

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

BONNIE KRENZ-SCHNURMAN,

Plaintiff,

v.

Case No.: CL26-1006

BENJAMIN TRIBBETT,

Defendants.

ORDER

On July 10, 2026, came the parties, by counsel, on Defendant's Motion Craving Oyer, Demurrer, and Motion for Bill of Particulars.

I. Motion Craving Oyer

"A motion craving oyer...[is] a remedy afforded to a litigant who has been sued on a claim based upon a written document mentioned in a claimant's pleading but not made a part of the record." *Byrne v. City of Alexandria*, 298 Va. 694, 700. The Supreme Court of Virginia held that a motion should only be granted if it is "essential to the claim." *Id.*

Defendant requests that the Court integrate a communication from Defendant to Plaintiff into Plaintiff's Complaint. The communication referenced in Plaintiff's Complaint purportedly makes certain admissions and shows Defendant's knowledge of falsity and fabrication of the allegedly defamatory statements. The Court **FINDS** that the referenced communication is not essential to Plaintiff's claim. Accordingly, Defendant's Motion Craving Oyer is **DENIED**.

II. Demurrer

Demurrers test the legal sufficiency of the pleadings. *CaterCorp, Inc. v. Catering Concepts, Inc.*, 246 Va. 22, 24 (1993). The issue on demurrer is whether the Complaint sets forth sufficient facts, not merely conclusions of law, to constitute a foundation in law for the judgment sought. *See Moore v. Jefferson Hospital, Inc.*, 208 Va. 438, 440 (1967). To survive a challenge by demurrer, “a pleading must be made with sufficient definiteness to enable the court to find the existence of a legal basis for its judgment.” *Dunn, McCormack & MacPherson v. Connolly*, 281 Va. 553, 558 (2011). “The function of a demurrer is to test whether a bill of complaint states a cause of action upon which relief can be granted, and a demurrer admits as true all allegations of material facts which are well pleaded.” *Penick v. Dekker*, 228 Va. 161, 166 (1984) (citing *Bellamy v. Gates and Gill*, 214 Va. 314, 315-16 (1973)).

Plaintiff’s only cause of action alleged in her Complaint is defamation *per se*. Defamatory words that are actionable *per se* are:

(1) Those which impute to a person the commission of some criminal offense involving moral turpitude, for which the party, if the charge is true, may be indicted and punished. (2) Those which impute that a person is infected with some contagious disease, where if the charge is true, it would exclude the party from society. (3) Those which impute to a person unfitness to perform the duties of an office or employment of profit, or want of integrity in the discharge of the duties of such an office or employment. (4) Those which prejudice such person in his or her profession or trade. All other defamatory words which, though not in themselves actionable, occasion a person special damages are actionable.

Fleming v. Moore, 221 Va. 884, 889 (1981).

“Good pleading requires that the *exact words spoken* or written must be set out in the declaration *in haec verba*. Indeed, the pleading must go further; that is, it must purport to give the exact words . . . Words of equivalent or similar import are not sufficient.” *Morris v. Massingill*, 59 Va. Cir. 426, 428 (Norfolk 2002) (emphasis added). Courts will generally find that a pleading

is specific enough when it lists the exact words that are alleged to be defamatory. *See Fuste v. Riverside Healthcare Ass'n*, 265 Va. 127, 133-34 (2003) (overruling a demurrer on defamation claim because there were multiple references to direct quotations made by the defendant). The Court FINDS that Plaintiff failed to plead the exact words spoken by Defendant. Accordingly, Defendant's Demurrer is **SUSTAINED** and Plaintiff's Complaint is **DISMISSED** without prejudice.

III. Bill of Particulars

In civil matters, a court may order a bill of particulars to amplify any pleading that does not provide notice of a claim or defense adequate to permit the adversary a fair opportunity to respond or prepare the case. Va. Sup. Ct. R. 3:7. The issue of whether to grant a bill of particulars is one that rests within the discretion of the court. The Court **GRANTS** Defendant's Motion for Bill of Particular and **ORDERS** that Plaintiff amplify her pleading by stating (1) the allegedly defamatory statement with specificity; (2) the speaker of each statement; (3) the date of each publication of each statement; and (4) to whom each publication of each statement was made.

Plaintiff is granted leave to file a ~~Second~~ Amended Complaint within twenty-one (21) days of entry of this Order. Defendant shall have twenty-one (21) days from the service of the ~~Second~~ Amended Complaint to file his responsive pleadings.

It is so **ORDERED**.

The Court directs the Clerk of Court to forward a certified copy of this order to the parties.

ENTER:

July 16, 2026

Richard B. Campbell
Richard B. Campbell, Judge