



IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN PAUL MAC ISAAC,)	
)	
Plaintiff/Counterclaim,)	
Defendant Below,)	
Appellant/Appellee,)	
)	
v.)	Case No. 448, 2024
)	
POLITICO LLC, ROBERT)	
HUNTER BIDEN, AND)	
BFPCC, INC.)	
)	
Defendants/Counterclaim,)	
Plaintiff Biden Below,)	
Appellees/Appellant)	
Biden.)	

FROM THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

APPELLANT'S REPLY BRIEF
IN FURTHER SUPPORT OF APPEAL

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ARGUMENT

I. POLITICO’S HEADLINE REGARDING MAC ISAAC WAS DEFAMATORY.

Politico’s argument that its article's headline is not defamatory because it does not concern Mac Isaac directly or indirectly ignores context, which is always key. The context of the article and its headline, "Hunter Biden story is Russian disinfo, dozens of former intel officials say," implies a defamatory meaning that a reasonable person could associate with Mac Isaac, even if he is not explicitly named. The article discusses the controversy surrounding Hunter Biden's laptop, which was linked to Mac Isaac's computer repair shop, thereby making him a central figure in the narrative. The public's perception, fueled by the article's context, reasonably associates Mac Isaac with the alleged Russian disinformation campaign, damaging his reputation. As stated in other cases, where a headline was defamatory, the fact that the accurate, non-defamatory article that followed, “did not negate the effect of the headlines.” *Kaelin v. Globe Communs. Corp.*, 162 F.3d 1036 (9th Cir. 1998)

II. MAC ISAAC WAS NOT A LIMITED PURPOSE PUBLIC FIGURE

Defendants' classification of Mac Isaac as a limited purpose public figure is incorrect. Mac Isaac did not voluntarily engage in public controversy; rather, he was drawn into it against his will. His involvement was limited to providing the laptop to the FBI and later to Giuliani's attorney, with explicit requests to remain anonymous. The unwanted media attention resulted from the New York Post's failure to blur his shop's name, not from any voluntary action by Mac Isaac to influence public discourse. Defendants reliance on Mac Isaac's subsequent media appearances ignores the fact that these were responses to the controversy, not actions to influence it. Lastly, even if Mac Isaac eventually became a public figure, he was not one at the time of the Politico article. Therefore, as the Supreme Court said in *Gertz*, "private individuals are not only more vulnerable to injury than public officials and public figures; they are also more deserving of recovery." *Gertz v. Robert Welch*, 418 U.S. 323 (1974) Here, Mac Isaac did not thrust himself into the public controversy but was rather subsumed into the controversy because of events beyond his control.

III. PLAINTIFF DEMONSTRATED ACTUAL MALICE

Defendants' assertion that Mac Isaac failed to plead actual malice is unfounded. The opening brief provides evidence of the defendants' reckless disregard for the truth. Hunter Biden's statements, which implied Mac Isaac's involvement in criminal activities, were made despite Biden's knowledge that the laptop was indeed his. This demonstrates a high degree of awareness of probable falsity, satisfying the actual malice standard. The defendants' actions were not mere negligence but a deliberate attempt to defame Mac Isaac by associating him with a Russian disinformation campaign. Biden's deceit is not protected speech in this defamation action – it shows actual malice.

IV. DEFENDANT BFPCC WAS NAMED DEFENDANT WITHIN THE STATUTE OF LIMITATIONS IN THE ORIGINAL COMPLAINT.

The argument regarding the statute of limitations should be rejected. Mac Isaac's claims are timely based on the timeline of events and applicable legal exceptions. The initial complaint was filed on October 17, 2022, within the two-year statute of limitations from the date of the alleged defamatory statements in October 2020. The amended complaint only added BFPCC to the caption. However, Defendant BFPCC was a named Defendant in the actual body of the Complaint. Therefore the Amended Pleading relates back to the original filing date under Superior Court Civil Rule 15(c)(3), as the claims arise from the same conduct, transaction, or occurrence set out in the original pleading. The Amended Pleading only added BFPCC to the caption for clarity even though they were named as a Defendant in the actual body of the complaint. The Relation Back doctrine under Delaware law, as governed by Rule 15(c), allows an amendment to add a new defendant to relate back to the date of the original complaint. *Mullen v. Alarmguard of Delmarva, Inc.*, 625 A.2d 258, 263 (Del. 1993), Del. Super. Ct. Civ. R. 15, Amended and supplemental pleadings.

V. PLAINTIFF DID NOT WAIVE ANY ARGUMENTS.

Politico's assertion that certain arguments were waived by not being addressed in the opening brief is a mischaracterization. The opening brief comprehensively addressed the key issues, including the defamatory nature of the statements and the misclassification of Mac Isaac as a limited purpose public figure. Any perceived omissions are clarified within the context of the arguments presented, reinforcing the points made in the opening brief.

CONCLUSION

For the foregoing and previously stated reasons, Appellant John Paul Mac Isaac respectfully requests that this Honorable Court vacate the September 30, 2024 order of the Superior Court dismissing his claims against Appellees.

Respectfully submitted,

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