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

TRULIEVE, INC.,

Plaintiff,

v.

NATHAN JUREWICZ,

Defendant.

_____/

Case No.: 2025-CA-001071-CAAXES
Division: J4

Judge: Hon. Alicia Polk

DEFENDANT'S REPLY IN SUPPORT OF MOTION TO DISMISS (DIN 13)

Defendant, NATHAN JUREWICZ, appearing pro se, respectfully replies to Plaintiff's Response in Opposition to the Motion to Dismiss (DIN 19). The Motion is decided on the four corners of the Complaint. So decided, it should be granted. In support, Defendant states:

I. THE FAILURE-TO-STATE DEFENSE IS PROPERLY BEFORE THE COURT AND IS NOT WAIVED.

1. Plaintiff argues the Court should not even consider the Motion because it was filed late. (DIN 19 at 7–8.) But the defense of failure to state a cause of action **cannot be waived.** Florida Rule of Civil Procedure 1.140(h)(2) provides that this defense "may be raised by motion for judgment on the pleadings or at the trial on the merits," in addition to by earlier motion. The Court therefore may decide the legal sufficiency of the Complaint now, and will have to decide it eventually in any event.

2. Plaintiff's authorities do not hold otherwise. *Thompson v. McDonald* and *Zo Skin Health, Inc. v. Salz* are federal decisions in which the moving party had already filed an **answer** before moving to dismiss. (DIN 19 at 8.) Defendant has filed no answer, and no default has been entered. Florida policy strongly favors resolution of claims on their merits.

3. Moreover, the Motion invokes Florida's anti-SLAPP statute, which directs that a person sued in violation of it "has a right to an expeditious resolution" and that the court set the matter for hearing "at the earliest possible time." § 768.295(1), (4), Fla. Stat. Declining to reach the Motion would defeat that command. The Court should reach the merits.

II. THE COMPLAINT TARGETS SPEECH ON A PUBLIC ISSUE; THE ANTI-SLAPP STATUTE APPLIES.

4. Florida's anti-SLAPP statute prohibits suits filed "primarily because" the defendant exercised "the constitutional right of free speech in connection with a public issue." § 768.295(3), Fla. Stat. The speech the Complaint targets—statements about mold, pesticides, patient health and safety, the handling of consumer health complaints, and Amendment 3, a statewide ballot initiative

—lies at the very core of protected public-concern speech. *See Snyder v. Phelps*, 562 U.S. 443, 451–53 (2011); *Connick v. Myers*, 461 U.S. 138, 145–48 (1983).

A. The challenged speech is not "commercial speech."

5. Plaintiff's central answer is that the speech is "commercial" and therefore enjoys only limited protection. (DIN 19 at 13.) That mislabels it. Commercial speech is "expression related solely to the economic interests of the speaker and its audience." *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557, 561 (1980). The posts identified in the Complaint propose no transaction and advertise no product; they warn the public about alleged health and safety conditions and address a statewide ballot initiative. That is quintessential public-issue speech, not commercial speech.

6. Plaintiff's theory is really about *motive*—that Defendant supposedly "represents competitors." (DIN 19 at 13.) But a speaker's motive does not convert public-health and political speech into commercial speech. Even accepting Plaintiff's motive allegation as true (as the Court must at this stage), the *subject* of the speech remains public health and a statewide election—not the proposal of any commercial transaction. Plaintiff's authority, *Harris v. Agency for Health Care Admin.*, concerns genuinely commercial speech and is inapposite.

B. Plaintiff's "defamation is unprotected" argument is circular.

7. Plaintiff next argues the speech is "entirely unprotected" because it is defamatory, citing *McQueen v. Baskin*, 377 So. 3d 170, 176 (Fla. 2d DCA 2023). (DIN 19 at 13.) That reasoning assumes the very conclusion the Motion tests. On a motion under Rule 1.140(b)(6), the Court does not presume the statements are defamatory; it asks whether the Complaint states a claim at all. The anti-SLAPP inquiry is whether the suit targets protected public-issue speech—and it plainly does. Plaintiff cannot bootstrap a finding of "defamation" to escape a statute designed to test exactly that.

C. That some statements are factual does not defeat anti-SLAPP protection.

8. Plaintiff argues each statement "can be objectively proven true or false" and so is not "opinion." (DIN 19 at 13–14.) Anti-SLAPP protection, however, does not turn on whether a statement is "opinion"; it turns on whether the speech concerns a public issue. In any event, opinion and rhetorical hyperbole on public matters remain protected. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 19–20 (1990). And falsity and defamatory meaning are Plaintiff's burden to plead and prove—not Defendant's to disprove on the pleadings.

III. THE COMPLAINT FAILS TO ADEQUATELY PLEAD ACTUAL MALICE.

9. Trulieve is, at minimum, a limited-purpose public figure: by its own allegations it is a dominant, licensed Medical Marijuana Treatment Center, and the speech at issue concerns public debate over cannabis safety and Amendment 3. A public-figure plaintiff must plausibly allege actual malice—that the defendant published **knowing** the statements were false or while

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subjectively entertaining serious doubts about their truth. *New York Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964).

10. The Complaint does not do so. Its malice allegations—a supposed competitor "motive," a failure to contact Trulieve before publishing, and a refusal to retract—are pleaded "on information and belief" and show, at most, motive and a failure to investigate. Motive is not knowledge of falsity, and "[a] failure to investigate, without more, is insufficient to establish actual malice." *See Harte-Hanks Commc'ns, Inc. v. Connaughton*, 491 U.S. 657, 688 (1989). Stripped of conclusions, the Complaint pleads a vigorous critic, not a knowing liar.

IV. DISMISSAL SHOULD BE WITH PREJUDICE.

11. Plaintiff asks, in the alternative, for leave to amend. (DIN 19 at 16.) Leave to amend is properly denied where amendment would be futile. *See Thompson v. Inv. Mgmt. & Rsch., Inc.*, 745 So. 2d 475, 477 (Fla. 5th DCA 1999). Here, the defect is not a missing fact that repleading could supply; it is that the suit targets protected speech on a public issue. No amendment can cure that. Consistent with § 768.295(4), the Complaint should be dismissed **with prejudice**, and Defendant should be awarded his reasonable attorney's fees and costs.

V. PLAINTIFF'S REQUEST FOR SERVICE-RELATED FEES IS NOT A BASIS TO DENY THE MOTION.

12. Plaintiff's request for fees premised on alleged "evasion of service" (DIN 19 at 15) raises disputed factual matters outside the four corners of the Complaint and has no bearing on the legal sufficiency tested by the Motion. Defendant disputes Plaintiff's characterization of the service history and reserves all rights as to that request; it provides no ground to deny dismissal.

WHEREFORE, Defendant respectfully requests that the Court grant the Motion to Dismiss, dismiss the Complaint with prejudice, award Defendant his reasonable attorney's fees and costs under § 768.295(4), Florida Statutes, and grant such further relief as is just.

Respectfully submitted,

/s/ Nathan Jurewicz
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was 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); paralegals@mwpp.com, Meier Watkins Phillips Pusch LLP; and Melanie Leitman, Esq. (mleitman@stearnsweaver.com); Andreka Ruddock (aruddock@stearnsweaver.com), Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., on this 29th day of June, 2026.

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/s/ Nathan Jurewicz

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