

**CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,
IN AND FOR ORANGE COUNTY, FLORIDA**

VERANDA PARTNERS, LLC, a
Florida limited liability corporation,

Plaintiff/Counter-Defendant,

vs.

LARRY GILES, individually,

Defendant/Counterclaimant.

CASE NO.: 07-CA-2622

JUDGE: Dv. 33 (Sprinkel)

**ORDER GRANTING GILES' SECOND RENEWED MOTION FOR
SUMMARY JUDGMENT**

THIS CAUSE, having come to be heard on Defendant's Second Renewed Motion for Summary Judgment against the Plaintiff, Veranda Partners, LLC, and the Court, having reviewed the court file, heard arguments of counsel, and being otherwise fully advised in the premises, makes the following

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The Defendant sponsored a website, the *Veranda Park News*, located at, www.verandaparknews.com.
2. The purpose of the Defendant's website was to highlight issues of community governance within his residential community of MetroWest; to provide a forum to discuss and advise other MetroWest residents of issues affecting MetroWest; to educate local leaders on issues and concerns impacting MetroWest, and anticipatorily have local leaders take affirmative action addressing such issues. The *Veranda Park News* website was, therefore, core political speech and a tool for the Defendant to petition his local leaders. Accordingly, the Court finds

that the statements are not defamatory.

3. The Defendant's website comments were, at no time, specifically directed at the Plaintiff. The Defendant's comments referenced "Veranda Park," which is a geographic location. The Plaintiff is "Veranda Partners," a corporation. In most of the complained-of statements, the Plaintiff was not even mentioned.

4. The Plaintiff failed to demonstrate, or even allege, that a third party ever read the Veranda Park News. In order for a publication to be defamatory, it must be published to at least one person. *Valencia v. Citibank Int'l*, 728 So.2d 330 (Fla. 3d DCA 1999); *Mile Marker, Inc. v. Petersen Pub'g*, 811 So.2d 841, 845 (Fla. 2d DCA 2002); *Thomas v. Jacksonville Television, Inc.*, 699 So.2d 800 (Fla. 1st DCA 1997).

5. As a matter of law, the Defendant's comments were incapable of a defamatory meaning, as they constituted nothing more than statements of opinion and/or rhetorical hyperbole. Such statements, including the ones cited in Plaintiff's Amended Complaint, cannot rise to the level necessary to support a *prima facie* case of defamation.

6. As a factual matter, the Court finds that Defendant's statements to be, upon review of the record evidence, to be true or substantially true. Truthful statements can never be defamatory. *Smith v. Cuban American Nat'l Foundation*, 731 So.2d 702, 706 (Fla. 3d DCA 1999).

7. The Plaintiff is the controlling governmental authority presiding over the MetroWest section of Orange County, Florida, and maintains firm control over MetroWest's governing body, the MetroWest Master Association.

8. The undisputed facts herein do not rise to the level of establishing a *prima facie* case of defamation against the Defendant. There is a complete absence of any triable issue of

fact as to the issue of defamation. Consequently, Defendant is entitled to judgment as a matter of law.

9. Further, summary judgment is particularly appropriate in the instant case, as it – pursuant to § 720.304(4) *Fla. Stat.* (2007) – has directly implicated Defendant’s First Amendment right to political free speech and right to petition.

10. Moreover, summary adjudication is proper in defamation matters, such as the case-at-bar, because “the failure to dismiss a [defamation] suit might necessitate long and expensive trial proceedings which, if not really warranted,” would themselves generate a ‘chilling effect’ on free speech activities. *See Time, Inc. v. McLaney*, 406 F.2d 565, 566 (5th Cir. 1969); *Bon Air Hotel, Inc. v. Time, Inc.*, 426 F.2d 858, 865 (5th Cir. 1970) (“in the First Amendment area, summary procedures are even more essential. The stake here, if harassment succeeds, is free debate”).

11. Based on the undisputed facts set for the above, and applicable law, the Plaintiff’s case is completely without support. Further, no reasonable expansion of the law could be argued to support the Plaintiff’s claim. support. The sole claim against Defendant, alleging defamation, does not rise to the level of establishing a *prima facie* case. Consequently, summary judgment against the Plaintiff is due to be granted. It is therefore

ORDERED AND ADJUDGED that Defendant’s Second Renewed Motion for Summary Judgment is hereby GRANTED. Summary Judgment is entered against the Plaintiff who shall take nothing by its action. The court reserves jurisdiction over the instant cause to determine any issues pertaining to costs and GILES’ pending Motion for Sanctions, filed under authority of § 57.105 *Fla. Stat.* (2007).

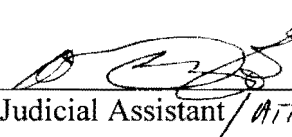
DONE and ORDERED at Orlando, Orange County, Florida, this 11th day of September 2008.

~~BY GEORGE A. SPRINKEL, IV~~

GEORGE SPRINKEL, IV
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to: DEREK B. BRETT, ESQ., and MARC J. RANDAZZA, ESQ., Weston, Garrou, Walters & Mooney, 781 Douglas Avenue, Altamonte Springs, Florida 32714, and Veranda Partners, LLC, c/o Kevin Azzouz, 7065 Westpointe Blvd., Ste. 318, Orlando, FL 32835, this 11 th day of September 2008.

 #0070750

Judicial Assistant / ATTORNEY