

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

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New School Communications, Inc.,  
a Minnesota Corporation, and Blois Olson,  
Plaintiffs,

COURT FILE NO: CX-06-006432

and

**FINDINGS, CONCLUSIONS OF  
LAW & ORDER FOR JUDGMENT  
AND JUDGMENT**

Michael B. Brodkorb and  
www.minnesotademocratsexposed.com,  
Defendants.

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This matter came before the Honorable Timothy L. Blakely, Judge of District Court, on January 10, 2007 upon Plaintiff's motion to add a claim for punitive damages and Defendant's motion for summary judgment.

Plaintiffs were represented by Gregory Walsh, Esq. Defendants were represented by Shawn Pearson, Esq.

Based upon the Court file, records, and arguments of counsel, the Court makes the following:

**FINDINGS & CONCLUSIONS OF LAW**

1. By stipulation of the parties and by court orders signed by previous judges in this case, portions of the court file are sealed, confidential, and for "Attorneys' Eyes Only". Good cause therefore exists to render this decision in a more generalized manner than otherwise preferred.
2. By stipulation of the parties, Plaintiff Blois Olson is a limited-purpose public figure and the statements in question fell within the scope of Mr. Olson's public figure status; therefore, any defamation by Defendant must stand on clear and convincing legs of actual-malice, knowledge of falsity. Defendant may also be

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VAN A. BROSTROM, Court Administrator

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liable for defamation if proved by evidence of a false statement made with “reckless disregard” or made with “serious doubts” as to truthfulness. *See Jadwin v. Minneapolis Star & Tribune Co.*, 367 N.W.2d 476, 480 (Minn.1985) (citing *New York Times Co. v. Sullivan*, 376 U.S. 254, 283-86 (1964)).

3. On this Motion for Summary Judgment, Minnesota Rule of Civil Procedure 56.03 (2006) directs that, “Judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that either party is entitled to a judgment as a matter of law.” A “material fact” is a fact that will affect the outcome of the case depending upon how it is resolved. *Northeastern Nat’l Casualty Co. v. Khosa, Inc.*, 520 N.W.2d 771, 773 (Minn. Ct. App. 1994). The burden of proof is on the party moving for summary judgment, and facts are viewed in a light most favorable to the nonmoving party. *Koelln v. Nexus Residential Treatment Facility*, 494 N.W.2d 914, 919 (Minn. Ct. App. 1993).
4. The responding party in a Motion for Summary Judgment “may not rest upon the mere averments or denials of the adverse party’s pleading but must present specific facts showing that there is a genuine issue for trial.” Minn. R. Civ. P. 56.05.
5. The non-moving party must make “a sufficient showing to establish the existence of an element necessary to that party’s case and on which that party will bear the burden of proof at trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-323 (1986).

6. The parties were provided with ample pre-trial discovery to fully explore their respective cases, and to verify or refute the evidence presented in conjunction with these motions; therefore, the case is subject to consideration of Defendant's Motion for Summary Judgment.
7. The discovery affidavits and depositions in this case have revealed the factually undisputed nature, extent, and sources of information provided to Defendant in conjunction with the alleged defamatory statements at issue. The December 20, 2006 deposition and January 8, 2007 Affidavit, together with the entirety of the court record, present adequate undisputed evidence that Defendant did enough to investigate the statements he made; therefore, the standard of proof required for Plaintiff to proceed in this public figure defamation case is not met.
8. The Court further notes that there is no expert opinion in this case that the scope of Defendant's verification efforts violated current journalistic standards; this type of opinion, absent here, can lead to circumstantial evidence of malice. *See Workman v. Serrano*, WL 771580 (Minn. Ct. App. March 28, 2006), *rev. denied* May 24, 2006 (unpublished).
9. Without divining the truthfulness of the claimed events and proposals reported upon by Defendant, the court finds there was no reckless disregard, or serious doubts that would warrant further investigation before the alleged defamatory statements were made by Defendant; the multiple-source information and circumstances presented to Defendant before publication objectively and subjectively led to the conclusions made, even if the evidence is not clear-cut now, with the benefit of extended court discovery.


10. It follows, that Defendants Motion for Summary Judgment should be granted and Plaintiff's concomitant Motion for Punitive Damages is rendered moot and must be denied.

**ORDER FOR JUDGMENT**

1. The case is hereby dismissed.
2. Neither party shall be awarded costs or disbursements.

DATED: March 6, 2007


BY THE COURT,



TIMOTHY L. BLAKELY  
JUDGE, DISTRICT COURT

**JUDGMENT**

I HEREBY CERTIFY THAT THE ABOVE ORDER  
CONSTITUTES THE JUDGMENT OF THIS COURT  
VAN A BROSTROM, COURT ADMINISTRATOR

BY:   
DATED: 3/8/07 (SEAL)