

STATE OF NORTH CAROLINA
COUNTY OF UNION

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24 CVS 003142-890

DAN BISHOP and BISHOP FOR
NC,

Plaintiffs,

v.

JEFF JACKSON FOR ATTORNEY
GENERAL, NORTH CAROLINA
DEMOCRATIC PARTY, DAGA
NORTH CAROLINA PEOPLE'S
LAWYER PROJECT, DAGA
PEOPLE'S LAWYER PROJECT,
DEMOCRATIC ATTORNEY'S
GENERAL ASSOCIATION, INC.,
DYNATA, LLC, and JOHN DOES 1-
10,

Defendants.

MOTION TO DISMISS

Defendant Jeff Jackson for Attorney General (“Jackson for AG”), by and through counsel and pursuant to N.C. Gen. Stat. § 1A-1, Rule 12(b)(6), hereby moves to dismiss with prejudice all claims asserted against Jackson for AG for failure to state a claim for relief.

In support of this Motion, Jackson for AG shows the Court as follows:

1. Plaintiffs’ Complaint is a political stunt dressed up as a lawsuit. Ill-advised lawsuits like Plaintiffs’ are all too common for political candidates in North Carolina. They rarely end well for the plaintiff. *See* WRAL.com, “NC lawmaker charged with stealing from federal loan program” (July 17, 2012), *available at* <https://www.wral.com/story/11323882/>.

2. Like the others, this lawsuit fails to overcome the powerful legal protections provided by the First Amendment for core political speech.

3. Indeed, it doesn't even meet the notice-pleading standard under N.C. Gen. Stat. § 1A-1, Rule 8. Simply stacking a series of guesses alleged "upon information and belief" to attempt to draw a line between a question purportedly asked by a telephone pollster and Plaintiffs' political opponent is insufficient to state a claim.

4. In addition to these pleading deficiencies, Plaintiffs' Complaint also puts at issue the identity and activities of each of Bishop's clients over a 29-year career. Plaintiffs will *never* be able to meet their burden of proving falsity without disclosing his clients' confidential information, a step Bishop—who alleges that he "will resume the practice of law following the election" (Compl. ¶ 20)—is barred from taking. *See* N.C. R. Prof. Conduct 1.6.

5. Moreover, even if they could overcome this obstacle (they cannot), Plaintiffs will not be able to show evidence of any cognizable damages proximately caused by the so-called "Law Practice Question."

6. Plaintiffs' claim for defamation per se fails as a matter of law because, among other reasons:

- a. Plaintiffs have failed to allege that Jackson for AG published the Law Practice Question to third parties;
- b. The Law Practice Question is a question, not a statement of fact, and therefore cannot support a claim for defamation per se;

- c. The Law Practice Question is not defamatory as a matter of law;
 - d. Plaintiffs are public figures, but they have failed to allege that Jackson for AG acted with actual malice—i.e., with knowledge that the Law Practice Question was false or with reckless disregard for whether it was true or false; and
 - e. Plaintiffs’ Complaint fails to satisfy the requirements of N.C. Gen. Stat. § 1A-1, Rule 9, because, among other issues, it lacks the required specificity and is replete with impermissible “group pleading.”
7. Plaintiffs’ claims for civil conspiracy and violation of N.C. Gen. Stat. § 75-1.1 are entirely derivative of their claim for defamation per se. Because the defamation per se claim fails as a matter of law, so too do these additional claims.

WHEREFORE, Defendant Jackson for AG respectfully requests that the Court dismiss with prejudice all claims against it and grant such other relief as the Court deems appropriate.

This the 3rd day of December, 2024.

/s/ Eric M. David
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on the following parties by email, addressed as follows:

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This the 3rd day of December, 2024.

/s/ Eric M. David _____
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