

IN THE SUPERIOR COURT OF DELAWARE

**ROBERT RIEGAL and
ERIN RIEGAL,**

Plaintiffs,

**CIVIC ASSOCIATION OF
SURREY PARK; WILLIAM
VIAR, JEFFREY FAHNOE
MICHAEL LAUR, THOMAS
GORMAN, DONALD MAZEELA,
and CHARLES MEEHAN,**

Defendants.

C.A. No. N25C-11-185 DJB

Date Submitted: June 19, 2026
Date Decided: September 30, 2026

Memorandum Opinion

*On Defendants' Motion to Dismiss – **GRANTED in part, DENIED in part***

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for Plaintiffs

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Defendants

BRENNAN, J.

I. INTRODUCTION

Plaintiffs Robert and Erin Riegel (collectively “Plaintiffs” or “the Riegels”) bring this instant action against Defendants Civic Association of Surrey Park (hereinafter “CASP”), William Viar, Jeffrey Fahnoe, Michael Laur, Thomas Gorman, Donald Mazzella, and Charles Meehan (collectively “Individual Defendants”). Plaintiffs allege claims of Negligence (Count I), Negligent Supervision and Control (Count II), Malicious Prosecution (Count III), Abuse of Process (Count IV), Defamation Libel (Count V), and False Light (Count VI).¹ CASP is sued as an entity, and the Individual Defendants are being sued in their individual capacity as officers for CASP.

This action follows a long history of litigation surrounding the parties: two homeowners and a homeowner’s association. The legal theatrics began when CASP filed an action in the Court of Chancery to enforce the neighborhood of Surrey Park’s deed restriction against the Riegels after they built an “unapproved” shed on their property.² Ultimately, the Court of Chancery ruled in favor of the Riegels and awarded attorney’s fees and costs.³ Following that finding, this action was filed. Defendants have now moved to dismiss. For the following reasons that motion is **GRANTED** in part and **DENIED** in part.

¹ Plaintiff’s Amended Complaint, D.I. 26.

² D.I. 29, ¶ 2.

³ *Id.*

II. RELEVANT FACTS

Plaintiffs live in the North Wilmington neighborhood of Surrey Park (hereinafter “Surrey Park”), which is governed by CASP.⁴ In 2019, Plaintiffs constructed a shed on their property, which Surrey Park believed to be in violation of the community’s deed restrictions.⁵ Consequently, in December 2019, CASP filed an action against the Riegel’s in the Court of Chancery seeking enforcement of the community’s deed restrictions and removal of the shed.⁶ In November 2022, the Court of Chancery, citing CASP’s lack of standing, dismissed the action after significant litigation.⁷ Following that dismissal, the Riegels were awarded attorney fees and costs.⁸ Accordingly, a judgment in the amount of \$89,265.16 was entered and transferred to Superior Court.⁹

In December 2023, CASP distributed a newsletter to Surrey Park residents regarding the Chancery Court litigation. This newsletter stated that the Chancery action had been dismissed and included a statement that CASP had “made a settlement offer to Bob and Erin Riegel several times in the past, including an offer in December 2023. This offer was subsequently declined by the Riegels. There are

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Civic Ass’n of Surrey Park v. Riegel*, 2022 WL 17336095, at *3, *5 (Del. Ch. Nov. 30, 2022).

⁸ *Id.*, at *4 (Del. Ch. Oct. 23, 2023).

⁹ *Id.* See also *Riegel v. Civic Association of Surrey Park*, C.A. No. N24J-00909

no further offers CASP can extend. The funds to pay the Order of \$80,380.76 simply do not exist, nor ... [does] CASP have the right to levy the homeowners of Surrey Park [to] pay the Riegel's legal fees.”¹⁰

In April 2025, CASP distributed another newsletter to Surrey Park residents. This newsletter contained the following statement: “Unfortunately, in 2019 one of our residents chose to ignore the deed restrictions and constructed a two-story utility building in their backyard without securing proper pre-approval.”¹¹ In October 2025, CASP held a civic association meeting where finances were discussed. Plaintiffs allege the Defendants made multiple statements at this meeting regarding the insurance coverage for the Chancery action-related judgment as well as CASP's ability and intention to pay its own attorney fees.¹²

To date, the judgment remains unpaid.

III. PROCEDURAL HISTORY

Plaintiffs filed their initial Complaint on November 20, 2025.¹³ Plaintiffs subsequently filed two additional Amended Complaints, the second of which was filed on February 16, 2026.¹⁴ Prior to the Second Amended Complaint having been filed, Defendants filed their Answer with Affirmative Defenses, as well as a Motion

¹⁰ D.I. 26, ¶ 40.

¹¹ *Id.* at ¶ 45.

¹² *Id.* at ¶¶ 52-57.

¹³ D.I. 1.

¹⁴ D.I. 26.

to Dismiss, both on February 6, 2026.¹⁵ Defendants’ Motion to Dismiss was amended on February 18, 2026, following the Second Amended Complaint.¹⁶ Plaintiffs filed their Response on March 5, 2026.¹⁷ Oral argument was ultimately held June 4, 2026.¹⁸ At oral argument, a legal issue was raised for the first time. The Court afforded both parties an opportunity to submit supplemental filings in support of their respective positions on the issue. On June 15, 2026, Plaintiffs submitted their supplemental letter in support of their newly raised legal theory.¹⁹ On June 19, 2026, Defendants filed their legal submission in response.²⁰ This matter is now ripe for decision.

IV. STANDARD OF REVIEW

Superior Court Civil Rule 12(b)(6) provides that a motion to dismiss may be granted “where the plaintiff cannot recover ‘under any reasonably conceivable set of circumstances susceptible of proof.’” Under this rule, the Court is required to:

(1) accept all well pleaded factual allegations as true, (2) accept even vague allegations as “well pleaded” if they give the opposing party notice of the claim, (3) draw all reasonable inferences in favor of the non-moving party, and (4) [not dismiss the claims] unless the plaintiff would not be entitled to recover under any reasonably conceivable set of circumstances.²¹

¹⁵ D.I. 17.

¹⁶ D.I. 29.

¹⁷ D.I. 31.

¹⁸ D.I. 30, 35.

¹⁹ D.I. 36.

²⁰ D.I. 37.

²¹ Del. Super. Ct. Civ. R. 12(b)(6).

Conclusory allegations without specific factually allegations in support may be deemed insufficient to withstand a motion to dismiss.²² Dismissal under Rule 12(b)(6) is only appropriate when, “it appears with reasonable certainty that the plaintiff could not prove any set of facts that would entitle him to relief.”²³ Under this liberal standard, a court may only dismiss a case if it can be said that “the plaintiff could prevail on no state of facts inferable from the pleadings; [t]o survive a motion to dismiss, the complaint need only give general notice of the claim asserted”²⁴

V. ANALYSIS

Plaintiffs’ Complaint puts forth theories of negligence, defamation, and abuse of process within six separate causes of action. Their first two causes of action allege negligence. Count I asserts a negligence cause of action against all Defendants for filing suit in the Court of Chancery without verifying CASP’s standing to do so, and by following through with the action after the lack of standing “became apparent.”²⁵ In Count I, Plaintiffs allege, “Defendants’ conduct was, at minimum, grossly negligent, given that it included deliberate pursuit of unauthorized litigation,

²² *Khushaim v. Tullow*, 2016 WL 3594752, *2 (Del. Super. Jun. 27, 2016).

²³ *Rammuno v. Cawley, et al.*, 704 A.2d 1029, 1034 (Del 1998) (citing *Spence v. Funk*, 396 A.2d 967, 968 (Del. 1978)).

²⁴ *Id.* (internal citations omitted).

²⁵ D.I. 26, ¶ 62.

intentional community defamation, and intentional evasion and obstruction after entry of judgment.”²⁶ Plaintiffs label this conduct as “gross negligence.”²⁷ Count II asserts a claim of negligent supervision and control against the Individual Defendants for “negligently failing to oversee CASP’s governance” due to them having brought the Chancery action.²⁸ Only simple negligence is alleged in this Count.

Count III alleges Malicious Prosecution, and asserts all Defendants lacked probable cause to pursue the Chancery action and “acted with malice, meaning an improper purpose, including to punish Plaintiffs for refusing CASP’s demands, intimidate Plaintiffs, and coerce removal of the shed.”²⁹ Plaintiffs allege special damages in the form of reputational harm and the fear of having the shed demolished, as well as: “Litigation fees and costs: \$89,265.16; Post-judgment enforcement costs and expenses; Unpaid sanctions of \$2,000.00; Emotional distress and mental anguish; and Interest, costs, and other consequential losses.”³⁰ Count IV alleges Abuse of Process, alleging all Defendants used the Chancery proceeding for an ulterior purpose, and “committed willful acts not proper in the regular course of proceedings, including pursuing mandatory injunctive relief without authority,

²⁶ *Id.* at ¶ 63.

²⁷ *Id.* at ¶ 64.

²⁸ *Id.* at ¶ 67.

²⁹ *Id.* at ¶ 73.

³⁰ *Id.* at ¶ 76.

attempting to cure standing after filing, and using the litigation and community messaging to pressure Plaintiffs outside lawful channels.”³¹

Counts V and VI are pled alternatively; Count V alleges Defamation and Count VI alleges False Light. Count V alleges all Defendants acted, “at least negligently” and “with actual malice because Defendants knew the standing basis for dismissal [of the Chancery Court action] and knew CASP previously levied residents to fund counsel, yet published a contrary narrative to shame Plaintiffs.”³² Both Counts V and VI refer to the community newsletters distributed by CASP in October 2023 and April 2025 as the basis for the respective claims.

Count VI alleges “Defendants acted with knowledge of falsity or reckless disregard for the truth. Defendants were direct participants in the Chancery litigation, knew the dismissal was grounded in CASP’s lack of standing and authority, and nevertheless chose to publicize a one-sided narrative to pressure Plaintiffs and influence residents against them.”³³ In their filings, Plaintiffs acknowledge the alternative nature of pleading both Counts V and VI.³⁴

³¹ *Id.* at ¶ 79.

³² *Id.* at ¶¶ 89 & 90.

³³ *Id.* at ¶99.

³⁴ D.I. 31, p. 13.

A. Counts I & II: Negligence

Defendants argue that Plaintiffs have not successfully pled a claim for negligence. To successfully plead a case of negligence, a plaintiff must establish defendant owed a duty to the plaintiff; defendant breached that duty; defendant's breach was the proximate and actual cause of the harm; and plaintiff suffered damages as a result of the breach.³⁵ "A duty exists when a defendant has a legal obligation to protect a plaintiff from the risk of harm which caused the injury."³⁶ Failure to plead or establish a legal duty is fatal to a negligence claim.³⁷

Count I alleges negligence of CASP for breaching the duty of "reasonable care to ensure that any legal action undertaken by CASP was supported by actual standing, a factual basis, and lawful authority."³⁸ Plaintiffs allege this supposed duty was breached by instituting the Chancery action without verifying its authority to enforce the deed restrictions and by continuing the litigation when "it became apparent that [it] lacked standing" and engaged in conduct to "intimidate and punish Plaintiffs for exercising their property rights."³⁹

³⁵ *Flowers v. Buccini/Pollin Group*, 2025 WL 833846, at *5 (Del. Super. Mar. 17, 2025) (citing *Campbell v. DiSabatino*, 947 A.2d 1116, 1117 (Del. 2008)).

³⁶ *Flowers*, 2025 WL 833846, at *5 (Del. Super. Mar. 17, 2025) (citing *Fritz v. Yeager*, 790 A.2d 469, 471 (Del. 2002)).

³⁷ *Freibott v. Miller*, 2009 WL 1526912, at *2 (Del. Super. Ct. June 2, 2009) (citing *Booker v. White Oak Condominium Ass'n, Inc.*, 2007 WL 2677065 at *1 (Del. Super. 2007)).

³⁸ D.I. 26, ¶ 60.

³⁹ *Id.* at ¶ 61.

Count II alleges the Individual Defendants had a duty to “properly manage, supervise, and control CASP’s activities, including ensuring that CASP acted within its lawful authority.”⁴⁰ Plaintiffs allege this duty was breached as the Individual Defendants “failed to oversee CASP’s governance” which resulted in the filing of the Chancery action, “waste[d]...community resources, and subsequent efforts to obstruct enforcement of a lawful judgment.”⁴¹

i. The Record Does Not Yet Establish Volunteer Immunity

Defendants first allege that Plaintiffs may not maintain an action against the Individual Defendants for negligence, as they are volunteers of CASP and are immune from suit pursuant to 10 *Del. C.* § 8133(b). Under this statute, “[n]o volunteer of an organization shall be subject to suit directly, derivatively or by way of contribution for any civil damages under the laws of Delaware resulting from any negligent act or omission performed during or in connection with an activity of such organization.”⁴²

Defendants argue “to the extent Plaintiffs seek relief against individuals under Count I: Negligence, or Count II: Negligent Supervision and control, such claims cannot be asserted against the Individual Defendants, requiring dismissal as a matter

⁴⁰ D.I. 26, ¶ 66.

⁴¹ *Id.* at ¶67.

⁴² 10 *Del. C.* §8133(b).

of law.”⁴³ In the Individual Defendants’ view, Section 8133 controls and is dispositive. In response, Plaintiffs assert that Section 8133 “is limited to damages resulting from any negligent act or omission” and does not bar their intentional tort claims.⁴⁴ Plaintiffs further argue Counts I and II allege claims beyond simple negligence, citing to Count I for stating Defendant’s committed gross negligence “at a minimum.”⁴⁵ Plaintiffs claim a determination of whether the individual Defendants are immunized volunteers as defined under Section 8133 presents questions of fact for the jury.⁴⁶

Delaware’s volunteer immunity provision is clear: unless a volunteer’s conduct is willful or wonton, they are immune from suit. A volunteer is a person who is “neither compensated nor had any expectation of compensation.”⁴⁷ Willful wonton conduct is “intentional wrongdoing, not mere negligence, gross negligence or recklessness.”⁴⁸ At this initial pleading stage, it is not in the record before the Court as to whether the Individual Defendants were compensated for their work on CASC. It may very well be that all Individual Defendants were

⁴³ D.I. 29, p. 5.

⁴⁴ *Id.* at 4.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Green v. House of Wright Mortuary, Inc.*, 2005 WL 3194484, at *4 (Del. Super. Ct. Nov. 17, 2005).

⁴⁸ *W.D.C. Holdings, LLC v. IPI Partners, LLC*, 2022 WL 2235005, at *10 (Del. Ch. June 22, 2022) (citing *Dieckman v. Regency GP LP*, 2021 WL 537325, at *36 (Del. Ch. Feb. 15, 2021) (internal citations omitted)).

volunteers. This was not contested in Plaintiffs' response, but the record remains silent to this point. As such, no decision can yet be made without going outside of the record and ordering limited discovery to convert this into a motion for summary judgment. That is not necessary at this point, however. Other claims will survive this motion, therefore there is little to no prejudice in allowing this issue to be explored in discovery along with the rest.

However, Counts I and II differ in an important way. Count I alleges negligence against CASP and the Individual Defendants; Count II alleges negligence only against the Individual Defendants. Count II does not allege anything more than mere negligence. Therefore, should it turn out that the Individual Defendants are, in fact, volunteers, the immunity provisions of Section 8813(b) apply and Count II will ultimately be dismissed.

ii. Plaintiffs' Count I Fails to State a Claim Upon Which Relief Can be Based

Defendants contend Plaintiffs' claims fail because alleging Defendants were negligent "simply because they lost a deed restriction action in the Court of Chancery ... does not create a cause of action sounding in negligence."⁴⁹ Additionally, Defendants argue Counts I and II are duplicative of Count III, malicious prosecution, as they are predicated on the same conduct and should be dismissed.⁵⁰

⁴⁹ D.I. 29, p. 6.

⁵⁰ *Id.*

In response, Plaintiffs dispute the duplicative argument because Counts I and II allege facts and conduct that fall outside the scope of the Chancery Court cause of action.⁵¹ Plaintiffs argue that “even if Count III displaces Counts I and II as to the Chancery filing itself, which Plaintiffs do not concede, the negligence counts independently survive on the basis of the post-judgment and publication-based conduct alone.”⁵² Finally in response, Plaintiffs claim that alternative pleading is permissible at the pleading stage and is properly addressed at the summary judgment stage.⁵³

Plaintiffs are correct that alternative pleading is permissible at this stage, as “a plaintiff may plead alternative theories of relief at the Complaint stage.”⁵⁴ With respect to Count II, Plaintiffs have alleged conduct in addition to the filing of the Chancery action. However, Count I is solely based upon the Chancery Court action. As a result, Count I is problematic.

There is no support in the law in the negligence realm for a duty “of reasonable care to ensure that any legal action undertaken by CASP was supported by actual standing, a factual basis, and lawful authority,” as alleged. Superior Court Civil Rule of Procedure 11 imposes a duty, prior to filing suit, on parties. It is not a standalone

⁵¹ D.I. 31, p. 5.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Willey v. Scott, No.*, 2025 WL 1166414, at *4 (Del. Super. Apr. 21, 2025).

cause of action.⁵⁵ As pled, Defendants supposed duty owed is a general duty not to file frivolous lawsuits against them. However, there is no such legal duty that exists in this context.⁵⁶ Plaintiffs options, if they believe there was no legal basis to initiate the Chancery litigation, is to pursue a malicious prosecution action. Therefore, whether Count I and Count III are duplicative is somewhat moot. There is simply no legal duty in the negligence realm to support a cause of action here. Therefore, because Count I does not plead a viable allegation of a violation of an applicable duty of care, Plaintiffs' negligence claim in Count I cannot survive."⁵⁷ Consequently, Defendant's Motion to Dismiss with respect to Count I is **GRANTED**.

iii. Count II Differs From Count I and Momentarily Survives

Count II alleges negligence against the Individual Defendants for their operation of CASP not only for the Chancery Action, but also in subsequent conduct for mismanaging community resources, albeit all in the vein of this dispute. Therefore, given the pleading standard, Count II contains allegations beyond the mere prosecution the Chancery action and may survive at this point in the process.

⁵⁵ Cf. *Blue Hen Mechanical, Inc. v. Christian Brothers Risk Pooling Trust*, 117 A.3d 549, 558 (Del. 2015); *Dickerson v. Murray*, 2015 WL 447607, *3 (Del. Super. Feb. 13, 2015).

⁵⁶ *Id.*

⁵⁷ *O'Rourke v. PNC Bank*, 2022 WL 588089, at *3 (Del. Super. Ct. Feb. 15, 2022), *aff'd*, 288 A.3d 251 (Del. 2022).

However, Count II's survival is conditioned on the outcome of discovery on the issue of the Individual Defendant's volunteer status. Therefore, Defendants' Motion is **DENIED**, without prejudice, as to Count II, so that this issue may be raised at the summary judgment stage, if appropriate.

B. Count III: Malicious Prosecution

Plaintiff's Count III alleges Malicious Prosecution, asserting Defendants lacked probable cause in initiating the Chancery Court action and "acted with malice, meaning an improper purpose, including to punish Plaintiffs for refusing CASP's demands, intimidate Plaintiffs, and coerce removal of the shed."⁵⁸ A plaintiff asserting a claim of Malicious Prosecution must sufficiently allege: "1) the institution of civil proceedings; 2) without probable cause; 3) with malice; 4) termination of the proceedings in the aggrieved party's favor; and 5) damages which were inflicted upon the aggrieved party by seizure of property or other special injury."⁵⁹

Defendants seek dismissal of this count based upon three arguments. First, Defendants contend Plaintiffs failed to demonstrate Defendants initiated the Chancery action without probable cause.⁶⁰ Second, Defendants argue Plaintiffs have

⁵⁸ D.I. 26, ¶ 72-74.

⁵⁹ *BRP Hold Ox, LLC v. Chilian*, 2018 WL 5734648, at *5 (Del. Super. Oct. 31, 2018) (citing *Nix v. Sawyer*, 466 A.2d 407, 410 (Del. Super. Jul. 21, 1983)).

⁶⁰ D.I. 29 at 8.

not sufficiently pled facts to demonstrate malice.⁶¹ Finally, Defendants argue Plaintiffs have failed to demonstrate adequate damages.⁶² In response, Plaintiffs contend that they have established that Defendants lacked probable cause to sue on the theory that “CASP leadership had decades of internal knowledge of that lack of authority” to enforce the deed restrictions.⁶³ Plaintiffs contend that they have demonstrated “malice through improper purpose, including coercion to force removal of a structure, punishment for exercising property rights, and community pressure campaigns to blame Plaintiffs after Defendants lost.”⁶⁴ Finally, Plaintiffs argue they sufficiently adequately pled special injury in the form of the “threatened, court-ordered interference with property rights.”⁶⁵

Plaintiffs’ Count IV alleged that the Defendants initiated the Chancery Court proceeding without probable cause, and alleged Defendants’ knowledge of their lack of standing as the basis for this belief.⁶⁶ Count IV further alleges the Defendants acted with malice and brought suit to punish Plaintiffs and as a coercive tactic.⁶⁷ Finally, it was pled that the Chancery action ended in Plaintiffs’ favor.⁶⁸ At this

⁶¹ *Id.*

⁶² *Id.*

⁶³ D.I. 31, p. 8.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ D.I. 26, ¶¶ 71-72.

⁶⁷ *Id.* at ¶ 73.

⁶⁸ *Id.* at ¶ 74.

early stage in the proceedings, Plaintiffs have sufficiently pled enough to satisfy the first four (4) elements of this cause of action given the entirety of the facts alleged in the Complaint.

The challenge to the pled damages is not as simple. Defendants claim that Plaintiffs have failed to allege the required special damages necessary to assert such a claim. A special injury “must be something more than expenses and attorney’s fees incurred in connection with defending the original suit and alleged damage to the claimant’s reputation.”⁶⁹ Attorney fees and costs in connection with the complained-of litigation are insufficient on their own to be deemed special damages; there must be some other type of monetary losses alleged such as emotional distress.⁷⁰ Further, attorneys fees and costs from the Chancery action have already been awarded to Plaintiffs and is now in the form of a collectable judgment in Superior Court. Plaintiffs cannot seek double recovery.

However, Count IV additionally alleges reputational harm, emotional distress and mental anguish. Therefore, Plaintiffs have alleged the necessary special damages required for their claim. Consequently, Plaintiffs have sufficiently alleged all elements necessary and Defendants’ Motion with respect to Count IV is **DENIED**. Whether Plaintiffs’ burden can be sustained at the summary judgment

⁶⁹ *BRP Hold Ox, LLC*, 2018 WL 5734648, at *6 (citing *Cuccia v. Edinburg*, 1984 WL 548380 (Del. Super. 1984)).

⁷⁰ *Id.*

stage is a story for another day, because at this stage, the physical injury element of emotional distress is not required. It will be so required at summary judgment, however.

C. Count IV: Abuse of Process

With respect to Count IV, Defendants argue Plaintiffs have failed to assert the required elements for such a claim. To adequately plead a claim for abuse of process a plaintiff must establish parties, in taking legal action, had an ulterior purpose and engaged in “a willful act in the use of the process not proper in the regular conduct of the proceedings.”⁷¹ This cause of action is different from malicious prosecution claims, “which focus on a party’s initiation of the legal process[.]”⁷²

While satisfaction of the first element, ulterior purpose, may be “inferred from the fact that the process [was] misused, the reverse is not true; if the act of the prosecutor is in itself regular, his motive, ulterior or otherwise, is immaterial.” Rather, there must be a “definite act or threat not authorized by the process, or aimed at an objective not legitimate in the use of the process. As Delaware Courts have made clear: Some form of coercion to obtain collateral advantage, not properly involved in the proceeding itself, must be shown, such as obtaining the surrender of property or the payment of money by the use of the process as a threat or club. In other words, a form of extortion is required.”⁷³

⁷¹ *Korotki v. Hillard*, 2016 WL 3637382, *2 (Del. Super. Jul. 1, 2016), *see also* *Esposito v. Townsend*, 2013 WL 493321, at *5 (Del. Super. Feb. 8, 2013).

⁷² *Korotki*, 2016 WL 3637382 at *2.

⁷³ *Id.* (internal citations omitted).

Some definitive act or threat is required; such an act qualifies if it is an act not authorized by the process, nor is it an act aimed in pursuing a legitimate objective.⁷⁴ “Merely carrying out the process to its authorized conclusion, even though with bad intentions, does not result in liability.”⁷⁵ More is needed, such as some “form of coercion to obtain a collateral advantage...” or some form of extortion is required.⁷⁶

Here, Defendants contend “Plaintiffs do not plead with specificity what coercion and retaliation against Plaintiffs’ occurred due to litigation.”⁷⁷ Defendants further argue the mandatory injunctive relief of which Plaintiffs complain was the only relief available and cannot form the basis for an abuse of process claim.⁷⁸ Defendants point out that Plaintiffs built the shed at their own risk and “the only equitable and viable remedy available to the Court in this instance is removal of the structure.”⁷⁹ In response, Plaintiffs argue they have pled “that Defendants used legal process to coerce removal of the shed, retaliate, and pressure Plaintiffs, and then amplified that coercion through community publications to shame Plaintiffs and turn residents against them” which is “an ulterior purpose distinct from adjudicating a

⁷⁴ *Spence v. Spence*, 2012 WL 1495324, *3 (Del. Super. Apr. 20, 2012).

⁷⁵ *Id.*

⁷⁶ *Id.*, see also *Cantatore v. Univ. of Delaware*, 2021 WL 2135120, at *2 (Del. Super. May 21, 2021) (citing *Preferred Inv. Servs., Inc. v. T & H Bail Bonds, Inc.*, 2013 WL 3934992, *23 (Del. Ch. Jul. 24, 2013)).

⁷⁷ D.I. 29, 11.

⁷⁸ D.I. 29 at 12.

⁷⁹ *Id.* at 12-13.

bona fide dispute.”⁸⁰ Specifically, Plaintiffs claim that they have pled improper acts beyond the lawsuit filing and “each of these acts occurred after process issued and each constitutes a use of the litigation, and its outside community effects, for purposes beyond the resolution of a bona fide dispute.”⁸¹

Here, Plaintiffs have satisfied the elements necessary to plead an abuse of process claim. Plaintiffs allege that Defendants used the legal process in order to coerce and retaliate against Plaintiffs, which constitutes an ulterior purpose.⁸² Specifically, Plaintiffs allege “Defendants committed willful acts not proper in the regular course of proceedings, including pursuing mandatory injunctive relief without authority, attempting to cure standing after filing, and using the litigation and community messaging to pressure Plaintiffs outside lawful channels.”⁸³ In reading Plaintiff’s Complaint in the light most favorable to them, assuming all allegations are true in accordance with Rule 12(b), Plaintiffs have met this minimal pleading standard. Therefore, Defendants’ Motion to Dismiss with respect to Count III is **DENIED**.

⁸⁰ D.I. 31 at 9.

⁸¹ *Id.* at 9-10.

⁸² D.I. 26 at ¶ 78.

⁸³ *Id.* at ¶ 79.

D. Count V: Defamation

Plaintiff's Count V alleges libel defamation based upon the statements made in the neighborhood newsletters that were distributed to the residents of Surrey Park. Plaintiff's Complaint alleges that the information in these newsletters was, "false and misleading by omission because they conveyed to residents that Plaintiff were to blame for the dispute continuing and that CASP was helpless to satisfy the Court's fee-shifting order, while omitting material facts necessary to make the publication not misleading..."⁸⁴

In moving to dismiss, Defendants allege Plaintiffs are limited purpose public figures and therefore must plead actual malice. As a result, Defendant argues Plaintiff's Count V fails to meet the heightened standard and the claim must be dismissed. Further, Defendants argue that Plaintiffs have failed to demonstrate that the complained-of statements are false or factual in nature.⁸⁵ In response, Plaintiffs dispute Defendants are limited purpose public figures, but argue even if this designation applies, they have adequately pled actual malice in their Complaint. Plaintiffs argue the "defamatory gist" theory of defamation supports their allegations in that while some statements made in the newsletter were not incorrect, the

⁸⁴ D.I. 26, ¶ 84.

⁸⁵ D.I. 26, p. 13-15.

omissions of the full context convert the “true” statements into defamation, as the context placed the Plaintiffs in a negative light.⁸⁶

i. Plaintiffs are not Limited Purpose Public Figures

“A limited purpose public figure is an individual who either voluntarily or involuntarily ‘injects himself or is drawn into a particular public controversy [or a matter of general interest] and thereby becomes a public figure for a limited range of issues.’”⁸⁷ For such a designation to apply, one must “‘thrust [themselves] to the forefront of [a] particular public controvers[y] in order to influence the resolution of the issues involved.’”⁸⁸ The term “public controversy” is a term of art. Simply being a matter of interest is not sufficient; the matter must be a real dispute that “affects the general public or some segment of it in an appreciable way.”⁸⁹ Therefore, this “status of public figure requires active participation in a disputed public issue.”⁹⁰

Applying this standard, it is clear the Individual Defendants are not limited purpose public figures. The controversy at issue is not a public controversy. Neighborhood disputes, while important to the residents of the neighborhood, do not affect the general public, or even some segment of the general public in an

⁸⁶ D.I. 31, p. 10, 11; D.I. 36.

⁸⁷ *Q-Tone Broad. Co. v. Musicradio of Maryland, et. al.*, 1995 WL 875438, *6 (Del. Super. Dec. 22, 1995) (citing *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 352)).

⁸⁸ *Id.* (citing *Gertz.*, 418 U.S. at 345).

⁸⁹ *Q-Tone Broad. Co.*, 1995 WL 875438, at *6 (citing *Re v. Gannett Co., Inc.*, 480 A.2d at 666).

⁹⁰ *Id.*

appreciable way and there is no evidence in the record to support such a theory. Merely initiating suit in Chancery Court does not mean that the Individual Defendants have thrust themselves into public controversy. Thus, the Individual Defendants are not limited-public purpose figures and the actual malice standard does not apply.

ii. Plaintiffs' Have Met the Basic Pleading Standards for Defamation

Notwithstanding the fact that the limited purpose public figure does not apply, Defendants challenge to the Defamation pleading remains.

To state a claim for defamation under Delaware law,⁵² the plaintiff “must plead and ultimately prove that: 1) the defendant made a defamatory statement; 2) concerning the plaintiff; 3) the statement was published; and 4) a third party would understand the character of the communication as defamatory.”⁹¹

A defamatory statement “tends so to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him.”⁹² Not every defamatory statement is actionable, however.⁹³ When analyzing whether a plaintiff has sufficiently pled a defamation claim, it must be determined “whether [the] alleged defamatory statements are expressions of fact

⁹¹ *Isaac v. Politico*, 346 A.2d 103, 116 (Del. 2025) (citing *Spence v. Funk*, 395 A.2d 967, 970 (Del. 1978), *Page v. Oath Inc.*, 270 A.3d 833, 842 (Del. 2022) and *Doe v. Cahill*, 884 A.2d 451, 463 (Del. 2005).

⁹² *Cousins v. Goodier*, 283 A.3d 1140, 1148 (Del. 2022) (internal citations omitted).

⁹³ *Issac*, 346 A.2d at 135.

or protected expressions of opinion; and, whether the challenged statements are capable of a defamatory meaning.”⁹⁴ As this is a question of law, it may be decided at this stage, or upon a motion for summary judgment.⁹⁵

Plaintiffs allege Defendants “published newsletters with defamatory statements to third parties, including Surrey Park residents.”⁹⁶ Regarding the December 2023 Newsletter, Plaintiffs argue “Defendants stated, among other things, that they ‘made a settlement offer’ that Plaintiffs ‘declined,’ that ‘there are no further offers,’ that ‘the funds to pay the Order of \$80,380.76 simply do not exist,’ that CASP lacked the ‘right to levy the homeowners of Surrey Park’ to pay Plaintiffs’ attorneys’ fees, and that the Chancery case was ‘dismissed.’”⁹⁷ Plaintiffs argue this presented them as unreasonable and omitted the fact that the Chancery case was dismissed due to CASP’s lack of standing or authority to enforce the deed restrictions.⁹⁸ Further, Plaintiffs argue the settlement offer was “nominal” and thus rejected, but that cannot be understood as printed in the newsletter.⁹⁹

With respect to the April 2025 Newsletter, Plaintiffs argue Defendants’ printing of: “Unfortunately, in 2019 one of our residents chose to ignore the deed

⁹⁴ *Doe v. Cahill*, 884 A.2d 451, 463 (Del. 2005).

⁹⁵ *Id.*

⁹⁶ D.I. 26, ¶ 82.

⁹⁷ *Id.* at ¶ 83.

⁹⁸ *Id.* at ¶ 83.

⁹⁹ *Id.* at ¶ 42.

restrictions and constructed a two-story utility building in their backyard without securing proper pre-approval” constitutes libel because when printed, Defendants knew they did not have the power to authorize any pre-approval of structures.¹⁰⁰

Defendants argue the statements in the newsletters are not false and therefore cannot constitute defamation. Plaintiffs acknowledge that the statements themselves are factual, however argue they are nonetheless defamatory due to intentional omissions of necessary contextual information that paint Plaintiffs in a negative light. In essence, Plaintiffs argue the gist of the statements are defamatory which permit a defamation claim to proceed despite the truth of the actual statements. Defendants disagree that this is a viable theory of defamation upon which Plaintiffs can proceed. Defendants argue the governing theory is whether the statements are substantially true, and if so, defamation cannot be found.

iii. The Doctrine of Substantial Truth Controls

Plaintiffs cite to two cases to support their proposition that a true statement can constitute defamation under a “Defamatory Gist Doctrine”: *Riley v. Moyed & Gannett Co.*,¹⁰¹ and *Page v. Oath*.¹⁰² In *Riley*, the defendants, a newspaper reporter and the company for which the reporter worked, were sued by a New Castle County politician following the publication of an article that stated Plaintiff had gone golfing

¹⁰⁰ *Id.* at ¶ 87.

¹⁰¹ *Riley v. Moyed & Gannett Co.*, 529 A.2d 248 (Del. 1987).

¹⁰² *Page v. Oath*, 270 A.3d 833 (Del. 2022).

with a developer in connection with claims of zoning influence. The Superior Court granted summary judgment in favor of defendants, finding not only that the Plaintiff was a public figure, but that the statements were opinion, thus protected, and were substantially true, and therefore did not constitute defamation. The Supreme Court affirmed and held that if an alleged defamatory statement is substantially true, it does not constitute defamation.

In *Page*, an advisor to the 2016 Trump Presidential Campaign sued reporter defendants for publishing articles whose headlines and contents reported on ties to plaintiff Page and Russia and suggested Russian influence on the election. In affirming the Superior Court's grant of summary judgment, the Supreme Court of Delaware found that the statements in question were substantially true, thus not constituting defamation. The plaintiffs in both *Page* and *Riley* were treated as a public figure, which triggered the heightened pleading standard not at issue here. While both the *Page* and *Riley* Courts considered the "gist" of the statements, however, no "Defamatory Gist Doctrine" was created. In fact, the *Page* Court noted:

Additionally, truth as an affirmative defense allowed for the defense of "substantial truth[,]" including whether the "gist" or "string" of the article is true if it produces the same impression on the reader which the precise truth would have. The question then arose whether the public figure plaintiff, in proving falsity, must go beyond establishing that the statement is not literally true and also prove that the statement is not substantially true. The Superior Court first held in *Ramada Inns, Inc. v. Dow Jones & Co.* that the substantial truth standard from common law should apply in the other direction as well, meaning a public figure

plaintiff must negate substantial truth. Delaware trial courts have since adhered to this approach.

We evaluate substantial truth by looking at “whether the ‘gist’ or ‘sting’ of the statement is true.” “The gist or sting of the statement is true ‘if it produces the same effect on the mind of the recipient which the precise truth would have produced.’” When deciding whether a statement is substantially true, we compare the “effect of the alleged libel versus the effect of the precise truth on the mind of the recipient or average reader[,]” and see if the effect is the same.¹⁰³

Clearly, this standard in *Page* is evaluated under the public figure analysis. However, the basic tenets of defamation law and substantial truth apply regardless of a public figure designation.¹⁰⁴ The notion of “substantial gist” is a product of either a defamation defense or a heightened pleading standard for a defamation plaintiff, if the complained of language is true.

Further cases have explored the concept of “Defamation by Implication.”¹⁰⁵ “Defamation by implication is a subtype of textual defamation, with the defamatory meaning arising from the statement's text.”¹⁰⁶ In reviewing a challenged statement under this standard, the analysis is whether the statements are “reasonably capable of communicating the defamatory statement[.]”¹⁰⁷ This means an analysis of whether

¹⁰³ *Page*, 270 A.3d at 843.

¹⁰⁴ *See Ramunno v. Cawley*, 705 A.2d 1029 (Del. 1998).

¹⁰⁵ *Invictus Glob. Mgmt., LLC v. Corbin Cap. Partners, L.P.*, 2025 WL 2419577, at *18 (Del. Super. Ct. Aug. 21, 2025)

¹⁰⁶ *Invictus*, 2025 WL 2419577, at *18 (Del. Super. Ct. Aug. 21, 2025) (citing *Dallas Morning News*, 554 S.W.3d at 627, 629; *Stepanov v. Dow Jones & Co., Inc.*, 987 N.Y.S.2d at 42)).

¹⁰⁷ *Id.*

a plaintiff's alleged implication is an objectively reasonable interpretation of the alleged defamatory statements.¹⁰⁸ "[A] plaintiff who seeks to recover based on a defamatory implication ... must point to 'additional, affirmative evidence' within the publication itself that suggests the defendant 'intends or endorses the defamatory inference.'"¹⁰⁹ A defendant's intent must be clear from the language itself.¹¹⁰ "A true statement is not defamation if the statement is no more damaging to [a] plaintiff's reputation in the mind of an average reader than a truthful statement would have been. Immaterial errors do not render a statement defamatory so long as the 'gist' or 'sting' of the statement is true."¹¹¹

The low standard of review greatly favors Plaintiffs here. Plaintiffs have pled sufficient facts that infer an objective person could understand this to be defamatory and not substantially true. Defendants did not present the full story in their publications, which certainly paints the Plaintiffs as being unreasonable. Therefore, the errors, i.e. the omissions, are not immaterial.

Because Defendants published true statements, there must be objective affirmative evidence that it was Defendants' intent to misconstrue this statement. Plaintiffs plead the entirety of the factual background as context to allege the mal

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Ramunno*, 705 A.2d at 1035 (citing *Gannett Co. v. Re*, 496 A.2d 553, 557 (Del. 1985)).

intent required. Defendants' statements in the newsletters, while true, did not present the entire story and as a result, arguably left Plaintiffs looking unreasonable and in a negative light. Therefore, at this stage in the proceedings, given the standard of review, Plaintiffs Count V survives. This finding is not dispositive of any further challenges, however, under a different standard of review. Plaintiffs have simply pled sufficiently to proceed with discovery on this Count. Therefore, with respect to Count V, Defendants' motion is **DENIED**.

E. Count VI: False Light

Finally, Defendants claim that Plaintiffs' false light claim fails because they have failed to demonstrate that the statements were false.¹¹² In response, and without citing to any legal authority in support, Plaintiffs contend that "[f]alse light focuses on the overall portrayal" and they have "plead a misleading narrative publicly disseminated to hundreds of residents that casts Plaintiffs as dishonest, rule-breaking, and unreasonable, while omitting that CASP lacked standing and authority and while falsely representing inability to pay and inability to levy."¹¹³

There is no legal support for Plaintiff's position. "False light invasion of privacy is when someone, knowing of or in reckless disregard for the falsity of their statements, gives 'publicity to something that places plaintiff in a false light before

¹¹² D.I. 29, p. 18.

¹¹³ D.I. 30, p. 13.

the public where the false light is highly offensive to a reasonable person[.]’”¹¹⁴ An essential element of this cause of action is that the statement must be false. The statements here are not. In fact, as found above, they are substantially true. Coy and disingenuous, but not false. This legal ruling is not condoning the behavior of the Defendants in this matter, either as individuals or in the capacity running CASP, but is simply an analysis of the claims under our existing legal framework. The Court has not been presented with any legal authority to suggest that the defamation doctrines that save Count V are equally applicable to Count VI. Therefore, with respect to Count VI, Defendants’ motion is **GRANTED**.

VI. CONCLUSION

For the foregoing reasons Defendants’ Motion to Dismiss is **GRANTED**, in part, and **DENIED**, in part. Plaintiffs Count I alleging negligence against CASP is dismissed. For the time being, Plaintiffs Count II negligence claim survives, the ultimate survival is wholly dependent on whether the Individual Defendants are deemed volunteers, and thus immune from prosecution. Plaintiffs Counts III, IV & V survive at this stage of the proceedings, but Plaintiffs’ Count VI fails.

Given the exorbitant amount of time and resources – both personal and judicial – that have been collectively spent on this litigation in Chancery and

¹¹⁴ *Images Hair Sols. Med. Ctr.*, N2013 WL 6917138, at *3 (citing *Q-Tone Broad., Co. v. Musicradio of Md., Inc.*, 1994 WL 555391, at *9 (Del. Super. Aug. 22, 1994)).

Superior Courts, the parties are strongly urged to come together to find a reasonable resolution to this ongoing litigation. It should not be lost on any party that the statements in the newsletter regarding CASP's lack of ability or intent to pay the outstanding judgment is herein found to be true. As a result, the parties are **HEREBY ORDERED** to engage in an Alternative Dispute Resolution (hereinafter "ADR") proceeding pursuant to Superior Court Civil Rule 16(b)(4) prior to the entry of a Trial Scheduling Order. All parties are Ordered to attend an in-person ADR proceeding and must actively participate in good faith with a goal of expeditiously, reasonably, and economically resolving the outstanding issues. All parties with settlement authority must be in attendance. ADR must occur within forty-five (45) days and the parties must inform the Court, within ten (10) days following ADR as to the outcome.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read 'DJB', with a long horizontal flourish extending to the right.

Danielle J. Brennan, J.