IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA

TRULIEVE, INC.,

Plaintiff, Case No. 2025-CA001071-CAAXES

v.

NATHAN JUREWICZ,

Defendant.
_____/

2026 MAY 14 PM 5:10
Pasco County, Florida
Clerk & Comptroller
Filed For Record

DEFENDANT'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION TO DISMISS FOR FAILURE TO STATE A CAUSE OF ACTION

Defendant Nathan Jurewicz, pro se, respectfully submits this Supplemental Memorandum in further support of his Motion to Dismiss for Failure to State a Cause of Action, filed August 27, 2025. This Memorandum supplements—and does not replace—the original Motion to Dismiss and is intended to address developments in Florida law since the original briefing, to address recent public regulatory developments directly relevant to the issues before the Court, and to further develop key legal arguments.

Since the original briefing closed in September 2025, three categories of developments have materially strengthened the case for dismissal. First, the Florida Supreme Court issued its decision in *Vericker v. Powell*, 406 So. 3d 939 (Fla. 2025), which materially affects the analysis of Defendant's Anti-SLAPP defense. Second, the Attorney General of Ohio has filed an antitrust enforcement action against Plaintiff and eight other multistate cannabis operators. Third, three

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Florida state agencies—the Suwannee River Water Management District, the Florida Department of Environmental Protection, and the Florida Department of Health—have taken formal regulatory action concerning Plaintiff's Jefferson County cultivation facility, the same facility expressly referenced in Plaintiff's Complaint at Paragraph 11(e). The convergence of these developments confirms that this defamation action targets speech on quintessential matters of public concern and is exactly the kind of action Florida's Anti-SLAPP statute was enacted to prevent. *See* Defendant's Notice of Supplemental Authority and Recent Public Developments, filed contemporaneously herewith.

I. PLAINTIFF'S CLAIM IS BARRED BY FLORIDA'S ANTI-SLAPP STATUTE

Florida's Anti-SLAPP statute, Fla. Stat. § 768.295, prohibits civil actions "primarily because such person or entity has exercised the constitutional right of free speech in connection with a public issue." Fla. Stat. § 768.295(3). The statute embodies a strong public policy against the use of civil litigation to chill protected speech on matters of public concern.

A. *The Florida Supreme Court's Decision in Vericker v. Powell Confirms the Broad Reach of the Anti-SLAPP Statute.*

In *Vericker v. Powell*, 406 So. 3d 939 (Fla. 2025), the Florida Supreme Court clarified the framework for applying the Anti-SLAPP statute and confirmed that the protections of § 768.295 are broad and substantive. The Court reaffirmed the core principle that civil claims targeting protected speech on matters of public concern must be carefully scrutinized to determine whether they are "without merit" and "primarily" motivated by retaliation against protected expression.

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Applying that framework here, Plaintiff's defamation claim is squarely within the Anti-SLAPP statute's scope. Defendant's published statements addressed potential mold contamination in cannabis products, workplace safety violations, regulatory failures, and political contributions affecting agency oversight. Each of these is a paradigmatic matter of public concern, and the statements were made through publicly accessible social media platforms addressing a Florida-licensed medical marijuana treatment center.

B. Defendant's Speech Addresses Quintessential Matters of Public Concern.

Speech on matters of public concern lies "at the heart of the First Amendment's protection." *Snyder v. Phelps*, 562 U.S. 443, 451–52 (2011). Speech addressing public health and safety, regulatory enforcement, and the conduct of substantial business enterprises operating in regulated industries is among the most protected categories of expression. *See Connick v. Myers*, 461 U.S. 138, 145 (1983).

Defendant's statements addressed (i) potential mold contamination in cannabis products consumed by medical patients, including immunocompromised patients for whom mold exposure presents acute health risks; (ii) workplace safety conditions in cannabis cultivation facilities, an issue of national concern following the 2022 death of Trulieve employee Lorna McMurrey from occupational asthma related to cannabis dust exposure, which resulted in OSHA citations and a $350,000 fine imposed by the Massachusetts Cannabis Control Commission; (iii) the integrity of state regulatory oversight, including the alleged deletion of consumer health

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complaints from the Florida Department of Agriculture and Consumer Services website; and (iv) the political and regulatory landscape surrounding cannabis regulation in Florida, including Amendment 3.

Recent public developments confirm beyond any doubt that scrutiny of Plaintiff's operations is a matter of profound public concern. As detailed in Defendant's Notice of Supplemental Authority, in February 2026 the Attorney General of the State of Ohio filed an antitrust enforcement action against Plaintiff and eight other multistate cannabis operators. *See State of Ohio ex rel. Yost v. Ascend Wellness Holdings, Inc., et al.*, Case No. 26CV001146 (Franklin County, Ohio, Court of Common Pleas, filed Feb. 5, 2026). In April 2026, three Florida state agencies—the Suwannee River Water Management District, the Florida Department of Environmental Protection, and the Florida Department of Health—took formal regulatory action concerning the very Jefferson County facility expressly referenced in Plaintiff's Complaint at Paragraph 11(e). SRWMD and FDEP have documented apparent violations including unpermitted wastewater discharges, excessive pollutants, and erosion. FDOH has begun distributing free water testing kits to area residents. Members of the Florida House of Representatives from both political parties have publicly called for additional water testing and oversight, and the Jefferson County Board of County Commissioners has formally requested regulatory investigations.

These are not private grievances or commercial disputes. They are matters of substantial public concern affecting the health, safety, and environment of Florida residents.

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C. Plaintiff's "Commercial Speech" Argument Is Foreclosed by Settled Law and the Public Record.

In its Response in Opposition, Plaintiff argued that Defendant's speech is "commercial speech" entitled to reduced First Amendment protection. This characterization is incorrect as a matter of law.

Speech is "commercial" only when it does "no more than propose a commercial transaction." *Bolger v. Youngs Drug Products Corp.*, 463 U.S. 60, 66 (1983). The Supreme Court has identified three factors relevant to the commercial speech determination: (i) whether the speech is an advertisement; (ii) whether it refers to a specific product offered by the speaker; and (iii) whether the speaker has an economic motivation. *Id.* at 66–67. None of those factors is present here.

Defendant's statements were not advertisements. They did not propose any commercial transaction. They did not refer to any product Defendant sells. They were public-interest reportage on a regulated industry. The mere allegation, made "upon information and belief" in Paragraph 5 of the Complaint, that Defendant may have business relationships in the broader cannabis sector does not transform investigative reporting on health, safety, and regulatory compliance into "commercial speech." *See Riley v. National Federation of the Blind*, 487 U.S. 781, 796 (1988) (the fact that speech is sold or used to generate income does not, without more, make it commercial).

Moreover, the Supreme Court has consistently held that speech addressing public health and safety—even when made by participants in a regulated industry—falls within the core protections of the First Amendment. *See Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011). The

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intervening regulatory actions by three Florida state agencies and the Ohio Attorney General confirm that Defendant's reporting was on matters of substantial public concern—not commercial transactions.

II. PLAINTIFF FAILS TO PLEAD ACTUAL MALICE WITH THE REQUIRED SPECIFICITY

A. Plaintiff Is, At Minimum, a Limited-Purpose Public Figure.

A plaintiff is a limited-purpose public figure when it has "voluntarily inject[ed] [itself] or [is] drawn into a particular public controversy and thereby become[s] a public figure for a limited range of issues." *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351 (1974). The test focuses on whether the plaintiff has thrust itself into the public debate to influence its outcome.

Plaintiff is, at minimum, a limited-purpose public figure with respect to cannabis regulation, public health, and workplace safety in the cannabis industry. Plaintiff (i) is one of the largest licensed Medical Marijuana Treatment Centers in Florida and a publicly traded company that engages extensively in public-facing advocacy; (ii) contributed approximately $144.6 million to the Smart & Safe Florida political committee — which spent over $150 million in total — advocating for Amendment 3; (iii) has actively engaged with regulators, lawmakers, and political figures regarding cannabis regulation, including making substantial political contributions to Florida elected officials with regulatory authority over the industry; and (iv) has voluntarily entered the public debate regarding cannabis safety, regulation, and policy through press releases, political advertising, and corporate communications.

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The recent public record confirms that Plaintiff stands at the center of a substantial and continuing public controversy. The Ohio Attorney General has accused Plaintiff and eight other multistate cannabis operators of operating as a multistate "cartel." Three Florida state agencies have taken regulatory action concerning Plaintiff's Jefferson County facility. State legislators of both political parties have called for investigations. Local government has formally requested regulatory inquiry. Plaintiff is, by any reasonable measure, a limited-purpose public figure with respect to the matters at issue in this case.

As a limited-purpose public figure, Plaintiff must plead and prove actual malice—that Defendant made the statements with knowledge of their falsity or with reckless disregard for the truth. *New York Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964); *Mile Marker, Inc. v. Petersen Publishing, L.L.C.*, 811 So. 2d 841, 845 (Fla. 4th DCA 2002). Plaintiff's Complaint, in fact, expressly pleads actual malice. *See* Compl. ¶¶ 19–20. Plaintiff has thus committed itself to the actual malice standard. The question for this Court is whether Plaintiff has done so with the specificity Florida law requires.

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B. Plaintiff's Conclusory Allegations of Actual Malice Are Insufficient.

Plaintiff's Complaint contains only conclusory recitations of the actual malice standard and a conclusory allegation that Defendant is a "representative of [Plaintiff's] competitors." That allegation is pleaded "upon information and belief" in Paragraph 5 of the Complaint, without supporting facts. The Complaint does not plead specific facts establishing that Defendant subjectively knew his statements were false or entertained serious doubts about their truth. *See*

St. Amant v. Thompson, 390 U.S. 727, 731 (1968) (actual malice requires proof that the defendant "in fact entertained serious doubts as to the truth of his publication").

Plaintiff's repeated assertion that Defendant is a "representative of competitors" is not a substitute for actual malice pleading. Even accepting this allegation as true for purposes of this motion (which Defendant does not concede), commercial competition does not equal actual malice. See *Harte-Hanks Communications, Inc. v. Connaughton*, 491 U.S. 657, 667 (1989) ("[A] public figure plaintiff must prove ... that the defamatory falsehood was made with knowledge of its falsity or with reckless disregard for the truth.... [I]ll will or bad motive of the defendant is not the test."). A defamation plaintiff must plead facts plausibly suggesting the defendant subjectively doubted the truth of the statements—not merely that the defendant had a reason to disagree with the plaintiff.

Plaintiff's allegations regarding its three retraction letters likewise fail to establish actual malice. A defendant's refusal to retract a statement after receiving self-serving letters from the subject of the reporting does not, without more, establish actual malice. *See Edwards v. National Audubon Society, Inc.*, 556 F.2d 113, 121 (2d Cir. 1977). If it did, every defamation plaintiff could manufacture actual malice by sending a demand letter.

Plaintiff's own theory of actual malice, as pleaded in Paragraph 19 of the Complaint, rests on Defendant's alleged disregard of "publicly available sources" and refusal to retract after Plaintiff sent its own letters. That theory is internally inconsistent with Plaintiff's simultaneous demand

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for disclosure of Defendant's confidential sources in discovery: if the publicly available record was sufficient to put Defendant on notice of falsity (as Plaintiff alleges), then Plaintiff has no compelling need for Defendant's confidential sources to prove its case.

III. DEFENDANT'S STATEMENTS ARE SUBSTANTIALLY TRUE

Truth is an absolute defense to defamation. *Smith v. Cuban American National Foundation*, 731 So. 2d 702, 706 (Fla. 3d DCA 1999). Florida applies the substantial truth doctrine, under which a statement is not actionable if its "gist" or "sting" is true. *See Smith*, 731 So. 2d at 706–07; *Nelson v. Associated Press, Inc.*, 667 F. Supp. 1468, 1481 (S.D. Fla. 1987).

Defendant's challenged statements concern (i) mold contamination in Plaintiff's cannabis products; (ii) workplace safety violations at Plaintiff's facilities; (iii) the deletion of consumer health complaints from the FDACS website; (iv) Plaintiff's hiring practices; and (v) industrial and environmental conditions at Plaintiff's Jefferson County cultivation facility. Each statement is supported by substantial evidence:

Mold contamination: Defendant is prepared to present testimony from former Trulieve employee James Deese, who has firsthand knowledge of mold contamination at Plaintiff's facilities and the alleged practice of processing mold-affected cannabis into concentrates. Additional testimony is available from former employee Chastity Murdy regarding facility conditions, including pervasive mold detectable through protective equipment.

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Workplace safety: Plaintiff's workplace safety record is a matter of documented public record, including OSHA citations issued in connection with the death of Trulieve employee Lorna McMurrey and the $350,000 fine imposed by the Massachusetts Cannabis Control Commission.

Consumer complaint records: Defendant is prepared to present testimony from Holly Bell, former Director of Cannabis at FDACS, regarding consumer health complaints she personally reviewed before they were allegedly deleted under the subsequent administration.

Hiring practices: Defendant is prepared to present testimony from former employees regarding Plaintiff's hiring of individuals on worker visas in connection with cannabis cultivation, an industry that remains federally illegal.

Industrial and environmental conditions at the Jefferson County facility: The April 2026 regulatory actions by SRWMD and FDEP have documented apparent violations including unpermitted wastewater discharges, excessive pollutants from water quality samples and water flow, erosion, and standing water in the stormwater pond. The Florida Department of Health has begun distributing free water testing kits to area residents. These contemporaneous regulatory findings concern the same facility expressly identified in Paragraph 11(e) of the Complaint.

At a minimum, the question of substantial truth is a fact-bound issue inappropriate for resolution on a motion to dismiss. But the existence of substantial supporting evidence—corroborated in

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part by formal regulatory action of three Florida state agencies—underscores why this case is exactly the type of public-interest reporting the Anti-SLAPP statute was designed to protect.

IV. PLAINTIFF FAILS TO PLEAD COGNIZABLE DAMAGES

As established in Defendant's original Motion to Dismiss, Plaintiff's damages allegations are conclusory and insufficient. Plaintiff's vague reference at Paragraph 24 of the Complaint to "more than $62,000" in unspecified "remediation" costs does not plead damages with the specificity Florida law requires. *See Edelstein v. WFTV, Inc.*, 798 So. 2d 797, 798 (Fla. 5th DCA 2001).

Plaintiff offers no factual allegations connecting any specific expenditure to any specific challenged statement, no allegations regarding any identifiable lost customer or transaction, and no allegations regarding the reasonableness or necessity of the unspecified "remediation" expenses. Plaintiff's allegation at Paragraph 23 that it "lost sales" is pleaded "upon information and belief"—despite the fact that Plaintiff, as the entity making the sales, would have direct knowledge of any actual lost transactions. These pleading deficiencies are not cured by Plaintiff's Response in Opposition, which contains only argument, not allegations.

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CONCLUSION

Plaintiff's defamation claim is exactly the kind of action Florida's Anti-SLAPP statute was enacted to prevent: a well-funded corporation using the threat of expensive civil litigation to silence a critic on matters of public concern. The Complaint fails to plead actual malice with the

required specificity, fails to plead damages adequately, and targets speech that is substantially true and addresses paradigmatic matters of public concern—matters that have now drawn the formal regulatory attention of three Florida state agencies and the Attorney General of the State of Ohio.

For the reasons stated herein and in the original Motion to Dismiss, Defendant respectfully requests that this Court (i) grant the Motion to Dismiss; (ii) dismiss Plaintiff's Complaint with prejudice; (iii) award Defendant his costs, including reasonable attorney's fees, pursuant to Fla. Stat. § 768.295(4); and (iv) grant such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: _____, 2026

/s/ Nathan Jurewicz

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the Florida Courts E-Filing Portal to all counsel of record, including: Shannon B. Timmann, Esq. (shannon.timmann@mwpp.com); Megan L. Meier, Esq. (megan.meier@mwpp.com); Devin K. Bolger, Esq. (devin.bolger@mwpp.com); Hannah Menchel, Esq. (hannah.menchel@mwpp.com), Meier Watkins Phillips Pusch LLP, 1120 20th Street, NW, Suite 550, Washington, DC 20036; and Melanie Leitman, Esq. (mleitman@stearnsweaver.com); Andreka Ruddock (aruddock@stearnsweaver.com), Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., 106 East College Avenue, Suite 700, Tallahassee, Florida 32301, on this 14th day of May, 2026.

/s/ Nathan Jurewicz

Nathan Jurewicz, Pro Se

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