

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO: CACE 09-025826 (13)

LAURA M. WATSON,

Plaintiff

vs.

STEWART TILGHMAN FOX &
BIANCHI, P.A., WILLIAM C.
HEARON, P.A., TODD S. STEWART,
P.A., LARRY S. STEWART,
individually and WILLIAM
C. HEARON, individually,

Defendants.

**ORDER GRANTING DEFENDANTS' SWORN MOTION TO STRIKE PLAINTIFF'S
COMPLAINT AS A SHAM PLEADING AND
ENTERING FINAL JUDGMENT FOR THE DEFENDANTS**

THIS CAUSE having come on to be heard before the Court upon the Defendants' Sworn Motion to Strike the Plaintiff's Complaint as a Sham, pursuant to the provisions of Rule 1.150, Florida Rules of Civil Procedure, and the Court having considered the evidence presented by the Defendants, argument of counsel and the case law submitted both in support of and in opposition to the Motion, submits this written order ratifying the Court's oral pronouncement of January 7th, 2014 and as such, it is hereby

ORDERED AND ADJUDGED:

1. MS. WATSON alleges in her complaint at paragraphs 8, 9, 11 and 13 that she successfully defended and defeated an action that was brought against her by Defendants, STEWART TILGHMAN FOX & BIANCHI, P.A., WILLIAM C. HEARON, P.A. and TODD S. STEWART, P.A., in the Circuit Court of the Fifteenth Judicial Circuit in Palm Beach County, Florida in Case No: 502004CA006138, and that she was exonerated of all wrongdoing in that action in the Findings by Judge Crow in the referenced action, which were rendered on April 24, 2008. She also claims that any suggestion to the contrary in comments made by Mr. Stewart to reporters for The Daily Business Review were defamatory. Based on this Court's review of Judge Crow's Order of April 24, 2008, the Court finds that Ms. Watson's allegations to that effect are false and untrue, and that she was not in fact exonerated of all wrongdoing.

2. It is clear when dealing with claims of defamation that any comments by the Defendants must be viewed in the context in which they were made. In this instance, the Court has determined that the statements attributed to MR. STEWART were either fully in accord with various findings by Judge Crow in his Order or simply a logical translation or rephrasing of Judge Crow's findings. The Substantial Truth Doctrine applies to those statements, as they are entirely consistent with the findings in Judge Crow's Order. Since Count I of Plaintiff's complaint is dependent upon her contention that the statements attributed to Mr. Stewart in the Broward Review were untrue, and since the Court has determined that the quoted statements accurately characterize the findings in Judge Crow's order, there is no factual basis for Plaintiff's defamation claim. That claim is demonstrably false.

3. The allegations of paragraphs 8, 9, 11 and 13 are incorporated by reference in Counts II and III of the Plaintiff's Complaint, which include claims for abuse of process and malicious prosecution. The Court hereby determines that the factual predicate for those claims is also palpably false, based upon Judge Crow's findings. Here again, Plaintiff LAURA WATSON cannot establish that she "successfully defended and defeated" the action that was brought against her by the Defendants. Instead, it is clear from Judge Crow's findings that he did in fact determine that Ms. Watson and the other Defendants in the underlying action had committed various breaches of fiduciary duty and had attempted to defraud co-counsel. Under the circumstances, Plaintiff's contention in paragraph 25 of the Complaint that the underlying lawsuit was "frivolous," and that there was "no basis for bringing the action" is also demonstrably false. The Court specifically finds that there is no factual foundation for WATSON'S contention that the lawsuit against her was brought maliciously, and was brought for a wrongful or unlawful purpose not intended by the law, as alleged in paragraph 26 of the Plaintiff's Complaint. Thus, that additional allegation is stricken, and the abuse of process claim cannot stand.

4. The malicious prosecution claim is similarly defective. Here again, to the extent that Plaintiff incorporates by reference the allegations contained within paragraph 8 of the Complaint, it is clear that Count III of the Complaint cannot stand. Simply put, WATSON did not successfully defend the underlying action. Rather, based upon the undisputed evidence that was presented to the Court, it is clear that the Defendant attorneys had a reasonable basis for their claims against MS. WATSON and her P.A. While it is true that judgment was not entered against MS. WATSON personally in the

underlying action, Judge Crow's findings to that effect were based upon a legal technicality, to the extent that her Firm was a party to the agreements that were at issue in the underlying action, not MS. WATSON personally. Nevertheless, it is equally clear that a significant judgment was entered against MS. WATSON'S P.A. based entirely upon her own misconduct, misconduct which included an attempt to defraud her co-counsel, the Defendants in this cause, and various breaches of fiduciary duty to her own clients. In fact, Judge Crow was sufficiently dismayed by Ms. Watson's conduct that she was referred to the Florida Bar along with other Defendants in the underlying action, based upon Judge Crow's express finding that Ms. WATSON and her co-defendants had violated various Rules of Professional Responsibility. For that reason, the Court is also striking paragraph 33 of the Amended Complaint, which suggests that the underlying action against MS. WATSON "was without any legal basis in fact or law... and without any probable cause," to the extent that MS. WATSON "ultimately prevailed on all issues." The Court finds that this allegation is also demonstrably false.

5. The Court has also determined that Counts II and III are barred by the litigation privilege. *Echevarria v. Cole*, 950 So.2d 380, (Fla. 2007). As the Third District Court of Appeal has recently noted in *Wolfe v. Foreman*, 128 So.3d 67, 70 (Fla. 3rd DCA 2013), the Florida Supreme Court has clearly and unambiguously stated "not once but twice, that the litigation privilege applies to **all** causes of action," including abuse of process and malicious prosecution, so that litigants may feel free to "use their best judgment in prosecuting or defending a lawsuit...." Here, it is inconceivable that Plaintiff was not aware of the Supreme Court's very specific findings in *Echevarria* at the time

that she initiated what can only be characterized as unfounded litigation against these Defendants. It is therefore

ORDERED AND ADJUDGED:

1. Defendants' Sworn Motion to Strike is hereby GRANTED. To the extent that the Motion has stricken those facts which are necessary to support the Plaintiff's various causes of action, judgment is hereby entered in favor of the Defendants, STEWART TILGHMAN FOX & BIANCHI, P.A., WILLIAM C. HEARON, P.A., TODD S. STEWART, P.A., LARRY S. STEWART, individually and WILLIAM C. HEARON, individually and against the Plaintiff, LAURA WATSON, who shall take nothing by her action against the Defendants.

2. The Court reserves jurisdiction to assess attorneys' fees and costs upon further motion and hearing before this Court.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 02/20/14.


BEATRICE BUTCHKO
CIRCUIT COURT JUDGE

Copies furnished to:
Robert M. Klein, Esq.
Stephen Rakusin, Esq.