

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

JOHN PARKS,

*Plaintiff,*

v.

LAKE OSWEGO SCHOOL  
DISTRICT; LAKE OSWEGO  
SCHOOL BOARD; OREGON  
SCHOOL ACTIVITIES  
ASSOCIATION; PORTLAND  
PUBLIC SCHOOLS; and  
MARSHALL HASKINS,  
individually and *in his  
representative capacity for  
OREGON SCHOOL ACTIVITIES  
ASSOCIATION and PORTLAND  
PUBLIC SCHOOLS*

*Defendants.*

Case No. 3:24-cv-1198

**RESPONSE TO DEFENDANTS'  
OBJECTIONS TO FINDINGS  
AND RECOMMENDATIONS**

Plaintiff John Parks is an accomplished high school track coach with a record of supporting athletes of all backgrounds. But after he respectfully raised concerns about the potential unfairness of rules governing gender identity in athletic competitions, Defendant Marshall Haskins—“speaking as a member of the OSAA Executive Board”—circulated a false narrative about Coach Parks, accusing him of discriminatory actions, asserting that he violated OSAA policies, and calling for an investigation that ultimately cost him his job. OSAA’s own Executive Director later

confirmed that Haskins' accusations were unfounded. In his Amended Complaint, Coach Parks brings a defamation claim against both Haskins and OSAA.

Defendant OSAA moved to strike Plaintiff's defamation claim under Oregon's anti-SLAPP statute. Magistrate Judge Russo properly denied that motion, finding (among other things) that (1) Plaintiff adequately alleged that Haskins acted with actual malice in accusing Coach Parks of harassing and discriminatory conduct, and (2) OSAA may plausibly be held liable for those defamatory statements. *See* Findings & Recommendation and Order, ECF 40 ("F&Rs"). OSAA's objections to the F&Rs (ECF 45) are without merit for the following reasons.

First, OSAA contends that Judge Russo applied the wrong pleading standard by allegedly disregarding the Supreme Court's decision in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). This contention misrepresents the F&Rs entirely. Judge Russo acknowledged an earlier Ninth Circuit standard, recognized subsequent developments in the law, and ultimately concluded that the Amended Complaint satisfied even the heightened post-*Iqbal* standard in light of "the additional evidence plaintiff has put forth." F&Rs, at 13. In any event, on a motion to strike pursuant to an anti-SLAPP statute, the relevant question is whether the complaint has established at least "minimal merit" to the defamation claim—a standard that Plaintiff has easily met here.

*Second*, OSAA challenges Judge Russo's finding that Haskins was acting on behalf of OSAA, urging the Court to disregard Haskins' own statement that he was writing "as a member of the OSAA Executive Board" when he made his defamatory

statements. ECF 40, at 15. At the pleadings stage, that explicit representation is more than sufficient to allow Plaintiff to proceed to discovery to determine whether Haskins was acting within the scope of his employment.

**I. Judge Russo correctly found that Plaintiff has pled actual malice.**

**a. Judge Russo did not misapply the applicable pleading standard.**

OSAA argues that the F&Rs applied the incorrect pleading standard in determining whether Coach Parks properly pled the element of malice. In making this argument, OSAA asserts that Judge Russo somehow “discarded the principles embodied in *Iqbal*” in favor of outdated Ninth Circuit precedent. ECF 45, at 3. This is not an accurate reading of Judge Russo’s decision, nor does it accurately describe the standards that apply to a motion to strike under Oregon’s anti-SLAPP Statute.

OSAA’s argument that Judge Russo disregarded decades-old Supreme Court precedent turns entirely on the F&R’s reference to the Ninth Circuit’s decision in *Flowers v. Carville*, which held that “the issue of actual malice . . . cannot be properly disposed of by a motion to dismiss, where the plaintiff has had no opportunity to present evidence in support of his allegations.” 310 F.3d 1118, 1131 (9th Cir. 2002). But Judge Russo explicitly stated that *Flowers* set forth a “previous” rule that “is contradicted by the Supreme Court’s decision in *Iqbal*,” acknowledging that circuit courts addressing the issue have since held that a plaintiff must plead “a reasonable inference of actual malice.” F&Rs, at 13, quoting *Michel v. NYP Holdings, Inc.*, 816 F3d 686, 702 (11th Cir. 2016). Applying that heightened pleading

standard, Judge Russo held that “the additional evidence plaintiff has put forth . . . has presented sufficient factual matter to support a *prima facie* case.” F&Rs, at 13.

In any event, *Iqbal* set forth the pleading standard through which courts analyze *motions to dismiss*; the F&Rs were addressing OSAA’s *motion to strike* pursuant to Oregon’s anti-SLAPP statute. To that end, Judge Russo correctly applied relevant post-*Iqbal* 9th Circuit precedent establishing that plaintiffs need only establish sufficient evidence for the court to conclude that the defamation claim has at least “minimal merit.” F&Rs, at 14 (citing *Manzari v. Associated Newspapers Ltd.*, 830 F.3d 881, 892 (Ninth Cir. 2016)).<sup>1</sup>

**b. Regardless of the pleading standard, the Amended Complaint sufficiently alleges that Haskins acted with malice.**

OSAA acknowledges that malice can be established either through actual knowledge of falsity or by “a reckless disregard for the truth.” ECF 45, at 5 (citing *Harte-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 667 (1989)). In finding that Plaintiff met the pleading standard, Judge Russo parsed “the complaint and its attachments,” including but not limited to “a letter from OSAA executive director Peter Weber” that confirmed that Coach Parks “didn’t violate either the Gender Identity Participation policy or Rule 3 in our handbook.” F&Rs, at 12-14. Judge Russo concluded that “Haskins, as a member of the OSAA executive board, is

---

<sup>1</sup> The cases cited by OSAA on this issue are inapposite, as neither of them addressed Anti-SLAPP motions to strike. *Peterson v. Gannett Co.*, Case No. CV-20-00106, 2020 U.S. Dist. LEXIS 70720, \*18-20 (D. Az. 2020); *Miller v. Sawant*, 18 F.4th 328, 339 (9th Cir. 2021).

arguably in the same position as the executive director to know whether plaintiff's email violated OSAA policy." F&Rs, at 14 n.3.<sup>2</sup>

In addition to that letter, the Amended Complaint details specific allegations made in Haskins' letter that Coach Parks denies. Am. Compl. ¶¶ 49–50. Crediting those denials, such objectively false and defamatory statements about Coach Parks could only have been made maliciously—either through actual knowledge or with reckless disregard for the truth.

**II. Judge Russo correctly held that the Amended Complaint sufficiently pleads that Haskins comments were made on behalf of OSAA.**

OSAA argues that Judge Russo erred in concluding that Haskins was plausibly acting on behalf of OSAA when he defamed Coach Parks. ECF 45, at 9. But that argument cannot be squared with the plain language of Haskins' own letter, which identifies him explicitly as writing "a representative of Senior leadership for Portland Public Schools *and as a member of the OSAA Executive Board, who has been appointed as the state representative for Equity, Diversity and Inclusion.*" ECF 16, at 1. At no point does Haskins suggest that he is speaking purely in his personal capacity.

Defendant argues that Plaintiff and the Court "relied on an out-of-context reading of only a portion of a single sentence" which, when read in full, demonstrated that Haskins was "motivated by his experiences in senior leadership

---

<sup>2</sup> OSAA's claim that the Executive Director's admission should be disregarded simply because it came after Haskins' letter (ECF 45, at 7) makes no sense—regardless of when the admission occurred, it is still evidence that Haskins acted with reckless disregard for the truth when he attacked Coach Parks.

at PPS and as a member of the OSAA Executive Board.” ECF 45, at 9. Defendant argues that Haskins, “wrote of his positions with PPS and OSAA as a qualified, to provide context for his disgust with Coach Parks’s conduct.” *Id.*

But that is a factual argument—not a legal one. The question of whether Haskins was speaking in his personal capacity or on behalf of OSAA is exactly the kind of issue that cannot be resolved at the pleadings stage, particularly where the complaint quotes explicit language indicating that the statement was made in an official role.

Judge Russo correctly held that such a direct claim to be acting on OSAA’s behalf is sufficiently “substantial evidence to support a prima facie case that Haskins acted within the course and scope of his employment with OSAA.” F&Rs, at 15. At minimum, Coach Parks is entitled to take discovery to further explore the scope of Haskins’ role, his intent, and OSAA’s knowledge or ratification of his statements. OSAA’s objections on this point merely invite the Court to draw inferences in its favor—a request that runs contrary to the pleading standards applied at this stage of the litigation.

### CONCLUSION

For the reasons set forth above, the Court should uphold Judge Russo’s Findings & Recommendations and Order.

Dated this 28<sup>th</sup> day of March, 2025.

*s/ Dean McGee*

Dean McGee\*

LIBERTY JUSTICE CENTER

7500 Rialto Blvd.

Suite 1-250

Austin, TX 78735

(512) 481-4400 - telephone

[dmcgee@libertyjusticecenter.org](mailto:dmcgee@libertyjusticecenter.org)

\* *Admitted pro hac vice*

Luke D. Miller

Miller Bradley Law,

LLC. 1567 Edgewater St.

NW PMB 43

Salem, OR 97304

[luke@millerbradleylaw.com](mailto:luke@millerbradleylaw.com)

*Attorneys for Plaintiff John Parks*