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MIDDLESEX SUPERIOR COURT

Trial Court of the Commonwealth Superior Court Department

Civil Docket NO. 1781CV02701

Notice of Error, Correction and Amendment

in

MOTION TO DISMISS WITH PREJUDICE

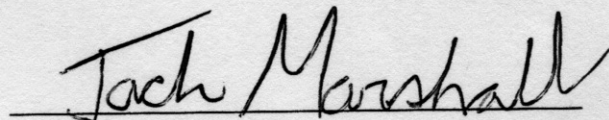
Walter Tuvell, plaintiff

v.

Jack Marshall, defendant

Pursuant to Superior Court Rule 9A, Defendant files this correction and amendment to His October 17, 2017, Motion To Dismiss Plaintiff's Complaint with prejudice. The explanation of the correction is set forth in the accompanying memorandum.

Dated this 1st Day of June, 2018



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Correction of Error in Filed Motion to Dismiss

1. I am Jack Marshall, Defendant in the case of *Walter Tuvell v. Jack Marshall*.
2. On October 16, 2017, I filed a Motion To Dismiss With Prejudice with the Court in this matter.
3. The hearing on my motion is scheduled to take place on June 7, 2018.
4. I have discovered a typographical error in the Motion that I wish to correct.
3. I direct the Court's attention to page 20, Item 3, which reads,

3. The Plaintiff's Complaint Fails To State Any Harm or Damages from the Conduct Alleged.

"The plaintiff must show that he suffered special damages and must set forth these damages specifically." *Lynch v. Lyons*, 303 Mass. 116, 119, 20 N.E.2d 953 (1939). *Yohe v. Nugent*, 321 F.3d 35 (1st Cir., 2003)

In his complaint. Plaintiff fails to show any damages at all. Plaintiff asks for damages "well in excess" of \$100,000, while offering no support for that claim whatsoever.

Ethics Alarms has an elite readership, and averages approximately a thousand visitors a day. There have been 8009 views of the 8/27 post that is the subject of the complaint, which means no more than 250 individuals read it. Many of those did not read the comments: I do not have the means to determine the number. Even if the statements I made were defamatory as Plaintiff claims, and they were not, there is no way that less than 250 strangers scattered across the world (Ethics Alarms has readers in over a hundred nations), few if any who know who the Plaintiff is, could conceivably cause Plaintiff \$100,000 of damages, or any tangible harm at all

In reviewing the complaint, I only now noticed that the figure "8009" in the above passage is a typographical error. It makes no sense in the context of the rest, and I do not even know what it was supposed to signify. I do know that the statistics for my blog showed that no more than 250 visitors clicked on the link for the post involved in this dispute as of October 16, 2017.

Today, more than 7 months after I filed the motion, the blog statistics show that fewer than 488 readers have visited that post to date, and probably far fewer. As I stated in the Motion, most readers do not read the comments to posts. It is impossible to determine how many people read the comments that are the subject of the complaint, but it cannot possibly be more than 488, which is the lowest number for that period the blog statistics will record. As of this date, fewer than twenty (20) different individuals have comment on the post involved. It is certainly possible that these are the only individuals who have read the comments that are the basis of this action.

I apologize for the confusion and my error. The "8009" views was completely incorrect, and "There have been 8009 views of the 8/27 post that is the subject of the complaint, which means" should be stricken. The statement from "no more than 250 individuals read it" to the end is true and accurate.