GSR and former GSVPOA board members for actions it took during its control of GSVPOA from 2010 to 2019.

Exhibit 3:

As a follow-up of our notification last week, GSR, the owner of Glade Springs Resort, had threatened to take control of the transponder fees and its management has now acted upon that threat by sending emails to Glade residents and specifically to holders of transponders. In these communications, members electing to renew their transponders have been instructed to submit your fees to GSR beginning October 1, 2022. **The POA’s board of directors believes GSR’s actions are unlawful. GSR has claimed no authority in contract or law that would sanction its actions. The POA’s board of directors is taking immediate action this week by filing a motion before the court to stop GSR from taking ownership and control of our transponder fees. We will be asking Judge Dent for an expedited review of and decision on our motion because of the immediate adverse effects on our POA and its members. Although the timing of a resolution will be up to Judge Dent, we hope to have an answer as soon as possible. In the meantime, we ask that members take no action until this matter is resolved and to pay neither GSR nor the POA.**

GSR’s actions are unjustified and improper. This is just another one of the many actions taken by GSR and its manager to hurt and harm GSVPOA. The POA’s board of directors will not stand by

without action to protect the members' interest in our community. **We will let you know when the motion is filed and uploaded to our members' only portal on our website.** If you have any questions, please email us at info@gladespringspoa.com.

Exhibit 4:

Dear Property Owners:

In 2016, the developer appointed board constructed a new security entrance building and gate on property owned by the developer at a total cost of approximately \$600,000, without the approval of the members. A portion of the construction costs (approximately 40% or \$250,000) was funded from the general revenues of your POA (i.e., assessment revenue) and the remaining costs were funded through a bank loan with the primary source of repayment to come from transponder fees paid on each vehicle that wanted faster access through the gate.

The transponder fees collected by the POA have been used to repay this loan and will be used to repay a portion of the refinanced loan (net proceeds used to increase reserve funds). In 2021, your finance committee and elected board reviewed these transponder fees against the loan repayment along with the security costs being reimbursed to GSR and decided to keep these fees in place to offset the loan repayment. For the foreseeable future, these fees will be needed to help repay the new loan and defray the security costs charged by GSR. Costs that could be significantly reduced while maintaining the same level of services if an outside professional security firm were employed.

GSR is now claiming these transponder fees belong to it since it is responsible to provide security and plans to notify members purchasing transponders of such claim beginning October 1st. GSR is reimbursed 100% of all security costs; yet, claims ownership of these fees. GSR submits a monthly invoice for security and public works expenses and the POA pays it without any approval rights. **It is the POA's position that GSR has no legal or other right to the transponder fees and we are prepared to defend our position in court if GSR moves forward with its threat to notify members to redirect these fees to them. This is simply another attempt by GSR to harass and harm your POA for the legal action it has taken against GSR and former GSVPOA board members for actions it took during its control of GSVPOA from 2010 to 2019.**

We will keep you abreast of any future developments in this matter.

See First Amended Counterclaim, Exhibits 1 through 4 (emphasis added).

4. On December 27, 2024, Plaintiff filed the instant Glade Springs Village Property Owners Association, Inc.'s Motion to Dismiss Count VIII – Defamation of Defendant/Counterclaim Plaintiff GSR, LLC's First Amended Counterclaim, arguing the alleged defamatory statements are contained within communications from a party litigant, GSVPOA, to its members that are pertinent to the pending litigation and are thus subject to absolute privilege. *See Pl's Mot.*, p. 4. Alternatively, Plaintiff avers GSR failed to state a claim upon which relief can be granted because the alleged defamatory statements are statements of opinion. *Id.*

5. On January 12, 2024, GSR filed a Response, arguing the statements are not privileged because they were not made within a judicial proceeding. *See* Def’s Resp., p. 1. Additionally, GSR argues the statements are not opinion, but are factual statements that are false. *Id.*

6. On January 26, 2024, Plaintiff filed its Reply, arguing GSR failed to adequately plead its defamation claim and reiterating its arguments that the statements are absolutely privileged and that the statements constitute opinion. *See* Reply, p. 2, 9.

7. The Court finds the issue ripe for adjudication.

STANDARD OF LAW

This matter comes before the Court upon a motion to dismiss. Motions to dismiss are governed by Rule 12(b)(6) of the West Virginia Rules of Civil Procedure. “The trial court, in appraising the sufficiency of a complaint on a Rule 12(b)(6) motion, should not dismiss the complaint unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” Syl. Pt. 3, *Chapman v. Kane Transfer Co., Inc.*, 160 W.Va. 530 (1977). “Since the preference is to decide cases on their merits, courts presented with a motion to dismiss for failure to state a claim construe the complaint in the light most favorable to the plaintiff, taking all allegations as true.” *Sedlock v. Moyle*, 222 W.Va. 547, 550, 668 S.E.2d 176, 179 (2008). “We recognized, however, that liberalization in the rules of pleading in civil cases does not justify a carelessly drafted or baseless pleading.” *Par Mar v. City of Parkersburg*, 183 W.Va. 706, 711 (1990).

A motion to dismiss under Rule 12(b)(6) enables a circuit court to weed out unfounded suits. *Williamson v. Harden*, 214 W.Va. 77, 79 (2003).

CONCLUSIONS OF LAW

Plaintiff requests that this Court dismiss Count VIII of GSR's First Amended Counterclaim for Defamation. As an initial matter, in the Reply, Plaintiff argues that GSR cites to portions of Elmer Coppoolse's discovery deposition transcript in the Response, and said portions cannot be considered by this Court in adjudicating the instant motion under Rule 12(b)(6). *See* Reply, p. 11. In adjudicating a motion to dismiss under Rule 12(b)(6), a trial court may consider: "(1) factual allegations in the complaint; (2) documents attached to the complaint as exhibits or incorporated in it by reference; (3) matters of which judicial notice may be taken; and (4) documents that are integral to the complaint." Louis J. Palmer, Jr. & Robin Jean Davis, *Litigation Handbook on West Virginia Rules of Civil Procedure*, § 12(b)[8], at 407 (5th ed. 2017) (citation in footnote omitted). The Court agrees with Plaintiff and finds the deposition transcript portions are outside of the scope of the Counterclaim and the Court has not considered the same in making its decision.

GSVPOA argues that "the alleged defamatory statements are contained within communications from a party litigant, GSVPOA, to its members that are pertinent to the pending litigation and are thus subject to absolute privilege." *See* Pl's Mot., p. 4. GSR argues the alleged defamatory statements are not protected by absolute privilege because the statements "were not made within a judicial proceeding" and "have no relation to a judicial proceeding." *See* Def's Resp., p. 6.

"The essential elements for a successful defamation action by a private individual are (1) defamatory statements; (2) a nonprivileged communication to a third party; (3) falsity; (4) reference to the plaintiff; (5) at least negligence on the part of the publisher; and (6) resulting injury." Syl. Pt. 1, *Crump v. Beckley Newspapers, Inc.*, 320 S.E.2d 70, 74 (W. Va. 1983).

As an initial matter, the Court concludes absolute privilege is defined in the following way by the West Virginia Supreme Court of Appeals: An absolute privileged communication is one in respect of which, by reason of the occasion on which, or the matter in reference to which, it is made, no remedy can be had in a civil action, however hard it may bear upon a person who claims to be injured thereby, and even though it may have been made maliciously. *Crump v. Beckley Newspapers, Inc.*, 173 W.Va. 699, 706, 320 S.E.2d 70, 78 (1983) (quoting *City of Mullens v. Davidson*, 133 W.Va. 557, 563, 57 S.E.2d 1, 6 (1949) (quoting, 33 Am.Jur. *Libel and Slander* § 125)).

The *Crump* Court observed: The scope of absolute privilege is confined within fairly narrow limits. “With a few exceptions ... absolutely privileged communications are limited to **legislative, judicial and quasi-judicial proceedings and other acts of the State.**” *Parker v. Appalachian Electric Power Co.*, 126 W.Va. 666, 672, 30 S.E.2d 1, 4 (1944) cited by *Collins v. Red Roof Inns, Inc.*, 211 W. Va. 458, 461, 566 S.E.2d 595, 598 (2002)(emphasis added).

The objectives of the litigation privilege with respect to allegedly slanderous statements made in judicial or quasi-judicial proceedings include: (1) promoting the candid, objective and undistorted disclosure of evidence; (2) placing the burden of testing the evidence upon the litigants during trial; (3) avoiding the chilling effect resulting from the threat of subsequent litigation; (4) reinforcing the finality of judgments; (5) limiting collateral attacks upon judgments; (6) promoting zealous advocacy; (7) discouraging abusive litigation practices; and (8) encouraging settlement. *Smith v. Chestnut Ridge Storage, LLC*, 244 W. Va. 541, 855 S.E.2d 332 (2021).

The Court finds *Collins v. Red Roof Inns, Inc.*, 211 W. Va. 458, 461, 566 S.E.2d 595, 598 (2002) to be very instructive on whether or not Plaintiff’s statements were made within a judicial

proceeding within the meaning of the law regarding absolute privilege. In *Collins*, the Supreme Court of Appeals of West Virginia was tasked with determining whether or not to “adopt that portion of the Restatement allowing an absolute privilege to attach to comments made *preliminary* to a judicial proceeding”. *Collins v. Red Roof Inns, Inc.*, 211 W. Va. 458, 462, 566 S.E.2d 595, 599 (2002). Indeed, the Court considered statements made preliminary to the filing of a civil action. The Court also notes that, like the circumstances we have here, the *Collins* Court was tasked with answering a certified question of “whether such a privilege applies when the subject of the defamatory comment is a third person who is not a party to the prospective judicial proceeding”. *Id.* at 464, 601.

In determining that the privilege does in fact attach to statements made preliminary to a judicial proceeding, or civil action, or “pre-litigation” as the *Collins* Court calls it, the Court in *Collins* looked to case law from other states. The Court considers that the *Collins* Court discussed that in Oklahoma “[t]he litigation privilege is not limited to statements made in a courtroom during a trial”. *Id.* at 462, 599. The *Collins* Court further discussed that in South Carolina “the absolute privilege exists as to any utterance arising out of the **judicial proceeding** and having any reasonable relation to it, including preliminary **steps leading to judicial action** of any official nature provided those steps bear reasonable relation to it.” *Id.* at 463, 600. (emphasis added). The *Collins* Court next examined and discussed that in North Carolina “prior to the instigation of a **judicial proceeding**, a lawyer acting for the bank sent a letter and copy of an unfiled complaint to the credit association” and the North Carolina court therefore held “an absolute privilege exists not only with respect to statements made in the course of a pending judicial proceeding but also with respect to communications relevant to [a] **proposed judicial**

proceeding.” *Id.* (emphasis added). *Collins* applied “an absolute privilege to **pre-litigation** defamatory matter involving third parties”. *Id.* at 464, 601. (emphasis added).

Further, this Court considers the Court in *Collins* was “most concerned” with the availability of certain protections available in in “an ongoing judicial action” versus at a “preliminary stage”. *Id.* at 465, 602. The Court stated:

Finally, we note that in our consideration of whether communications preliminary to a proposed judicial proceeding should be afforded an absolute privilege, we have been most concerned by the fact that certain protections against the misuse of an absolute privilege asserted in connection with an ongoing judicial action would not be present at the preliminary stage.

Id.

The protections we refer to include accountability in the form of: (1) criminal liability for perjury, *see* W. Va.Code § 61-5-1 (1996) (Repl.Vol.2000) (“Perjury and subornation of perjury defined”); (2) criminal liability for false swearing, *see* W. Va.Code § 61-5-2 (1923) (Repl.Vol.2000) (“False swearing defined”); (3) criminal liability for contempt of court, *see* W. Va.Code § 61-5-26 (1923) (Repl.Vol.2000); (4) sanctions for making representations to the court that have no evidentiary support, *see* Rule 11, W. Va. R. Civ. P.; (5) civil liability for malicious prosecution.

Id. (footnote 10).

This Court finds the *Collins* Court’s extensive use of the terms pre-litigation and proposed judicial proceeding interchangeably support the POA’s position that the subject statements here were made within a judicial proceeding. Indeed, *Collins*’ holding uses both the terms “prospective judicial action” and “prospective judicial proceeding”:

“[w]e hold that prior to the filing of a prospective judicial proceeding, a party to a dispute is absolutely privileged to publish defamatory matter about a third person who is not a party to the dispute only when (1) the **prospective judicial action** is

contemplated in good faith and is under serious consideration; (2) the defamatory statement is related to the **prospective judicial proceeding**; and (3) the defamatory matter is published only to persons with an interest in the prospective judicial proceeding.”

Id. at 466, 603. (emphasis added).

This Court especially considers the matter that the Court in *Collins* found to be of utmost importance: in the course of a civil action, there are certain protections available, such as perjury, sanctions, and contempt proceedings. These protections are available throughout the process of a civil action, or entire judicial proceeding. GSR has these protections available to it.

The Court also finds the wording in a Syllabus Point of *Clark v. Druckman*, 218 W. Va. 427, 624 S.E.2d 864 (2005) to be helpful. As recently as 2021, the Supreme Court, in Syllabus Point 6 of *Smith v. Chestnut Ridge Storage, LLC*, 244 W. Va. 541, 855 S.E.2d 332 (2021) stated the following: “The litigation privilege is generally applicable to bar a civil litigant's claim for civil damages against an opposing party's attorney if the alleged act of the attorney occurs in the course of the attorney's representation of an opposing party and is conduct related to the **civil action**.” Syl. Pt. 6, *Smith v. Chestnut Ridge Storage, LLC*, 244 W. Va. 541, 855 S.E.2d 332, 333 (2021); Syl. Pt. 3, *Clark v. Druckman*, 218 W. Va. 427, 624 S.E.2d 864 (2005)(emphasis added).

The Court further notes that as recently as March 2024, the application of absolute privilege to the judicial proceeding as set forth in *Clark* was described in a federal court applying West Virginia law as the “litigation process”. See *Elgin Separation Sols., LLC v. Dillon*, No. 2:23-CV-00440, 2024 WL 1253862, at *4 (S.D.W. Va. Mar. 22, 2024)(considering these principles, the West Virginia Supreme Court has held that the privilege applies to both communications and conduct transpiring during the litigation process. *Clark v. Druckman*, 624 S.E.2d 864, 871 (W. Va. 2005)). Although not binding authority, the Court finds this recent

opinion examining *Clark* illustrative in this Court's own examination and consideration of the term "judicial proceeding" within the application of West Virginia law on litigation privilege.

Finally, while not a published case, this Court notes that in *Miskell v. Moore*, No. 17-0836, 2019 WL 2322540, (W. Va. May 31, 2019), the Supreme Court upheld a trial court's granting of an attorney's motion to dismiss, considering pre-litigation conduct² and the representation of a client regarding a prospective "judicial action", applying *Clark* and *Collins* and finding that "each and every allegation against [respondent] is based upon his representation of [Hinkle] as legal counsel." *Miskell v. Moore*, No. 17-0836, 2019 WL 2322540, at *3 (W. Va. May 31, 2019). The undersigned finds it instructive that the Supreme Court found the prospective "judicial action" to mean the filing of a civil action in West Virginia Circuit Court in the undersigned's own evaluation of the meaning of judicial proceeding under *Clark* and *Collins* and its progeny. The Court considers the conduct in *Miskell* was not limited to the actions or conduct of counsel in open court, depositions, affidavits, and the like.

The Court notes GSR cites to a concurring opinion to argue that the POA's statements were not made within a judicial proceeding. See *Barefield*, 600 S.E.2d at 272 (Davis, J., concurring) (The litigation privilege "extends to any statement made by the judge, jurors, counsel, parties, or witnesses, and attaches to all aspects of the proceedings, including statements made in open court, pre-trial hearings, depositions, affidavits, and any of the pleadings or other papers in the case.") Because of this, GSR urges this Court to find that the alleged defamatory statements were not made within a judicial proceeding because they were not made in open court, a pre-trial hearing, a deposition, an affidavit, or any other pleadings or paper, and that the statements have no relation to a judicial proceeding. But as described above, this Court's

² The Court notes the conduct alleged in *Miskell* does not include defamatory statements.

reading of *Collins*, and other relevant case law, does not support this limitation. This Court is therefore not persuaded by GSR's Response argument. The Court finds after a review of the relevant case law, that although some cases involved underlying facts wherein the subject statements were made to the Court in open court, the absolute privilege against defamation is not confined to statements made to the Court in a hearing, trial, or statements made in a deposition, affidavit, or other case-related event. Rather, West Virginia law is clear that a judicial proceeding encompasses statements made during (or previous to) a civil action. The POA's statements to its members, updating them on the status of this case, squarely fall into this definition.

Further, the Court considers the parties do not dispute that GSVPOA members have an interest in this civil action. *See* Def's Resp., p. 7. Therefore, as a matter of law, the subject statements were non-defamatory, privileged communications and, thus, Count VIII of GSR's First Amended Counterclaim fails to state a claim of defamation upon which relief may be granted against GSVPOA. Because this Court concludes the instant statements are subject to absolute privilege, the Court need not analyze Plaintiff's arguments that GSR failed to state a claim upon which relief can be granted because the alleged defamatory statements are statements of opinion. Accordingly, the Court finds the instant motion shall be GRANTED.

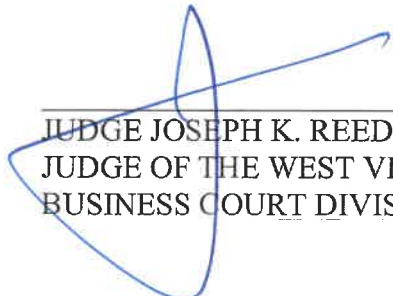
CONCLUSION

Accordingly, it is hereby ADJUDGED and ORDERED that Plaintiff Glade Springs Village Property Owners Association, Inc.'s Motion to Dismiss Count VIII – Defamation of Defendant/Counterclaim Plaintiff GSR, LLC's First Amended Counterclaim is hereby GRANTED. It is further hereby ADJUDGED and ORDERED that Count VIII – Defamation of Defendant/Counterclaim Plaintiff GSR, LLC's First Amended Counterclaim is DISMISSED WITH PREJUDICE.

The Court notes the objections and exceptions of the parties to any adverse ruling herein. The Court directs the Circuit Clerk to distribute attested copies of this order to all counsel of record, and to the Business Court Central Office at West Virginia Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

5/3/24

date of entry



JUDGE JOSEPH K. REEDER
JUDGE OF THE WEST VIRGINIA
BUSINESS COURT DIVISION