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**SHORT FORM ORDER
SUPREME COURT OF THE STATE OF NEW YORK**

**Present: Hon. F. Dana Winslow,
Justice.**

**CITYWIDE SEWER & DRAIN SERVICE,
CORP. and SALVATORE MANGIA,**

Plaintiffs,

-against-

**ANGELO CARUSONE and STEPHEN S.
CARUSONE,**
Defendants.

**TRIAL/IAS PART 11
NASSAU COUNTY**

**Index No.: 018160/05
Motion Seq. No.: 001, 002
003**

Motion Date: 07/20/06

The following papers having been read on the motion (numbered 1-8):

Notice of Motion to dismiss (001-Stephen S. Carusone).....1

Affirmation in Opposition (plaintiffs).....2

Notice of Cross Motion (002-plaintiffs).....3

Affirmation in Opposition and Reply (Stephen Carusone).....4

Reply and Request for Sanctions (plaintiffs).....5

Notice of Motion for summary judgment (003-Angelo Carusone).....6

Affirmation in Opposition (plaintiffs).....7

Reply Affidavit (Angelo Carusone).....8

This is an action for defamation against defendant Angelo Carusone (“Angelo”) for statements published on his internet weblog and against Angelo’s father, defendant Stephen S. Carusone (“Stephen”) for conspiring with Angelo to email the allegedly defamatory material in contravention of a court ordered settlement entered into on the record on December 2, 2004 arising out of an alleged violation of a non-competition agreement.

On July 20, 2006, the court held a hearing in this matter and on a related matter, Citywide Sewer & Drain Service Corp. v. Stephen S. Carusone, Index #10107/04 which was dismissed by

the court, by Order dated August 13, 2006. The court found that there is "no enforceable non-competition agreement."

Defendant Stephen Carusone moves to dismiss the complaint pursuant to **CPLR §3211(a)(1), (a)(7) and (a)(10)**. Plaintiffs cross move to amend their complaint to state that "but for" the actions of defendant Stephen Carusone, defendant Angelo Carusone would not have published the allegedly libelous material. Defendant Angelo Carusone, *pro se* cross moves for summary judgment pursuant to **CPLR §3212**.

The court finds that the statements made by defendant Angelo on his weblog do not form the basis for a cause of action for defamation as the statements express opinions and are therefore not actionable.

We have examined the parties' remaining contentions and find them to be without merit.

Based upon the foregoing, it is

ORDERED, defendant STEPHEN CARUSONE's motion to dismiss pursuant to **CPLR §3211(a)(1), (a)(7) and (a)(10)** is **granted**; and it is further

ORDERED, plaintiffs CITYWIDE SEWER & DRAIN SERVICE CORP. and SALVATORE MANGIA's motion to file an amended verified complaint is **denied**; and it is further

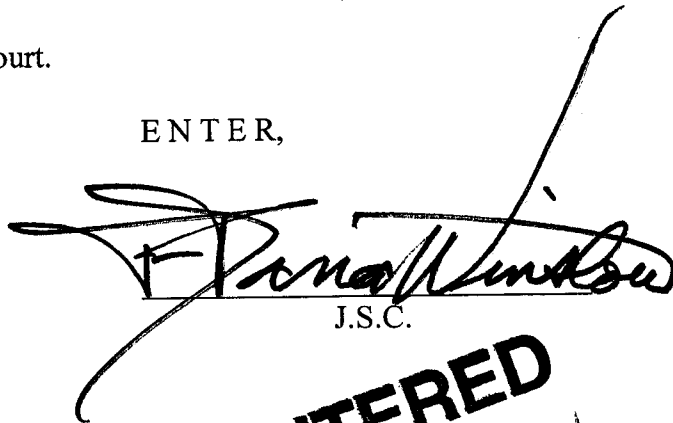
ORDERED, defendant ANGELO CARUSONE'S motion for summary judgment dismissing plaintiffs CITYWIDE SEWER & DRAIN SERVICE CORP. and SALVATORE MANGIA's complaint is **granted**.

Defendant Stephen Carusone is directed to serve a copy of this Order upon all parties within 15 days after entry of this Order in the records of the Nassau County Clerk.

This constitutes the order of the court.

Dated: 9/18/, 2006

ENTER,



J.S.C.

ENTERED

OCT 10 2006

NASSAU COUNTY
COUNTY CLERK'S OFFICE