

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

ROSLYN J. JOHNSON,

Plaintiff,

v.

JONETTA ROSE BARRAS, *et al.*,

Defendants.

No. 2007 CA 001600 B

Judge Gerald I. Fisher

Calendar 1

Next event:
Scheduling Conference
October 26, 2007

**ANSWER OF DEFENDANTS
DOROTHY BRIZILL, GARY IMHOFF AND DCWATCH**

Pursuant to District of Columbia Superior Court Rule 12(a)(4)(A), defendants Gary Imhoff, Dorothy A. Brizill and DCWatch (hereafter “DCWatch Defendants”) answer the complaint filed by plaintiff Roslyn Johnson as follows:

PARTIES

1. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.
2. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.
3. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.
4. Admit.
5. Admit.
6. Admit.

JURISDICTION AND VENUE

7. This paragraph consists of the plaintiff's conclusions of law concerning the propriety of the Court's jurisdiction, to which no response is required. To the extent a response is required, the DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

8. This paragraph consists of the plaintiff's conclusions of law concerning the propriety of venue in the District of Columbia, to which no response is required. To the extent a response is required, the DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

FACTS

9. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

10. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

11. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

12. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

13. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

14. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

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18. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.
19. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.
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25. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

26. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

27. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

28. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

29. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

30. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

31. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

32. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

33. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

34. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that defendant Barras' articles contained "defamatory information about Ms. Johnson" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

35. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

36. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

37. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that defendant Barras wrote articles "containing information of false truths about Ms. Johnson" is incomprehensible, but to the extent to which the DCWatch Defendants understand it, it is denied.

38. The DCWatch Defendants admit that defendant Barras published articles and comments on the DCWatch website. Plaintiff's characterization of the articles and comments as "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, the DCWatch Defendants deny this allegation. The rest of the paragraph consists of allegations about which the DCWatch Defendants lack sufficient knowledge to form a belief as to the truth.

39. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

40. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

41. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

42. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

43. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

COUNT I

44. The DCWatch Defendants incorporate by reference their responses to paragraphs 1-43 above.
45. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.
46. Admit, except deny that the Barras Report is a weblog.
47. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.
48. Denied.
49. Denied.
50. Denied.
51. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted.

COUNT II

52. The DCWatch Defendants incorporate by reference their responses to paragraphs 1-51 above.
53. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.
54. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that defendant Barras' statements were "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

55. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that defendant Barras' statements were "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

56. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that defendant Barras' statements were "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

57. The DCWatch Defendants admit that defendant Barras published articles on the DCWatch website. The rest of the paragraph consists of allegations about which the DCWatch Defendants lack sufficient knowledge to form a belief as to the truth. Plaintiff's claim that defendant Barras' articles were "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

58. This paragraph states a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

59. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that defendant Barras' statements were "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

60. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that defendant Barras' statements were "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

61. The allegation that plaintiff “has experienced extreme difficulty in finding replacement employment” is denied. Plaintiff promptly found replacement employment, and was employed in a comparable position before she filed her Complaint. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph.

62. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

63. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted.

64. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted.

COUNT III

65. The DCWatch Defendants incorporate by reference their responses to paragraphs 1-64 above.

66. The DCWatch Defendants admit that defendant Barras published articles in themail, an online publication controlled, organized, and owned by the DCWatch Defendants. The rest of the paragraph consists of the plaintiff’s conclusion of law that the articles were “libelous,” to which no response is required. To the extent a response is required, the DCWatch Defendants deny this allegation.

67. The DCWatch Defendants admit that defendant Barras published articles on the DCWatch website and themail. The rest of the paragraph consists of the plaintiff’s conclusion of

law that the articles are “defamatory,” to which no response is required. To the extent a response is required, the DCWatch Defendants deny this allegation.

68. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

69. This paragraph is a sentence fragment that contains no allegations. To the extent the sentence fragment alleges that publications quoted in subsequent paragraphs are defamatory, that is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

70. This paragraph purports to quote from an article written by defendant Barras called What’s a Little White Lie Among Friends? The DCWatch Defendants respectfully refer the Court to the text of this article for a full and accurate statement of its contents. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of the final sentence of this paragraph.

71. This paragraph purports to quote from an article written by defendant Barras called White Lies Part 2. The DCWatch Defendants respectfully refer the Court to the text of this article for a full and accurate statement of its contents.

72. This paragraph purports to quote from an article written by defendant Barras called The Saga Continues. The DCWatch Defendants respectfully refer the Court to the text of this article for a full and accurate statement of its contents. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of the final three sentences of this paragraph.

73. This paragraph purports to quote from an article written by defendant Barras called Ignoring Sins. The DCWatch Defendants respectfully refer the Court to the text of this article for

a full and accurate statement of its contents. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of the final two sentences of this paragraph.

74. This paragraph purports to quote from an article written by defendant Barras called Show Me the Money. The DCWatch Defendants respectfully refer the Court to the text of this article for a full and accurate statement of its contents. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of the final three sentences of this paragraph.

75. This paragraph purports to quote from an article written by defendant Barras called The Main Event: Desperate and Shrill. The DCWatch Defendants respectfully refer the Court to the text of this article for a full and accurate statement of its contents.

76. The DCWatch Defendants admit that defendant Barras published certain statements in themail with the permission of the DCWatch Defendants. To the extent this paragraph alleges that the DCWatch Defendants “approv[ed]” the statements made in defendant Barras’ articles, that allegation is denied. To the extent this paragraph alleges that defendant Barras published, or received authority to publish, any statements in the Barras Report under the authority and approval of the DCWatch Defendants, that allegation is denied. The Plaintiff’s claim that defendant Barras’ statements were “libelous” is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

77. This paragraph states a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

78. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted.

79. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted. To the extent that this paragraph alleges that the DCWatch Defendants “sanctioned” the articles published by defendant Barras, that allegation is denied.

COUNT IV

80. The DCWatch Defendants incorporate by reference their responses to paragraphs 1-79 above.

81. Denied as to the DCWatch Defendants. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph.

82. Denied as to the DCWatch Defendants. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph.

83. Denied as to the DCWatch Defendants. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph.

84. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph, except that the allegation that defendant Barras’ statements damaged plaintiff’s “ability to find gainful employment” is denied. After being discharged by the District of Columbia, plaintiff promptly found gainful employment in a comparable position in the same line of work.

85. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

86. Denied as to the DCWatch Defendants. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph.

87. Denied as to the DCWatch Defendants. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph.

88. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted.

COUNT V

89. The DCWatch Defendants incorporate by reference their responses to paragraphs 1-88 above.

90. This paragraph contains the plaintiff's conclusion of law as to the existence of a quasi-contractual relationship, to which no response is required. To the extent a response to that allegation is required, it is denied. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph, including the allegation regarding their knowledge as of an unspecified date.

91. Denied as to the DCWatch Defendants. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the remaining allegations of this paragraph.

92. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

93. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph, except that the allegation that plaintiff "has experienced extreme difficulty in finding replacement employment" is denied. After being discharged by the District

of Columbia, plaintiff promptly found gainful employment in a comparable position in the same line of work.

94. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted.

COUNT VI

95. The DCWatch Defendants incorporate by reference their responses to paragraphs 1-94 above.

96. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

97. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

98. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

99. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that defendant Barras' articles were "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

100. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that she "experienced extreme difficulty in finding replacement employment" is denied. After being discharged by the District of Columbia, plaintiff promptly found gainful employment in a comparable position in the same line of work.

101. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted.

COUNT VII

102. The DCWatch Defendants incorporate by reference their responses to paragraphs 1-101 above.

103. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph.

104. This paragraph purports to quote a provision of the D.C. Code. The DCWatch Defendants respectfully refer the Court to the D.C. Code for a full and accurate statement of its contents.

105. This paragraph purports to quote two provisions of the D.C. Personnel Regulations. The DCWatch Defendants respectfully refer the Court to the D.C. Personnel Regulations for a full and accurate statement of their contents.

106. The DCWatch Defendants lack sufficient knowledge to form a belief as to the truth of the allegations of this paragraph. Plaintiff's claim that certain articles were "defamatory" is a conclusion of law to which no response is required. To the extent a response is required, this allegation is denied.

107. This paragraph contains no allegations but is a demand for relief to which no response is required. To the extent a response is required, the DCWatch Defendants deny that such relief, or any relief, is warranted.

The DCWatch Defendants deny all other averments, allegations, or claims that must be admitted or denied and that are not explicitly admitted. The DCWatch Defendants deny that plaintiff Roslyn Johnson is entitled to any relief.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The complaint fails to state any claim or cause of action against the DCWatch Defendants upon which relief can be granted.

Second Affirmative Defense

The DCWatch Defendants are immune from any liability arising from publishing defendant Barras' articles under the Communications Decency Act, 47 U.S.C. § 230.

Third Affirmative Defense

The DCWatch Defendants played no role in creating the content of the articles signed by defendant Barras, and exercised no control over the content of her articles. They are therefore not legally responsible for the content of those articles.

Fourth Affirmative Defense

In permitting defendant Barras to post her articles on the DCWatch website and in themail, the DCWatch Defendants did not adopt, endorse or vouch for the content of those articles. They are therefore not legally responsible for the content of those articles.

Fifth Affirmative Defense

The statements allegedly published by the DCWatch Defendants regarding the plaintiff were substantially true. They are therefore not actionable under any legal theory.

Sixth Affirmative Defense

The statements allegedly published by the DCWatch Defendants regarding the plaintiff were made in good faith or with a reasonable belief that they were substantially true. They are therefore not actionable under any legal theory.

Seventh Affirmative Defense

The plaintiff was a public official and/or a public figure, and the DCWatch Defendants did not make or publish any statement about her with “actual malice,” that is, knowing that the statement was false or entertaining serious doubts as to its truth. The DCWatch Defendants are therefore not liable under any legal theory.

Eighth Affirmative Defense

The statements allegedly published by the DCWatch Defendants regarding the plaintiff are protected by the “fair reporting privilege,” which protects substantially accurate reporting about governmental affairs. The DCWatch Defendants are therefore not liable under any legal theory.

Ninth Affirmative Defense

The statements allegedly published by the DCWatch Defendants regarding the plaintiff are statements of opinion and/or are fair comments on matters of public concern, and therefore are not actionable under any legal theory.

Tenth Affirmative Defense

The actions of the DCWatch Defendants were protected by the First Amendment to the Constitution of the United States.

Eleventh Affirmative Defense

The DCWatch Defendants were not the employer of defendant Barras and she was not their servant. Therefore the DCWatch Defendants cannot be liable under a theory of respondeat superior.

Twelfth Affirmative Defense

Defendant Barras was not an agent of the DCWatch Defendants. Therefore the DCWatch Defendants cannot be liable under a theory of agency.

Thirteenth Affirmative Defense

The statements allegedly published by the DCWatch Defendants regarding the plaintiff involved issues of legitimate public interest, and therefore cannot support a claim of false light invasion of privacy.

Fourteenth Affirmative Defense

The DCWatch Defendants did not act in reckless disregard as to the truth or falsity of the publicized matter, and therefore cannot be liable for false light invasion of privacy.

Fifteenth Affirmative Defense

Plaintiff did not have an employment contract that could support a claim of interference with contract.

Sixteenth Affirmative Defense

The DCWatch Defendants did not intend to procure a breach of any alleged contract between the plaintiff and her employer, and therefore cannot be liable for intentional interference with contract.

Seventeenth Affirmative Defense

The statements allegedly published by the DCWatch Defendants regarding the plaintiff were not the actual or proximate cause of plaintiff's alleged injury.

Eighteenth Affirmative Defense

Plaintiff's claims for relief are barred by the doctrine of unclean hands.

Nineteenth Affirmative Defense

Plaintiff's claims for relief are barred by the illegality of her own actions.

Twentieth Affirmative Defense

Plaintiff's damages, if any, resulted from her own actions and she is therefore barred from recovery.

Twenty-First Affirmative Defense

On information and belief, the plaintiff has failed to mitigate her damages.

WHEREFORE, the complaint against the DCWatch Defendants should be dismissed with prejudice.

Respectfully submitted,

/s/ Arthur B. Spitzer

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/s/ Marcia Hofmann

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CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2007, a copy of the forgoing Answer of Defendants Dorothy Brizill, Gray Imhoff, and DCWatch was served upon Plaintiff's counsel David S. Coaxum and Brian J. Markovitz; Defendants Jonetta Barras and Talk Media Communications' counsel Daniel Z. Herbst, A. Scott Bolden, and Anthony E. DiResta; and Defendant District of Columbia's counsel Eden Miller and Edward Taptich by e-mail through the Court's Electronic Case Filing System.

/s/ Marcia Hofmann

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