

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR STOREY COUNTY**

* * *

LANCE GILMAN,
Plaintiff,
vs.
SAM TOLL,
Defendant.

Case No. 18 TRT 00001 1E
Dept. II

**ORDER GRANTING TOLL'S ANTI-SLAPP
SPECIAL MOTION TO DISMISS**

This Court issued its Order After Remand on March 8, 2020. The Court directed the parties, if necessary, to file supplemental points and authorities to address only the specific issue of facts gleaned during Toll's deposition that show whether Toll knew the "resident communications" were false, or whether he acted with a high degree of awareness of the probable falsity of the statements, or had serious doubts as to the publication's truth. Before the Court is the parties' points and authorities.

There is no evidence that Toll's alleged belief that Gilman does not live where he claims to live, i.e. at a building adjacent to the Mustang Ranch Brothel, was not held in good faith or was made with knowledge that the statement was false.

Gilman argued Toll did not conduct sufficient investigation regarding Gilman's residence. Toll testified he believed Gilman does not live at the Mustang Ranch based upon the following information: the zoning of the property; the unusual nature of

1 Gilman's claimed residence given his wealth and stature; the fact that numerous other
2 persons claimed addresses at the Mustang Ranch were their residence; the fact that
3 Gilman owned other residential property in Washoe County; and that confidential
4 sources told Toll that Gilman did not actually live at the Mustang Ranch.

5 Gilman argued Toll had a motive and intent to make false statements about
6 Gilman with reckless disregard for their veracity. There is no evidence that the resident
7 communications were made with actual malice, that is, with knowledge that the
8 statement was false. In the August 9, 2018 Order, this Court concluded that Gilman
9 failed to produce prima facie evidence that Toll published the resident communications
10 with actual malice, and nothing presented by Gilman that was gleaned from Toll's
11 deposition moves the Court from its prior conclusion on this issue.

12 Gilman bore the burden of showing under prong two of an anti-SLAPP analysis
13 that his claims have minimal merit. See *Abrams v. Sanson*, 458 P.3d 1062, 1069 (Nev.
14 2020) citing NRS 41.665(2) stating that a plaintiff's burden under prong two is the same
15 as a plaintiff's burden under California's anti-SLAPP law and *Navellier v. Sletten*, 29
16 Cal. 4th 82, 124 Cal. Rptr. 2d 530, 52 P.3d 703, 712-13 (Cal. 2002), which established
17 the "minimal merit" burden for a plaintiff.

18 There is no credible evidence that Toll published the resident communications
19 with actual malice. The Court concludes Gilman has failed to show that his defamation
20 claim against Toll has minimal merit. There is no credible evidence that Toll's
21 communications were not in good faith and in furtherance of the right to petition or the
22 right to free speech in direct connection with an issue of public concern, and therefore
23 it must be dismissed.

24 **THE COURT ORDERS:**

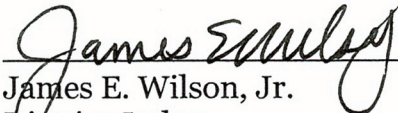
25 Gilman's complaint is dismissed.

26 Under NRS 41.670(1)(a), Toll may make an application to the Court for
27 reasonable attorney's fees and costs within **ten (10) days** of the date of entry of this
28 order;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Gilman will show cause by **June 29, 2020** why he should not be ordered to pay
Toll \$10,000 in statutory damages under NRS 41.670(1)(b).

DATED this 15, June, 2020



James E. Wilson, Jr.
District Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the First Judicial District Court of Nevada; that
on the 15 day of June 2020, I served a copy of this document by placing a true copy
in an envelope addressed to:

John L. Marshall, Esq. 570 Marsh Avenue Reno, NV 89509	Gus W. Flangas, Esq. 3275 South Jones Blvd., Suite 105 Las Vegas, NV 89146
Luke Andrew Busby, Ltd. 316 California Ave., #82 Reno, NV 89509	

the envelope sealed and then deposited in the Court's central mailing basket in the court
clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for
mailing.


Billie Shadron
Judicial Assistant