**IN THE COURT OF COMMON PLEAS OF**
**LYCOMING COUNTY, PENNSYLVANIA**

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| TODD MICHAEL HOUSEKNECHT | : | : |
| Plaintiff, | : | CIVIL ACTION - LAW |
| v. | : | |
| | : | No. CV-2026-01231 |
| MALLIW ORTIZ | : | |
| Defendant | : | Preliminary Objections to |
| | : | Complaint |

**OPINION ON PRELIMINARY OBJECTIONS FILED OCTOBER 13, 2026**

**BACKGROUND:**

This matter initially came before the Court on November 4, 2026, for oral argument on the Preliminary Objections, filed on October 13, 2026, by Malliw Ortiz (hereinafter "Defendant") to the Complaint filed by Todd Michael Houseknecht (hereinafter "Plaintiff").

**QUESTIONS PRESENTED:**

1. WHETHER THIS MATTER SHOULD BE TRANSFERRED TO LUZERNE COUNTY.

2. WHETHER A DEMURRER SHOULD BE ENTERD TO PLAINTIFF'S CLAIMS.

**ANSWERS TO QUESTIONS PRESESENTED:**

1. THIS MATTER WILL NOT BE TRANSFERRED TO LUZERNE COUNTY.

2. A DEMURRER WILL NOT YET BE ENTERD TO PLAINTIFF'S CLAIMS, BUT THE PLAINTIFF WILL BE DIRECTED TO FILE AN AMENDED COMPLAINT.

**DISCUSSION:**

1. THIS MATTER WILL NOT BE TRANSFERRED TO LUZERNE COUNTY.

The Test for Change of Venue:

In most cases, the issue of venue is controlled by Pa.R.C.P. 1006, which provides that an action against an individual may be brought in and only in a county where:

> (1) the individual may be served;
> (2) the cause of action arose;
> (3) a transaction or occurrence took place out of which the cause of action arose;
> (4) venue is authorized by law; or
> (5) the property or a part of the property, which is the subject matter of the action, is located provided that equitable relief is sought with respect to the property.

In the past, the issue of proper venue for defamation claims was controlled by *Gaetano v. Sharon Herald Company*, 426 Pa. 179, 231 A.2s 753 (Pa. 1967), where our Supreme Court held that a defamation claim could be filed in any county where the defamatory material was disseminated to a third party who personally knows the plaintiff and understands the material to be defamatory. The rule of *Gaetano* was created in a "pre-internet" age when the potential for worldwide dissemination did not exist. Therefore, our Superior Court crafted a modified venue rule for claims of internet defamation:

> We follow the lead of those authorities in holding that a plaintiff may file a defamation action in any county where an internet posting causes the requisite harm to the plaintiff's reputation. As outlined in *Gaetano*, this harm occurs when an internet communication is read by a third party who the plaintiff knows personally and who understands the communication to be harmful to the plaintiff's reputation. *See Gaetano*, 231 A.2d at 755-56. Since the county in which that third party lives is a place of publication, it is a place where the plaintiff may file suit. *Id.*

*Fox v. Smith*, 2019 PASuper. 166, 211 A.3d 862, 867-868 (Pa.Super. 2019).

On October 21, 2026, Plaintiff filed the verified statement of Angela Lilley. She refers to reading the alleged internet posting "at our home" which leads the Court to infer that Lilley resides with the Plaintiff. She further states that she "personally read comments made by Malliw Ortiz in that Facebook discussion."

It appears fairly obvious that Plaintiff and Angela Lilley reside together in Lycoming County (or did so on the date of the alleged Facebook post) and that Defendant resides in Luzerne County. The Court lacks information regarding potential third party witnesses, and is therefore unaware of whether Lycoming County will be a convenient forum for trial. What appears from the record is that a third party, Angela Lilley, resides in Lycoming County, and that she personally knows the Plaintiff. Based upon those facts alone, it appears that venue in Lycoming County is proper under the test articulated in *Fox v. Smith*, 2019 PASuper. 166, 211 A.3d 862, 867-868 (Pa.Super. 2019).

2. A DEMURRER WILL NOT YET BE ENTERED TO PLAINTIFF'S CLAIMS, BUT PLAINTIFF WILL BE DIRECTED TO FILE AN AMENDED COMPLAINT.

The Test Applicable to a Demurrer:

> A demurrer can only be sustained where the complaint is clearly insufficient to establish the pleader's right to relief. *Firing v. Kephart,* 466 Pa. 560, 353 A.2d 833 (1976). For the purpose of testing the legal sufficiency of the challenged pleading a preliminary

> objection in the nature of a demurrer admits as true all well-pleaded, material, relevant facts, *Savitz v. Weinstein,* 395 Pa. 173, 149 A.2d 110 (1959); *March v. Banus,* 395 Pa. 629, 151 A.2d 612 (1959), and every inference fairly deducible from those facts. *Chappell v. Powell*, 303 A.3d 507, 511 (Pa.Super. 2023); *Hoffman v. Misericordia Hospital of Philadelphia,* 439 Pa. 501, 267 A.2d 867 (1970); *Troop v. Franklin Savings Trust,* 291 Pa. 18, 139 A. 492 (1927). The pleader's conclusions or averments of law are not considered to be admitted as true by a demurrer. *Savitz v. Weinstein, supra.*
>
> Since the sustaining of a demurrer results in a denial of the pleader's claim or a dismissal of his suit, a preliminary objection in the nature of a demurrer should be sustained only in cases that clearly and without a doubt fail to state a claim for which relief may be granted. *Schott v. Westinghouse Electric Corp.,* 436 Pa. 279, 259 A.2d 443 (1969); *Botwinick v. Credit Exchange, Inc.,* 419 Pa. 65, 213 A.2d 349 (1965); *Savitz v. Weinstein, supra; London v. Kingsley,* 368 Pa. 109, 81 A.2d 870 (1951); *Waldman v. Shoemaker,* 367 Pa. 587, 80 A.2d 776 (1951). If the facts as pleaded state a claim for which relief may be granted under any theory of law then there is sufficient doubt to require the preliminary objection in the nature of a demurrer to be rejected. *Packler v. State Employment Retirement Board,* 470 Pa. 368, 371, 368 A.2d 673, 675 (1977); *see also, Schott v. Westinghouse Electric Corp., supra,* 436 Pa. at 291, 259 A.2d at 449.

*Mudd v. Hoffman Homes for Youth, Inc.,* 374 Pa.Super. 522, 524–25, 543 A.2d 1092, 1093–94 (1988) (quoting *County of Allegheny v. Commonwealth,* 507 Pa. 360, 372, 490 A.2d 402, 408 (1985)). Accord, *Ritz v. Ramsay*, 305 A.3d 1056, 1061 (Pa.Super. 2023).

The Court's Duty Regarding Alleged Defamatory Statements:

Not every statement which is offends the listener is actionable defamation. Our Supreme Court has articulated the duty of the Court in defamation cases as follows:

> In an action for defamation, it is the court's duty to determine if the publication is capable of the defamatory meaning ascribed to it by the party bringing suit. *Baker v. Lafayette College,* 516 Pa. 291, 296, 532 A.2d 399, 402 (1987). In order to sustain an allegation of libel, the burden is on the complaining party to establish that the publication being challenged is defamatory. *Thomas Merton Center v. Rockwell International Corp.,* 497 Pa. 460, 464, 442 A.2d 213, 215 (1981), cert. denied, 457 U.S. 1134, 102 S.Ct. 2961, 73 L.Ed.2d 1351 (1982). If the court concludes that the publication is not capable of defamatory meaning, the case should be dismissed. *Id.* at 464–65, 442 A.2d at 215–16.

*MacElree v. Philadelphia Newspapers, Inc*., 544 Pa. 117, 124, 674 A.2d 1050, 1053 (Pa. 1996).

The Nature of Plaintiff's Claim:

Plaintiff's pro se Complaint is not drafted in a fashion consistent with the applicable provisions of the Pennsylvania Rules of Civil Procedure. Paragraphs 1 through 22 inclusive contain far more legal conclusions than material allegations of fact. The contents of those paragraphs are difficult to follow, and seem to contain a great deal of heat, but shed very little light. It appears to the Court that the gravamen of Plaintiff's claim is that Defendant made statements in writing during the course of a Facebook exchange, at least some of which Plaintiff regards as defamatory.

The Court has been unable to determine precisely which alleged statements by the Defendant are at issue, here. Paragraphs 7, 8, 13 and 15 make reference to "Exhibit A," although there is no document physically attached to the Complaint. Plaintiff filed a separate collection of documents on September 24, 2026, labeled "Notice of Filing Separate Exhibit A." That unnumbered collection of documents appears to be a printout of social media posts by a variety of individuals, most of whom are not parties to this litigation.

The Court cannot determine with certainty which statements are the subject of Plaintiff's claim, and why Plaintiff claims that those statements are defamatory. In fairness to both parties, the Court must undertake the analysis required by *MacElree v. Philadelphia Newspapers, Inc*., 544 Pa. 117, 124, 674 A.2d 1050, 1053 (Pa. 1996) with that knowledge. For that reason, the Court will require Plaintiff to file an Amended Complaint.

ORDER

AND NOW, this 6th day of November, 2026, it is hereby Ordered as follows:

1. Defendants' Preliminary Objections, filed on October 13, 2026, are granted in part and denied in part. Plaintiff is directed to file an Amended Complaint, within twenty (20) days of the date of filing of this Order.
2. The Amended Complaint will be prepared in a fashion consistent with the applicable provisions of the Pennsylvania Rules of Civil Procedure.
3. Within the body of the Amended Complaint (and not by reference to any attachment) the Plaintiff will specifically state at least the following:
   a. The text of any alleged defamatory statement made by the Defendant.
   b. The date when any alleged defamatory statement was made.
   c. Why the Plaintiff contends that the statement has a defamatory meaning.
   d. If appropriate, the context of the alleged defamatory statement.
4. The balance of the Preliminary Objections are denied.

BY THE COURT,

William P. Carlucci, Judge

cc: Count Administrator
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