

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

ROBERT HARRIS,

Plaintiff Below/Petitioner,

v.)

No. 24-ICA-264

(Cir. Ct. Lewis Cnty. No. CC-21-2023-C-71)


WARNER LAW OFFICES PLLC,

and

**CLARKSBURG PUBLISHING COMPANY,
d/b/a The Weston Democrat and The Record Delta,
a West Virginia Corporation,**

Defendants Below/Respondents,

BRIEF IN SUPPORT OF PETITIONER'S APPEAL



Patrick Crowe, Esq.

WV Bar ID #14245

PA Bar ID # 334827

Cell: 304-961-6338

Fax: 1-304-715-3579

Pcrowe@crowebarlaw.com

Counsel for Petitioner/Plaintiff Below

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ASSIGNMENTS OF ERROR

Petitioner, Dr. Robert Harris, alleges four (4) Assignments of Error in the Circuit Court of Lewis County, West Virginia's dismissal of his complaint pursuant to West Virginia Rule of Civil Procedure 12(b)(6).

I. The circuit court erred by finding that Petitioner cannot establish the essential elements of defamation because the advertisements do not contain defamatory statements.

Petitioner's complaint alleges sufficient facts to state a claim for defamation, which will entitle him to relief when proven through discovery. The circuit court erred in finding Petitioner is required to, and cannot, establish the essential elements of defamation and by making determinations regarding factual disputes. Additionally, the circuit court failed to view Petitioner's complaint in a light most favorable to petitioner with the allegations therein as true.

II. The Court erred by making evidentiary determinations in favor of the Respondents at the motion to dismiss stage and by considering extrinsic evidence.

A. The circuit court made evidentiary findings in favor of Respondents prior to discovery and usurped the role of the jury.

The Court made factual findings such as (1) the defamatory nature of the advertisements; (2) the definition of area as it pertained to the reach of the defamatory advertisements; (2) where and how far citizens of West Virginia travel for medical services; (3) that the defamatory advertisements were not false or made with reckless disregard by Defendants; (4) the Defendants' intent behind their defamatory advertisements; (5) that the advertisements were not limited in time; and (6) the general public's knowledge of the applicable statute of limitations. Petitioner contends the circuit court had no basis to make any of these findings because there is no evidence to consider and the majority of these questions are for a jury to determine after discovery has concluded.

B. The circuit court erred by viewing evidence extrinsic to the complaint and amended complaint.

The circuit court improperly considered evidence at the motion to dismiss hearings and made evidentiary determinations in favor of Respondents. Extrinsic evidence, not attached to a complaint, is not ripe for consideration at the motion to dismiss stage.

III. The circuit court erred by dismissing Petitioner's claim for intentional infliction of emotional distress because the advertisements were not so extreme and outrageous as to exceed the bounds of decency.

The circuit court erred by making a factual determination regarding the intent of Respondents' advertisements and dismissing Petitioner's claim for intentional infliction of emotional distress. No evidence is available at this stage in the proceedings to make a finding regarding the intent of the Respondents and Petitioner contends that whether the Respondents' conduct was in fact outrageous is a question for a jury after the close of discovery.

IV. The circuit court erred by adding a party to the case.

The circuit court committed plain error by adding a party, the Record Delta, to the style of the case in the final dismissal order. Petitioner specifically named the Weston Democrat as the only entity of the Clarksburg Publishing Company in his amended complaint and has never named the Record Delta as a party.

STATEMENT OF THE CASE

Petitioner filed a complaint in the Circuit Court of Lewis County, West Virginia, naming Warner Law Offices, PLLC ("Warner Law") as Defendant, on September 4, 2023. (Appx. 7-17). Respondent Warner Law filed an answer and a motion to dismiss the complaint, pursuant to West Virginia Rule of Civil Procedure 12(b)(6). (Appx. 18-29). Petitioner filed a response to the motion to dismiss on November 2, 2023. (Appx. 30-33). On January 2, 2024, Respondent Warner Law Filed a brief in support of their Motion to Dismiss. (Appx. 34-79). Petitioner filed a response to

Respondent Warner Law’s brief on January 16, 2024. (Appx. 80-93). On February 5, 2024, the motion to dismiss was heard in the Circuit Court of Lewis County, West Virginia. At the conclusion of the hearing, the Court stated it was taking the matter under advisement. (Appx. 126). On February 8, 2024, Petitioner filed an amended complaint, adding The Weston Democrat as a Defendant. (Appx. 94-108). On March 11, 2024, Respondent The Weston Democrat filed an answer and subsequent motion to dismiss pursuant to West Virginia Rule of Civil Procedure 12(b)(6). (Appx. 162-177; 178-190; 191-227). Petitioner filed a response on February 17, 2024. (Appx. 228-244). On June 6, 2024, Respondent The Weston Democrat’s motion to dismiss was heard in the Circuit Court of Lewis County, West Virginia. On June 18, 2024, Judge Kurt Hall entered an order dismissing Petitioner’s amended complaint pursuant to West Virginia Rule of Civil Procedure 12(b)(6). (Appx. 299-304). Petitioner appeals Judge Kurt Hall’s final order dismissing his complaint.

Petitioner’s complaint alleges Respondent Warner Law and Respondent The Weston Democrat (collectively “Respondents”) are liable to him under theories of libel, defamation *per se*, and intentional infliction of emotional distress. (Appx. 102-107). Petitioner claims Respondent Warner Law advertised defamatory statements alleging sexual assault by a gynecologist in Weston, West Virginia and Respondent The Weston Democrat advertised defamatory statements alleging sexual assault by a local gynecologist. (Appx. 102). These defamatory statements were directed at Petitioner. (Appx. 102-103). Further, Respondents recognized the defamatory and incriminating nature of their advertised statements prior to publication. (Appx. 102). Petitioner contends the statements were defamatory, non-privileged, and produced to third parties. (Appx. 102-103). Respondents’ advertised defamatory statements were based on false, misleading and/or unsubstantiated information. (Appx. 103). Petitioner, as the only licensed regular practicing

gynecologist in Weston, West Virginia at the time the advertisements were publicized, was the only ascertainable person the defamatory statements could have referred to. (Appx. 103). Respondents' advertising of the defamatory statements, without any substantiated facts, amounts to at least negligence. (Appx. 103). Further, Petitioner alleges Respondents are liable to him under a theory of intentional infliction of emotional distress as a consequence of Respondents public advertising of the defamatory statements. (Appx. 105-107).

Petitioner seeks monetary compensation due to loss of employment, loss of future employment, harm to professional and personal reputation, mental anguish and distress, as well as punitive damages and attorney's fees. (Appx. 102-107).

SUMMARY OF THE ARGUMENT

Petitioner contends the circuit court erred in dismissing his complaint, pursuant to Rule 12(b)(6) of the West Virginia Rules of Civil Procedure, because Petitioner's complaint alleged sufficient facts to state claims for defamation, defamation *per se*, and intentional infliction of emotional distress which would entitle him to relief.

The circuit court erred by finding Petitioner was required to establish the elements for his claim of defamation at the motion to dismiss stage. Further, the circuit court did not view Petitioner's complaint in the light most favorable to Petitioner with the facts alleged therein as true.

Petitioner objected to the circuit court's consideration of evidence and fact finding at the motion to dismiss stage. However, the circuit court made evidentiary findings in favor of Respondents regarding disputed facts in its final order dismissing Petitioner's complaint. Additionally, the circuit court viewed extrinsic evidence at the motion to dismiss hearings.

An inadequate basis was provided by the circuit court in their final order dismissing Petitioner's claim of intentional infliction of emotional distress. The circuit court found that the collateral result of every lawsuit is emotional distress. Further, the circuit court determined the

intent of Respondent's advertisements was to generate business. Petitioner contends that the basis stated in the circuit court's final order is inadequate to dismiss Petitioner's claim for intentional infliction of emotional distress.

The circuit court committed plain error by adding a party to the style of the case in its final order dismissing Petitioner's complaint. The circuit court added the Record Delta to the style of the case in its final order dismissing Petitioner's complaint, pursuant to Rule 12(b)(6) of the West Virginia Rules of Civil Procedure. The circuit court then relied on the Record Delta's geographical location as a basis to dismiss the complaint. Petitioner never alleged a cause of action against the Records Delta and has never named the Record Delta as a party to the lawsuit.

STATEMENT REGARDING ORAL ARGUMENT AND DECISION

Petitioner requests Rule 19 oral argument based on the case involving assignments of error in the application of settled law and/or claiming an unsustainable exercise of discretion where the law governing the discretion is settled, if this Court deems necessary and appropriate.

ARGUMENT

Petitioner, Dr. Robert Harris, raises four (4) assignments of error by the Circuit Court of Lewis County, West Virginia. Petitioner requests this Honorable Court reverse and remand the lower court's final order dismissing his complaint for the reasons set forth below.

Jurisdiction

This Court has jurisdiction over Petitioner's appeal pursuant to West Virginia Code § 51-11-4.

Standard of Review

An appellate court's review of a circuit court's final order "granting a motion to dismiss a complaint is de novo." Syl. Pt. 2, *State ex rel. McGraw v. Scott Runyan Pontiac-Buick, Inc.*, 194

W.Va. 770, 461 S.E.2d 516 (1995). Further, an appellate court reviews a circuit court's final order and disposition "under an abuse of discretion standard" and views the circuit court's factual findings "under a clearly erroneous standard." *PITA, LLC v. Segal*, 22-ICA-4, 22-ICA-46 (W. Va. ICA Sep 11, 2023) citing (Syl. Pt. 2, *Walker v. West Virginia Ethics Comm'n*, 201 W.Va. 108, 492 S.E.2d 167 (1997)). Appellate courts review questions of law under a "de novo" standard. *Id.*

Appellate courts may consider "plain error not among the assignments of error but evident from the record and otherwise within its jurisdiction...." W. Va. R. App. P. 10(c)(3). Plain error requires "(1) an error; (2) that is plain; (3) that affects substantial rights; and (4) seriously affects the fairness, integrity, or public reputation of the judicial proceedings." *State v. Miller*, 194 W.Va. 3, 459 S.E.2d 114 (W. Va. 1995).

A motion to dismiss under West Virginia Rule of Civil Procedure 12(b)(6) is based on "failure to state a claim upon which relief can be granted." W. Va. R. Civ. P. 12(b)(6). The burden of proof is on the moving party "to prove that no legally cognizable claim for relief exists." *Mountaineer Fire & Rescue Equip., LLC v. City Nat'l Bank of W.Va.*, 244 W.Va. 508, 520 (2020). In order to survive a Rule 12(b)(6) motion to dismiss, a plaintiff's complaint "need only outline the alleged occurrence which (if later proven to be a recognized legal or equitable claim), would justify some form of relief." *Mountaineer*, 244 W.Va. at 521. The Supreme Court of Appeals of West Virginia requires trial courts considering a Rule 12(b)(6) motion to dismiss must "presume all of the plaintiff's factual allegations are true, and...construe those facts, and inferences arising from those facts, in the light most favorable to the plaintiff." *Id.*

Further, motions to dismiss are "viewed with disfavor" and should be "rarely" granted. *Forshey v. Jackson*, 671 S.E.2d 748, 754, 222 W. Va. 743 (W. Va. 2008) (citations omitted). A Rule 12(b)(6) motion to dismiss should only be granted where "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, in part, *Chapman v. Kane Transfer Co.*, 160 W.Va. 530, 236 S.E.2d 207 (1977).

I. The circuit court erred by finding that Petitioner cannot establish the essential elements of defamation because Respondents’ advertisements do not contain defamatory statements.

The allegations in Petitioner’s complaint, when taken as true and viewed in a light most favorable to Petitioner, state a claim for defamation against Respondents upon which relief can be granted.

The essential elements of a defamation claim by a private individual include “(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, 173 W.Va. 699 (1983).

Petitioner’s complaint alleges sufficient facts to state a claim for defamation against Respondents. (Appx. 7-17; 94-108). Specifically, in his complaint for defamation, under the theory of libel, Petitioner claims Respondents advertised statements alleging sexual assault was or has been committed by Petitioner. (Appx. 102). Petitioner contends the statements were defamatory, non-privileged, and produced to numerous third parties. (Appx. 103). Respondent’s defamatory statements were based on false, misleading and/or unsubstantiated information. (Appx. 103). Petitioner, as the only licensed regular practicing gynecologist in Weston, West Virginia, alleges that he was the only ascertainable person the defamatory statements could have referred to. (Appx. 103). Respondents’ advertising of the defamatory statements, without any substantiated facts, amount to at least negligence. (Appx. 103). Finally, Petitioner alleges loss of employment, future employment, harm to professional and personal reputation and mental anguish and distress in his claim for damages. (Appx. 103-104).

The circuit court erred by finding Petitioner is required to establish the elements of defamation at the motion to dismiss stage. (Appx. 302). Petitioner contends his complaint need only allege sufficient facts which, when proven through discovery, would entitle Petitioner to relief. (Appx. 84; 286-287). Petitioner will establish the essential elements of defamation through discovery and a jury will have a basis to find Petitioner entitled to relief as a result of Respondents' defamatory actions. (Appx. 286-287). The circuit court failed to view the facts alleged in the complaint as true and in the light most favorable to Petitioner. (Appx. 286).

Petitioner objected to the circuit court's consideration of Petitioner's complaint under the notion the complaint did not adequately allege the essential elements of defamation. (Appx. 286-287). Alternatively, the circuit court's finding that the defamatory advertisements at issue are not defamatory is plain error. Petitioner respectfully requests this Honorable Court reverse the circuit court's findings and remand the matter for further proceedings.

II. The circuit court erred by making evidentiary determinations in favor of the Respondents at the motion to dismiss stage and considering extrinsic evidence.

A. The circuit court made evidentiary findings in favor of Respondents prior to discovery and usurped the role of the jury.

Petitioner asserts the circuit court erred by making findings regarding disputed evidence in favor of Respondents prior to the discovery stage.

The standard for a motion to dismiss pursuant to West Virginia Rule of Civil Procedure 12(b)(6) is stated above. It is the "peculiar and exclusive province of the jury to weigh the evidence and to resolve questions of fact when the testimony is conflicting." *Long v. City of Weirton*, 214 S.E.2d 832, 158 W.Va. 741 (W. Va. 1975) (citations omitted). A question can absolutely be considered a statement as the "statement" that must be proven false in the context of defamation "is not invariably the literal phrase published but rather what a reasonable reader would have

understood the author to have said." *In re Callaghan*, 796 S.E.2d 604, No. 16-0670 (W. Va. 2017) citing (*Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 23-24, 110 S.Ct. 2695 (1990) (Brennan, J., dissenting)).

The circuit court erred in determining the defamatory advertisements referenced in Petitioner's complaint contained a question rather than a statement. (Appx. 302). Petitioner's complaint alleges Respondents' advertisements were defamatory statements made in reference to Petitioner. (Appx. 102-103). The circuit court itself noted defamatory advertisements could be disguised as a question. (Appx. 278-279). The circuit court likens Respondents' advertisements to attorney advertisements for motor vehicle accidents. (Appx. 302). An important difference between Respondents' advertisements and advertisements for auto injuries is that Respondents' advertisements were specific to Petitioner, which the circuit court noted. (Appx. 283). Another difference is Respondents' advertisements levy criminal felony accusations against Petitioner which are unquestionably defamatory to Petitioner's professional and personal reputations. (Appx. 41; 88).

The circuit court erred by determining the word "area" in Respondents' advertisements includes Weston and Buckhannon and could also reasonably include Clarksburg and Elkins. (Appx. 302-303). Petitioner contends the word "area" in the defamatory advertisements applies to the area within Weston, West Virginia. (Appx. 86). Further, there is no evidentiary basis to make any determination regarding the geographical limitations of the word "area" at the motion to dismiss stage as evidence is not available for consideration. As the circuit court correctly noted, the definition of the word "area" should be determined by a jury. (Appx. 121; 295.).

The circuit court erred by taking judicial notice that citizens will travel for medical services to Morgantown, Clarksburg/Bridgeport, and Buckhannon, West Virginia. (Appx. 303). Petitioner's

complaint alleges Respondent's defamatory advertisements were produced in Weston, West Virginia and Petitioner was the only ascertainable person they could have referred to. (Appx. 103). There was no basis for the circuit court to make a determination regarding where citizens travel for medical services at this stage in the proceedings.

The circuit court erred by determining the intention of Respondent Warner Law's advertising of the defamatory statements was to seek business and the intention of Respondent The Weston Democrat's advertising of the defamatory statements was for advertising revenue. (Appx. 303). Petitioner's complaint alleges Respondents' defamatory advertisements were made in false or reckless disregard of the truth. (Appx. 103). There was no evidentiary basis for the circuit court to make findings regarding Respondents' intent and their intent is not necessarily relevant in a claim for defamation.

The circuit court erred in determining Respondents' defamatory advertisements did not result in a false statement or show a reckless disregard for the truth. (Appx. 303). Petitioner's complaint alleges the defamatory advertisements are false and at a minimum, amount to negligence. (Appx. 103). Further, Petitioner is not required to prove the facts alleged in the complaint at the motion to dismiss stage. W. Va. R. Civ. P. 12(b)(6). Petitioner contends a reasonable reader would find Respondents' advertisements to be defamatory and false and/or made in reckless disregard of the truth. (Appx. 15; 91; 106; 119). Therefore, it is Petitioner's position that the defamatory nature of the advertisements will be proven through discovery and will be a question for jury consideration.

The circuit court erred by determining the defamatory advertisements are not limited by timeframe. (Appx. 303). The circuit court further erred by recognizing the statute of limitations as the sole basis for Petitioner's contention the defamatory advertisements referenced him. (Appx. 303). Finally, the circuit court erred by determining the general public does not recognize the

statute of limitations for medical malpractice claims. (Appx. 303). The defamatory advertisements allege sexual assault by a gynecologist, which falls under the guise of medical malpractice, and are therefore subject to a two-year statute of limitations in the State of West Virginia. West Virginia Code § 55-7B-4. Therefore, the defamatory advertisements could not have related to any gynecologist beyond two years prior to the date of publication. Additionally, Petitioner's complaint alleged Petitioner was the only licensed, regularly practicing gynecologist to which the defamatory advertisements could have referenced. (Appx. 103). Petitioner's complaint alleges that the defamatory advertisements were produced to numerous third parties, were not privileged, and resulted in damages due to the production to third parties. (Appx. 102-105). The Court had no basis to determine the general public's understanding of the applicable statute of limitations and it is not determinative to Petitioner's cause of action for defamation.

B. The Court erred by viewing evidence extrinsic to the complaint and amended complaint.

Petitioner contends the circuit court erred by viewing evidence and making evidentiary determinations at the motion to dismiss stage.

Generally, at the motion to dismiss stage “[o]nly matters contained in the pleading can be considered.” *Forshey*, 671 S.E.2d 748 at 752. If a circuit court considers matters outside of the pleading “the motion should be treated as one for summary judgment and disposed of under Rule 56 R.C.P. if there is no genuine issue as to any material fact in connection therewith.” *Id.* “[A] circuit court ruling on a motion to dismiss under Rule 12(b)(6) of the West Virginia Rules of Civil Procedure may properly consider *exhibits* attached to the complaint without converting the motion to a Rule 56 motion for summary judgment.” *Id.* at 754 (emphasis added).

The circuit court erred by considering extrinsic evidence. (Appx. 120-121; 283). Petitioner's complaint did not contain any exhibits. (Appx. 7-17; 94-108). During the February 5, 2024 hearing,

the Court viewed both the advertisements of Respondent Warner Law as well as internet searches. (Appx. 120-121). Petitioner objected to the court's consideration of evidence. (Appx. 119). At the June 6, 2024 hearing, the circuit court again relied on the defamatory advertisements and made factual determinations regarding the advertisements. (Appx. 283). Petitioner contends the advertisements should have only been viewed by the circuit court for the purpose of determining if they state what Petitioner alleged they stated in his complaints. However, the circuit court erred when it made factual determinations regarding evidence. (Appx. 120-121; 283).

Petitioner objected to the circuit court's consideration of evidence at the motion to dismiss stage. Alternatively, the circuit court's evaluation of evidence at the motion to dismiss stage is plain error. Petitioner respectfully requests this Honorable Court reverse the circuit court's findings and remand the matter for further proceedings.

III. The circuit court erred by dismissing Petitioner's claim for intentional infliction of emotional distress because the advertisements were not so extreme and outrageous as to exceed the bounds of decency.

Petitioner contends the circuit court erred by finding Respondents' defamatory advertisements were not so extreme and outrageous as to exceed the bounds of decency.

The Supreme Court of Appeals of West Virginia has held four elements are essential to establish a claim for intentional infliction of emotional distress: "(1) that the defendant's conduct was atrocious, intolerable, and so extreme and outrageous as to exceed the bounds of decency; (2) that the defendant acted with the intent to inflict emotional distress, or acted recklessly when it was certain or substantially certain emotional distress would result from his conduct; (3) that the actions of the defendant caused the plaintiff to suffer emotional distress; and, (4) that the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it." *Zsigray v. Cindy Langman & J.W. Ebert Corp.*, 842 S.E.2d 716, 727 (W. Va. 2020) citing (Syl. pt. 3, *Travis v. Alcon Labs., Inc.*, 202 W. Va. 369, 504 S.E.2d 419 (1998).

In a claim of intentional infliction of emotional distress, whether conduct may reasonably “be considered outrageous is a legal question,” but determining “whether conduct is in fact outrageous” is for a jury to decide. *Zsigray*, 842 S.E.2d 716 at 727.

The circuit court erred by finding that the collateral result of every lawsuit is emotional distress and that Petitioner’s cause of action for emotional distress fails because the intent of the advertisements was to generate business for Warner Law. (Appx. 304)¹. Petitioner’s complaint alleges Respondents produced defamatory advertisements accusing Dr. Harris of committing sexual assault, which were viewed by numerous third parties. (Appx. 103). Further, the defamatory advertisements resulted in criminal felony accusations against Petitioner, which any reasonable person can understand would result in severe emotional distress. (Appx. 41; 88). Whether or not Respondents’ intent for producing the defamatory advertisements was to generate business is irrelevant. Respondents intentionally produced the defamatory advertisements which has resulted in emotional distress to Petitioner. (Appx. 105-106).

Petitioner alleged a cause of action for intentional infliction of emotional distress and therefore objected to a dismissal without a sufficient basis. Alternatively, the circuit court’s insufficient reasoning to dismiss the cause of action is plain error. Petitioner respectfully requests this Honorable Court reverse the circuit court’s findings and remand the matter for further proceedings.

IV. The circuit court erred by adding a party to the case.

The circuit court erred by adding a party, the Record Delta, to the style of the case. (Appx. 300). In its dismissal Order, the circuit court states the Record Delta is published in Buckhannon, Upshur County, West Virginia. (Appx. 300). The circuit court then finds that the area which the

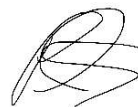
¹ It is unclear whether the circuit court dismissed Petitioner’s claim for emotional distress as to Respondent The Weston Democrat, however, for purposes of this appeal Petitioner presents argument there exists no basis to dismiss the claim as to either Respondent.

advertisements were published must include Buckhannon, West Virginia, as a result of the advertisements published in the Record Delta. Petitioner never named the Record Delta as a party at any point in the civil dispute. (Appx. 7-17; 94-108). In fact, Petitioner specifically named the Weston Democrat as the only entity of the Clarksburg Publishing Company in his amended complaint. (Appx. 94-108). Adding a party not named in the complaint and relying on characteristics of the non-party as a basis to dismiss the complaint is plain error by the circuit court. Petitioner respectfully requests this Honorable Court reverse the circuit court's findings and remand the matter for further proceedings.

CONCLUSION

The crux of a motion to dismiss is the sufficiency of the complaint. The legal standard in determining the sufficiency of a complaint is well settled in West Virginia. Petitioner's complaint alleges sufficient facts, which if proven through discovery, would entitle him to relief. The final dismissal order entered by the Circuit Court of Lewis County, West Virginia failed to justify a finding that Petitioner's complaint was insufficient and could not entitle him to relief. Therefore, Petitioner respectfully requests this Honorable Court reverse the circuit court's findings and remand the matter for further proceedings. Petitioner further requests this Honorable Court tax all costs related to this Petition, including reasonable attorney's fees and any other costs this Court deems just and appropriate, upon Respondents.

Respectfully submitted this 6th day of August, 2024.



Patrick Crowe, Esq.
WV Bar ID #14245
PA Bar ID # 334827
Cell: 304-961-6338
Fax: 1-304-715-3579
Pcrowe@crowebarlaw.com
Counsel for Petitioner/Plaintiff Below

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

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v.)

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WARNER LAW OFFICES PLLC,

and

**CLARKSBURG PUBLISHING COMPANY,
d/b/a The Weston Democrat and The Record Delta,
a West Virginia Corporation,**

Defendants Below/Respondents,

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of August 2024, I served Petitioner's "**Brief in Support of Petitioner's Appeal**" upon the parties of record via electronic filing:

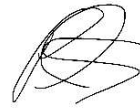
Robert P. Fitzsimmons, Esq.
WV Bar ID #1212
1609 Warwood Ave.
Wheeling, WV 26003
Bob@fitzsimmonsfirm.com
Co-Counsel for Respondent Warner Law

Rachel A. Jarvis, Esq.
WV Bar ID #11072
Fla. Bar ID #0096013
Jarvislawgroup@gmail.com
324 Hewes Ave.
Clarksburg, WV 26301
Co-Counsel for Respondent The Weston Democrat

Trevor K. Taylor, Esq.
WV Bar ID #8862
ttaylor@taylorlawofficewv.com
330 Scott Ave.
Morgantown, WV 26508
Co-Counsel for Respondent The Weston Democrat

Brant T. Miller, Esq.
WV Bar ID #13822
btmiller@grsm.com
Edward Slaughter, Esq.
WV Bar ID #13091
eslaughter@grsm.com
Richard E. Griffith, Esq.
WV Bar ID #14254
rgriffith@grsm.com
Gordon Rees Scully Mansukhani, LLP
707 Grant St., Ste. 3800
Pittsburgh, PA 15219
Co-Counsel for Respondent Warner Law

Dr. Robert Harris, Petitioner, by counsel,



Patrick Crowe, Esq.

WV Bar ID #14245

PA Bar ID # 334827

Cell: 304-961-6338

Fax: 1-304-715-3579

Pcrowe@crowebarlaw.com

Counsel for Petitioner/Plaintiff Below