

Matt Campbell

From: Matt Campbell <matt@pinnaclelawfirm.com>
Sent: Thursday, March 6, 2014 3:00 PM
To: rgosack@fortsmithar.gov
Cc: [REDACTED]
Subject: Defamatory Statement to Times-Record
Attachments: 2014-02-05 McCabe Suit w Cover Sheet - Bales.pdf

Mr. Gosack,

Reading your statements in Mr. Arnold's article yesterday regarding the city attorney's defense of Ms. Angela McCabe, I was alarmed to see this:

"This attorney is trying to say it didn't arise during the performance of her duties, but it did," Gosack said. "In essence what she did is file a sexual-harassment complaint against her supervisors. So she was following the city's procedures. Her supervisors have now filed this defamation lawsuit."

I see at least four things wrong with that statement.

1. Most importantly, Ms. McCabe never filed a sexual-harassment complaint against Sgt. Don Paul Bales. She never alleged anything even remotely close to that. For you to say publicly that Sgt. Bales had previously been accused of sexual harassment is unquestionably defamatory. Sgt. Bales runs a martial-arts gym in his spare time, and he should not have to explain to parents and female students that he has not been accused of sexual harassment by Ms. McCabe or anyone else.
2. While Ms. McCabe alleged sexual harassment against Cpl. Wendall Sampson, this allegation was found unsustainable by Capt. Larry Rannels, Maj. Dean Pitts, Chief Kevin Lindsey, *and* HR Director Richard Jones. Your implied suggestion that Ms. McCabe's claim had any merit whatsoever is belied by the decisions of people who actually looked into the matter and have a sense of what occurred.
3. You seem to suggest that Sgt. Bales and Cpl. Sampson filed their defamation suit against Ms. McCabe because she made a sexual-harassment allegation. This could not be further from the truth. In fact, if you actually read the complaint, you'll see that the complaint has absolutely nothing to do with Ms. McCabe's sexual-harassment claim against Cpl. Sampson. (I've attached a copy of the pleading to this email.) Rather, as explained on pages 3-5 and 8-11 of the Complaint, the suit is brought based on specific, demonstrably false statements that Ms. McCabe made to Richard Jones and other employees. The mere fact that Ms. McCabe made these statements to Fort Smith employees does not turn "lying about Don Paul and Wendall" into an official job duty any more than, for example, her stealing money from a Fort Smith employee would turn petty theft into an official job duty.
4. You are incorrect when you state that Ms. McCabe was "following the city's procedures." As explained on page 3 of the Complaint, Ms. McCabe's appeal of Chief Lindsey's decision was untimely under the City's own rules. It was also improper, inasmuch as civil service rules prohibited Richard Jones from

imposing any additional discipline on either Sgt. Bales or Cpl. Sampson, which Chief Lindsey has subsequently attested to.

I say all of that to say this: Whether intentional or not, you have made a defamatory statement about my clients. I sincerely hope that you will take immediate steps to issue a clarification and make a public apology to my clients. Anything less than that will require further action on our part.

Sincerely,
Matt Campbell

P.S. I would be remiss if I did not point out that your final comment about “who would run for the city board if you could get sued individually and the city couldn’t defend them?” misses the point entirely. The Fort Smith ordinance clearly states that the city attorney can defend an individual employee who is sued for actions related to their official position. The purpose of my original email was to point out that Ms. McCabe’s actions were not official duties of her job.

Furthermore, if you truly believe that Ms. McCabe’s actions were within the scope of her employment, why has the city attorney already informed her that they will defend her, but that, if the defense is unsuccessful, she will be on the hook personally for any monetary damages that are awarded?

After all, Mr. Gosack, who would run for the city board if you could get sued individually for doing your job and would be personally responsible for costs and damages if you lost at trial?

/mdc

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