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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-JR

PLAINTIFF’S RESPONSE TO DEFENDANTS MARSHALL HASKINS AND PORTLAND PUBLIC SCHOOLS’ MOTION FOR SUMMARY JUDGMENT (ECF No. 78)

Request for Oral Argument

LR 7-1 CERTIFICATION

Pursuant to LR 7-1, the undersigned certifies that counsel for Plaintiff John Parks conferred via video conference with counsel for Defendants Marshall Haskins and Portland Public Schools regarding this dispute and the parties are unable to resolve this matter.

RESPONSE

Plaintiff Coach John Parks, opposes the motion for summary judgment filed by Defendants Marshall Haskins and Portland Public Schools. Defendants fail to meet their burden establishing the absence of genuine issues of material fact. A reasonable jury could conclude that Haskins defamed Coach Parks and is not entitled to absolute or qualified privilege. Because the record is replete with contradictory evidence regarding the truth of Haskins's allegations against Coach Parks and his state of mind in publishing them, Defendants' motion should be denied.

STATEMENT OF FACTS

In May of 2024, Plaintiff, John Parks served as the head track coach at Lake Oswego High School. (Compl. 3, ECF No. 7). The day before the 2024 OSAA Track and Field State Championships, held in Eugene, Oregon on May 16–18, 2024, Coach Parks emailed OSAA Executive Director Peter Weber and Associate Director Kelly Foster advocating for changes to OSAA's transgender participation policy in girls track events.¹ (Compl. 4, Exh.1, ECF No. 7)

¹ The OSAA permitted transgender student athletes born as males to compete in girls track events.

The 2024 Oregon State Track Championships

Coach Parks attended the 2024 Oregon State Track and Field State Championships, as Lake Oswego High School had numerous athletes competing. Also present were OSAA Associate Director, Kelly Foster and Defendant Marshall Haskins—the athletic director for Portland Public Schools and an OSAA Executive Board Member who sits on OSAA’s Diversity, Equity, and Inclusion Committee. (Foster Dep. 6, 28; Haskins Dep. 6–8, 20). On May 18, 2024, the Girls’ 400m finals featured both J.D., a Lake Oswego athlete, and A.G., a transgender student from McDaniel High School.²

J.D. won the 400m event while setting a new state record time, while A.G. placed second. As the winning coach, Coach Parks was responsible for presenting medals to all eight participants in the Girls 6A 400-meter final. (Foster Dep. 35:18). From his vantage point in the bleachers, Haskins could not see or hear anything happening at the podium. (Haskins Dep. 21:21 – 22:5). OSAA Associate Director Foster escorted the eight student athletes to the podium and remained there for the duration of the medal ceremony. (Foster Dep. 35–36). Prior to the awarding of the medals, Coach Parks again spoke with Foster to advocate for policy changes regarding transgender participation. (Foster Dep. 36).

During the ceremony, Foster observed that when McDaniel athlete “A.G. bent down to get her medal [Coach Parks] appeared to be talking to her while she—

² McDaniel High School is part of the Portland Public School system.

holding onto her medal while she was bent over and kept talking to her longer than he did for anybody else, and then eventually he gave her the medal and then moved on to [race winner J.D.].” (Foster Dep. 37:15–20). Although Foster could not hear the exchange between Coach Parks and A.G., she claimed A.G. “seemed upset.” (Foster Dep. 37:24–38:1). Following the ceremony, A.G. told Foster that Parks said “something about it being unfair,” though she did not provide a verbatim account. (Foster Dep. 38:6 –14).

Foster immediately sought out Haskins in the stands. (Foster Dep. 40:6 –11). She told Haskins that Coach Parks “had just talked to his athlete while they were on the medal stand,” relayed A.G.’s vague account, and informed Haskins of Parks’s earlier critical email to OSAA. (Foster Dep. 40:12 –23). Foster then pointed Parks out in the crowd, speculating—without having heard the conversation—that he was “trying to rile up his fans about A.G.’s participation.” (Foster Dep. 41–42). Crucially, Foster then directed Haskins to “communicate with Lake Oswego” regarding Parks’s “inappropriate” actions. (Foster Dep. 43). Haskins agreed to do so, despite not knowing what Coach Parks even looked like. (Foster Dep. 44:14 –16; Haskins Dep. 24:14–20)

The Haskins Complaint

On May 24, 2024, Haskins emailed a complaint to Lake Oswego School District and others outside of Lake Oswego. (“Haskins Complaint”). He explicitly wrote “as a representative of senior leadership at Portland Public Schools and as a member of the OSAA Executive Board.” (Haskins Dep. Ex. P2 at 4). The Haskins Complaint

listed eight alleged actions by Coach Parks that Mr. Haskins characterized as “harassing discriminatory behavior” (Haskins Dep. Ex. P2 at 4-5). Mr. Haskins sent his complaint to eight recipients. But only two recipients were personnel from Lake Oswego. The complaint was sent to Lou Bailey and Donna Watson of Lake Oswego; Larry Ramirez and John Beight of Salem Keizer School; Mary Kane and Jon Franco of Portland Public Schools; and Peter Weber and Kelly Foster of OSAA. (Haskins Dep. Ex. P2 at 6).

The complaint was riddled with inaccuracies and hearsay. Haskins characterized Coach Parks’s email to OSAA as an attempt to block A.G. from competing at the 2024 Oregon State Track Championships, (Haskins Dep. Ex. P2 at 4), despite never having read the email himself—he’d only heard about it from OSAA Associate Director Foster and another track coach.³ (Haskins Dep. 45:9–13). He also alleged that Coach Parks spoke “negatively” to A.G. on the podium, (Haskins Dep. Ex. P2 at 4), and attempted to rile up spectators to “boo” her, (Haskins Dep. Ex. P2 at 5)—claims he adopted wholesale from Foster despite not witnessing the interaction.⁴ (Haskins Dep. 21:16–22:18). Haskins also falsely alleged that Coach Parks harassed student athletes and their families, including advocating boycotts for the medal ceremonies. (Haskins Dep. Ex. P2 at 4). By asserting that Coach Parks violated “state law [and] OSAA policy,” (Haskins Dep.

³ As of his deposition date of December 18, 2025, Haskins still had not bothered to obtain Parks’ email to OSAA. (Haskins Dep. 19:19 –20:2; Haskins Dep. Ex. P3).

⁴ Later in his deposition, Haskins provided contradictory answers, claiming the accusation that Parks riled up spectators to “boo” A.G. after the 400-meter final were based on his “own eyes.” (Haskins Dep. 62:7–64:1).

Ex. P2 at 6), in the course of his duties as educator and coach, Haskins's defamatory complaint triggered an investigation into Coach Parks by Lake Oswego, resulting in the adverse actions that precipitated this lawsuit.

STANDARD OF REVIEW

Federal Rule of Civil Procedure 56(a) permits summary judgment when no issue of material fact exists. The moving party carries the burden to show absence of an issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The court must "not weigh the evidence or determine the truth of the matter, but only determine whether there is a genuine issue for trial." *Balint v. Carson City*, 180 F.3d 1047, 1054 (9th Cir 1999). "The evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor." *Allen v. Scribner*, 812 F.2d 426, 430 (9th Cir. 1987) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)).

ARGUMENT

I. Haskins is not entitled to absolute privilege because he lacked supervisory authority over Coach Parks.

Absolute privilege is an extraordinary protection, applied only in a narrow set of circumstances where the public's interest in unfettered governmental decision-making outweighs an individual's right to redress reputational harm. *Wallulis v. Dymowski*, 918 P.2d 755, 761 (Or. 1996). Those circumstances are limited to statements made in judicial and quasi-judicial proceedings, in the course of legislative duties, with the plaintiff's consent, or pursuant to statutory requirement. *Id.* at 761–62. Haskins's Complaint—an unsolicited accusation about a high school

coach's conduct at a track meet—falls into none of these categories.

Nor does Haskins's position and function of senior athletic director and OSAA board member transform his conduct into something cloaked with absolute privilege. Although absolute privilege applies to certain high-level executive or administrative government officials in certain circumstances, *Shearer v. Lambert*, 547 P.2d 98 (Or. 1976), the doctrine does not extend to all public employees, *Lowell v. Medford Sch. Dist. 549C*, 515 P.3d 359, 368 (Or. 2022). Rather, absolute privilege applies only where insulating the official's function is necessary because "the public's interest in functioning government is so great that it outweighs an individual's interest in redress for reputational harm." *Id.* at 367. That rationale is entirely absent here.

In *Shearer*, the defendant was the chairman of a state university department who supervised the plaintiff, a faculty member within that department. 547 P.2d. at 99-100. The challenged statements arose in connection with the chairman's supervision of the plaintiff's professional conduct and employment within his own department. *Id.* The court applied absolute privilege in that setting—where a department head spoke about a subordinate within his direct supervisory authority in the course of departmental personnel management. *Id.* at 100–02.

Unlike the department head in *Shearer*, Haskins has no supervisory authority over Coach Parks. He did not employ Coach Parks. He did not evaluate him. He had no role in hiring, discipline, or personnel oversight. Coach Parks was a coach in an entirely different school district. The statements at issue did not arise from internal

personnel management within Haskins’s own chain of command—the context in which Oregon courts have been willing to extend absolute privilege. Instead, Haskins acted as an outsider, inserting himself into the employment relationship of another district. (Haskins Dep. 76:22–23).

The distinction is critical. In *Shearer*, the defendant’s allegedly defamatory statements arose directly from his responsibility to supervise a subordinate within his own department. 547 P.2d at 99-100. The privilege applied because the statements were made in the course of exercising core managerial duties. *Id.* at 100–01. Here, by contrast, Haskins was not managing, supervising, or evaluating Coach Parks. He was lodging accusations about someone over whom he had no authority.

Even more telling, Haskins disseminated his complaint beyond Lake Oswego personnel. Absolute privilege applies only when the publication occurs in the performance of official duties. *Shearer*, 547 P.2d. at 101-02. Communications to individuals not authorized or required to receive them fall outside that protection. *Id.* (remanding because it is “possible that the evidence would show that defendant was neither required nor authorized to make statements . . . to members of the faculty other than defendant’s superior”). Haskins sent his complaint to eight recipients across multiple organizations—including individuals outside Lake Oswego, outside his own district, and Coach Parks’s former employer. (Haskins Dep. Ex. P2 at 6). Whether he was authorized or required to communicate with each of those recipients is, at minimum, a disputed question of fact.

This was not a quasi-judicial proceeding. It was not a statutorily mandated report. It was not an internal supervisory evaluation. It was an unsolicited, broadly circulated accusation about a coach employed by another district. Extending absolute privilege to these circumstances would dramatically expand a doctrine that Oregon courts have repeatedly described as narrow and exceptional.

Because Haskins's complaint did not arise from any protected official function and because he lacked supervisory authority over Coach Parks, he is not entitled to absolute privilege as a matter of law.

II. Haskins forfeited any qualified privilege by recklessly publishing unverified hearsay to disinterested third parties.

Qualified privilege is conditional. *Wallulis*, 918 P.2d at 761. The privilege is forfeited in four ways: (1) “the speaker does not believe that the statement is true or lacks reasonable grounds to believe that it is true;” (2) the statement is published “for a purpose other than that for which the particular privilege is given;” (3) the statement “includes defamatory matter not reasonably believed to be necessary to accomplish the purpose;” or (4) “if the publication is made to some person not reasonably believed to be necessary to accomplish the purpose.” *Lund v. Arbonne Int'l, Inc.*, 887 P.2d 817, 824 (Or. App. 1994) (citing *Shafroth v. Baker*, 553 P.2d 1046 (Or. 1976)). Whether a speaker forfeits qualified privilege is a question of fact for the jury. *Wallulis*, 918 P.2d at 762 (Or. 1996). Here, the evidence of Haskins' failure to investigate his claims about Coach Parks and sending his complaint to recipients outside of Lake Oswego is more than sufficient to preclude summary judgment.

A. Haskins acted recklessly by failing to verify career-ending allegations.

A publisher forfeits qualified privilege if they fail to act as a reasonable person under the circumstances, particularly when they lack a sufficient basis for their belief. *Benassi v. Ga.-Pacific*, 662 P.2d 760, 764 (Or. App. 1983). A reckless failure to verify the accuracy of a complaint is fatal to the privilege. *Wallulis*, 918 P.2d at 762, n.7.

Haskins’s own testimony reveals a total abdication of the duty to verify. He characterized Coach Parks’s email to OSAA as an “effort to stop [A.G.] from participating in the state track meet,” (Haskins Dep. Ex. P2 at 4), yet, he admitted he “did not have the email” and only “heard it had been sent” when he sent his complaint, (Haskins Dep. 45:12–13). His abdication of his duty to verify persisted because as of December 18, 2025, Haskins still had not seen Parks’s OSAA email. (Haskins Dep. 19:19 –20:2; Haskins Dep. Ex. P3). He accused Coach Parks of “harass[ing] student athletes and their families prior to the state tournament (Haskins Dep. Ex. P2 at 4),” but admitted he did not know which parents—if any—had actually been contacted when he published his complaint. (Haskins Dep. 58:7–11). He claims to have seen Coach Parks riling up spectators in the stands to boo A.G., (Haskins Dep. Ex. P2 at 5), based “on his own eyes,” claiming he saw Coach Parks “next to the section I was in making comments.” (Haskins Dep. 62:17–20). Only later did Haskins admit that he “didn’t know who [Coach Parks] was by face.” (Haskins Dep. 25:9–10).

Haskins summarized his own state of mind by stating “it wasn’t his place to

determine” if the information he received from others “was true or valid” prior to sending his career-ending complaint. (Haskins Dep. 52:17-21). A jury could easily find that a reasonable person does not publish inflammatory, life-altering accusations of "discriminatory behavior" while simultaneously disclaiming any responsibility for the truth of those accusations.

B. Haskins forfeited qualified privilege through excessive publication to unnecessary third parties.

Even if Haskins had a reasonable basis for his beliefs, he forfeited the privilege by publishing the complaint to individuals who had no “need to know.” Qualified privilege is forfeited where “the publication is made to some person not reasonably believed to be necessary to accomplish the purpose.” *Lund*, 887 P.2d at 823.”

Excessive publication of defamatory statements is a “question for the jury.” *Benassi* 662 P.2d at 764 (holding that telling “rank-and-file” employees specific circumstances of a supervisor’s firing constitutes a question of fact for the jury as to qualified privilege).

The Haskins Complaint endeavored to trigger an investigation into Coach Parks’s alleged conduct by his employer. (Haskins Dep. 45:5–8). Yet, Haskins sent his defamatory complaint to eight different recipients, including personnel at Salem-Keizer School District.⁵ (Haskins Dep. Ex. P2 at 6). Salem-Keizer was Coach

⁵ The Haskins Complaint was also sent to OSAA Executive Director Peter Weber and OSAA Associate Director Kelly Foster. While this may also constitute excessive publication, it remains a question of fact for the jury whether Haskins made his complaint at the direction of OSAA Associate Director Foster. *See* Plaintiff’s Response to Defendant Oregon School Activities Associations’ Motion For Summary Judgment.

Parks' *former* employer (Parks Dep. 221:15–25); it had no authority to investigate his current conduct and no “need to know” about allegations involving a Lake Oswego employee.

Haskins's excuse for this over-publication—that he “thought [Coach Parks] worked at both” districts—further underscores his reckless failure to conduct even a cursory investigation. (Haskins Dep. 55:15). By broadcasting these allegations to a former employer and other disinterested parties, Haskins transformed a purportedly professional complaint into a broad-based character assassination. Because a jury could find this publication was “excessive,” summary judgment is inappropriate.

III. Haskins's deliberate avoidance of the truth and use of inflammatory language establishes actual malice.

A jury could determine that Haskins exhibited a reckless disregard for the truth in publishing the Haskins Complaint. Actual malice is shown when defamatory statements are made with reckless disregard for the truth. *New York Times v. Sullivan*, 364 U.S. 254, 280 (1964). The reckless disregard standard is subjective, focusing on the defendant's state of mind. *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). “The finder of fact must determine whether the publication was indeed made in good faith.” *Id.* at 732. While failing to investigate alone does not support a finding of actual malice, “the purposeful avoidance of the truth is in a different category.” *Harte-Hanks Commc'ns v. Connaughton*, 491 U.S. 657, 692 (1989) (White, J. concurring).

A. Haskins admitted he published the complaint to support his argument rather than to report facts.

Haskins’s own testimony reveals that his state of mind was not that of a neutral reporter of facts, but of an advocate seeking a specific outcome. He admitted that in sending his complaint, he sought “support for [his] argument that [Coach Parks] was discriminating against [A.G.]” (Haskins Dep. 45:6–8). Rather than gather evidence to support his claims against Coach Parks, Haskins used his complaint itself as a tool to trigger an investigation that would determine “*if* [his allegations] were true.” (Haskins Dep. 45:7). (emphasis added). The incendiary language of his complaint—describing Coach Parks as “premeditated, calculated and discriminatory” (Haskins Dep. Ex. P2 at 4)—ensured an investigation would occur, despite having no personal knowledge of the underlying facts. A jury could find that Haskins’s primary goal was to “drum up” a controversy, not to provide a good-faith report of misconduct.

B. Haskins’s characterization of the OSAA email was a calculated misrepresentation of a document he never read.

The most striking evidence of Haskins’s “purposeful avoidance of the truth” is his treatment of Coach Parks’s email to the OSAA. The Haskins Complaint characterizes that email as “an effort to stop A.G. from participating at the state track meet.” (Haskins Dep. Ex. P2 at 4). In reality, the email suggested that “a 9th athlete should be advanced to the final,” and the rules for trans athletes should be changed “in the future,” indicating that A.G. should run in the 2024 girls track events. (Compl. Exh.1 at 2, ECF No. 7).

Haskins admitted he “did not have [a copy of] the email” and did not read the

email—he merely “heard that that email had been sent”—before leveling his charge of discrimination. (Haskins Dep. 45:12–13). Instead, he chose to describe the document in the most damaging light possible based on third-party hearsay. This decision to characterize a written document he had never seen as discrimination—when the document actually advocated for more participation, not less—is powerful evidence of a reckless disregard for the truth.

Haskins’s state of mind—his desire to defend A.G. at any cost and his willingness to mischaracterize evidence he had not even reviewed—presents a question of fact regarding actual malice that must be decided by a jury.

IV. The record is replete with conflicting evidence of the truth of the Haskins Complaint, requiring resolution by a jury.

Where there is conflicting evidence or reasonable disagreement about a defamatory statement’s veracity, the issue of truth must be resolved by the jury. *Lansford v. Georgetown Manor, Inc.*, 84 P.3d 1105 (Or. App. 2004). Summary judgment is only appropriate when the evidence is so one-sided that no reasonable juror could find the statements false. Here, the “facts” underlying the Haskins Complaint are a thicket of contradictions, hearsay, and disputed recollections.

The Haskins Complaint was not based on personal observation but on a series of shifting and inconsistent reports. The central allegation regarding Coach Parks’s conduct on the medal stand is a matter of intense factual dispute. There is conflicting testimony about what Coach Parks said to A.G. on the medal stand, (Foster Dep. 38:12–14; Haskins Dep. 22:13–23:1; Parks Dep. 68:16-20), and about how Coach Parks celebrated J.D.’s 400m victory, (Decl. of Wayne McCall in Support

of Defendant Lake Oswego Motion for Summary Judgment at para. 3; ECF No. 77; Decl. of Nani Bauman at para. 6). Indeed, Principal Colyer's investigation already determined that some of Haskins's claims were unsupported by the investigation. (Colyer Dep. 82–83; Colyer Dep. Ex. P10).

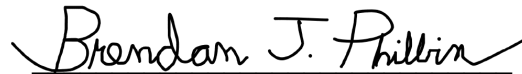
These are not minor discrepancies; they are fundamental disagreements over the specific statements that form the basis of the defamation claim. Because the record contains multiple, contradictory versions of the same interaction, the court cannot determine the truth of the matter as a matter of law. These competing depositions create a genuine issue of material fact that must be resolved by a trier of fact.

CONCLUSION

On the questions of privilege, the actual malice requirement, and the truth of the Haskins Complaint, myriad questions of material fact persist. Defendant Marshall Haskins and Portland Public Schools' motion for summary judgment should be denied.

Dated: February 24, 2026

Respectfully submitted,



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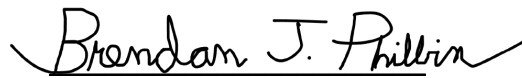
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CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically with the Court's Case Management/Electronic Case Filing (CM/ECF) system. The Court and/or Clerk of Court may serve and give notice to counsel by CM/ECF electronic transmission.

The 24th day of February 2026.



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