

Jury Holds Blogger Liable for \$60,000 in Defamation Case filed by fired community leader

By Larry Bodine, Esq., a former litigator and current a business development advisor with a nationwide practice. He has helped 250+ law firms generate new revenue by devising strategies, conducting business development retreats and individually coaching attorneys. He can be reached at www.LarryBodine.com and 630.942.0977.

Case Caption: Jerry Moore v. John Hoff

Case Number: 27-CV-09-17778

Judge: District Judge Denise Reilly

Court: Hennepin County, Minnesota

Plaintiff's Attorney: Jill Clark, Jill Clark, P.A., Golden Valley, Minnesota

Defendant's Attorney: Paul Godfread, Godfread Law Firm, Minneapolis, Minnesota

Description: Jerry Moore filed a defamation suit against blogger John Hoff concerning a blog post Hoff wrote in June 2009. After Hoff learned that Moore was hired by the University of Minnesota's Urban Research and Outreach/Engagement Center, Hoff accused Moore on his blog of being involved in a high-profile mortgage fraud case, even though Moore was never charged. Plaintiff also claimed that Defendant tortiously interfered with his relationship with his employer.

Even though blogger John (Johnny Northside) Hoff told the truth when he linked ex-community leader Jerry Moore to a high-profile mortgage fraud, the scathing blog post that got Moore fired justified \$60,000 in damages, including \$35,000 in lost wages and \$25,000 in emotional distress damages on the tortious interference claim only, a Hennepin County jury decided on March 11, 2011.

Moore claimed that he had been fired by the University of Minnesota in June 2009, the day after Hoff's post. Defendant Hoff asserted truth as his defense and denied tortiously interfering in Plaintiff's relationship with his employer.

John Hoff, whose blog [The Adventures of Johnny Northside](http://TheAdventuresofJohnnyNorthside.com) – see <http://bit.ly/hftV4R> - has 300 to 500 readers daily.

First Amendment scholars and free-speech advocates who were concerned about the suit's effect on "citizen journalism" watched the trial closely.

Jane Kirtley, a U of M professor of media law and ethics, called the lawsuit an example of "trash torts," in which someone unable to sue for libel, which by definition involves falsity,

reaches for another legal claim, according to an article in the Star Tribune. She predicted the verdict will be overturned.

"This is based on expression, and expression enjoys First Amendment protection," Kirtley told the Star Tribune. Just last week, she said, the U.S. Supreme Court ruled that the First Amendment protected the Westboro Baptist Church's antigay protests at military funerals.

"I find it really hard to believe that there was a degree of emotional distress caused by this reporting that outstrips that suffered by [a Marine's] family," Kirtley said.

Moore sued Hoff in June 2009 for at least \$50,000. The suit focused on five allegedly biased and defamatory statements on Hoff's blog. Moore's attorney argued that Hoff should be responsible for comments others made on his website because Hoff had created a "defamation zone."

Moore, after being fired by the Jordan Area Community Council in January 2009, was hired at the U of M's Urban Research and Outreach/Engagement Center to study mortgage foreclosures. When Hoff discovered this, he wrote a post accusing Moore of being involved in a "high-profile fraudulent mortgage," one of several that resulted in a 16-year prison sentence for former real estate agent Larry Maxwell. Moore was not charged in the Maxwell case.

Hoff said he told the truth and had documentation.

District Judge Denise Reilly threw out four of the five statements, saying they were either opinion or the comments of others on the blog. With respect to the remaining statement, the jury agreed with Clark's claim that Hoff had committed "tortious interference" by meddling with Moore's employment. Clark pointed out to the jury that Hoff, in a later blog post, took partial credit for Moore's firing.

Don Allen was originally named as a co-defendant because he sent a letter to the U of M urging Moore's termination, then copied the letter to Hoff's blog. Before the case went to trial, he settled with Moore and testified against Hoff. Allen, who operates his own blog, "The Independent Business News Network," applauded the verdict.

"It's unfortunate for all bloggers, but you have to have some sense of responsibility," he said. "You have to attack the issues, not the individuals."