

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA

CIVIL ACTION

ARNON RONY JOEL,

Plaintiff,

v.

MARIO SANCHEZ

Defendant

Case No. 11-2840-CA

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FILED 04
COLLIER COUNTY, FLORIDA

DEFENDANT'S AMENDED MOTION TO DISMISS COMPLAINT

COMES NOW, MARIO SANCHEZ, by and through his undersigned attorney, moves:

1. To dismiss the complaint under Fla. R. Civ. P. 1.140(b)(6) for failure to comply with Fla. Stat. 770.01, which requires Plaintiff to serve notice in writing on the Defendant specifying the statements alleged to be false and defamatory. This notice is a precondition to any action for libel and slander based on statements made in the media, and failure to give notice requires dismissal of the complaint for failure to state a cause of action. As Plaintiff has failed to cross this threshold requirement, its claims must be dismissed at the outset of this litigation.

2. To dismiss Counts I and II of the Complaint pursuant to Fla. R. Civ. P. 1.140(b)(6), failure to state a cause of action for defamation per se whether for libel or slander, in that, the Plaintiff failed to state (i) which statements alleged to have been made by the Defendant were false, (ii) that the Defendant knew they were false when uttered and (iii) that they were stated with actual malice.

3. To dismiss Count III as Plaintiff failed to state a cause of action for Tortious Interference with a Business Relationship in that the Plaintiff failed to set forth the terms of the

business relationship alleged to be interfered with. The Plaintiff was a public employee and upon information and belief, his services were terminable at will, which generally does not serve as the basis for a tortious interference.

4. To dismiss Count IV as Plaintiff failed to state a cause of action for injunctive relief. Plaintiff has failed to allege any facts which if true, would establish irreparable injury or lack of adequate remedy at law or that the requested injunction would not be contrary to the interest of the Public.

5. To dismiss the entire Complaint pursuant to Fla. R. Civ. P. 1.140(b)(7) for failure to join an indispensable party, to wit: Fox News Channel 4, the party that published the alleged false statements.

6. To dismiss the entire Complaint, pursuant to Fla. R. Civ. P. 1.060(b) and Fla. Stat. § 770.05, or to transfer the action to the jurisdiction where Defendant's statements were first made, as the Defendant does not reside in Collier County, the Defendant published each statement complained of (or did not publish the statement at all) from locations outside Collier County, and thus he made these statements to readers outside Collier County, completing the alleged tort outside of Collier County, thus rendering Collier County as an improper venue for the resolution of this dispute. *See Affidavit of Mario Sanchez ¶¶ 3-33*

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