

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

KAREN PRASSER, ) Case No. CV 13-802183  
)  
)  
PLAINTIFF, ) JUDGE MICHAEL E. JACKSON  
)  
v. )  
) **JOURNAL ENTRY AND OPINION:**  
) **DEFENDANTS’ MOTION FOR SUMMARY**  
CITY OF SOLON, ET AL ) **JUDGMENT - PLAINTIFF’S FALSE LIGHT**  
) **AND DEFAMATION CLAIMS.**  
DEFENDANTS. )

For the reasons stated in this Journal Entry and Opinion, the Court grants the motions for summary judgments filed by Defendants, the City of Solon (Solon) and Solon Mayor Susan Drucker (Drucker) (collectively, Defendants), as a matter of law and against Plaintiff Karen Prasser (Prasser) on her claims for false light and defamation.

The parties have filed additional motions for summary judgement on other claims, as described in the next paragraphs. Given the number of issues and their complexity, the Court will issue its rulings in stages by separate Journal Entries and Opinions.<sup>1</sup> In this first Journal Entry and Opinion, the Court focuses only on Defendants’ motions for judgment as a matter of law on Prasser’s claims for false light and defamation.

On April 27, 2016, the Court heard oral arguments on cross-motions for summary judgment filed by the parties. Defendants filed their motion for summary judgment on March 15,

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<sup>1</sup> During the motion hearing, Prasser’s counsel began the hearing by “conceding that there are genuine issues of material fact on all claims that are before the Court.” Hearing Trans. page 84. Later in the hearing, when Defense counsel argued that Prasser withdrew her claims for summary judgment, Prasser asserted that she was not withdrawing her claims for summary judgment, but claimed there were genuine issues of material fact. Hear. Trans. page 154. The Court disagrees with Prasser’s views on genuine issues of material facts concerning the claims in this Journal Entry and Opinion.

2016 seeking judgment as a matter of law on Prasser's claims for: age discrimination, retaliation, promissory estoppel, fraudulent misrepresentation, defamation, and false light. Drucker also seeks judgment as a matter of law by asserting governmental immunity.

Prasser filed motions for summary judgment on March 21, 2016. In one of her motions, she seeks judgment as a matter of law on her claims against Defendants for age discrimination, retaliation, and promissory estoppel. In her second motion, she seeks judgment as a matter of law on Defendants' counter-claims for breach of a fiduciary duty, unjust enrichment, conversion, and civil theft. On April 25, 2016, Prasser filed a motion for judgment on the pleadings for Defendants' claim for injury due to a criminal act.

As stated above and for the reasons to follow, the Court grants Defendants judgment as a matter of law and against Prasser on her claims for false light and defamation.

### **Law & Analysis**

“A party seeking summary judgment, on the ground that the nonmoving party cannot prove its case, bears the initial burden of informing the trial court of the basis for the motion, and identifying those portions of the record which demonstrate the absence of a genuine issue of material fact on the essential element(s) of the nonmoving party's claims. The moving party cannot discharge its initial burden under Civ.R. 56 simply by making a conclusory assertion that the nonmoving party has no evidence to prove its case. Rather, the moving party must be able to specifically point to some evidence of the type listed in Civ.R. 56(C) which affirmatively demonstrates that the nonmoving party has no evidence to support the nonmoving party's claims. If the moving party fails to satisfy its initial burden, the motion for summary judgment must be denied. However, if the moving party has satisfied its initial burden, the nonmoving party then

has a reciprocal burden outlined in Civ.R. 56(E) to set forth specific facts showing that there is a genuine issue for trial and, if the non-movant does not so respond, summary judgment, if appropriate, shall be entered against the nonmoving party.” *Dresher v. Burt*, 75 Ohio St.3d 280, 293, 1996-Ohio-107, 662 N.E.2d 264.

### **False Light**

A false light claim involves “[o]ne who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability to the other for invasion of his privacy if: (a) the false light in which the other was placed would be highly offensive to a reasonable person; and (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.” *Welling v. Weinfeld*, 113 Ohio St.3d 464, 2007-Ohio-2451, 866 N.E.2d 1051, ¶ 61. “Publicity” means that the matter is communicated to the public at large, or that it is communicated to so many persons that it is substantially certain to become public knowledge. *Id.* at 471. The publicity element of Prasser’s false light claim is satisfied because Solon officials made statements to the media in the April 28, 2014 Chagrin Valley Today Newspaper, and in other media articles since September 2012, all of which were designed to reach the public at large.

Prasser must also demonstrate that statements are untrue to succeed on a claim for false light. *Id.* Prasser asserts that the Defendants portrayed her in a false light in these news articles that were published in Chagrin Valley Today, Chagrin Solon Sun, and reproduced on Cleveland.com.

There is no genuine issue of material fact that the article on April 28, 2014 in Chagrin Valley Today Newspaper contains quotes about Prasser by three individuals, Solon Law Director, Thomas G. Lobe (Lobe), Prasser herself, and both of her legal counsel, Jerome Emoff, her criminal attorney, and Caryn M. Groedel, her civil attorney in this case. In addition, there is no genuine issue of material fact concerning these articles referring to Prasser's participation in the Cuyahoga County Diversion Program (Diversion), administered by the Cuyahoga County Prosecuting Attorney's Office (Prosecuting Attorney). This program entitles a defendant charged with a felony to a dismissal of that charge and the sealing<sup>2</sup> of that record, if the defendant successfully completes all requirements. All of these individuals affirm that Prasser was charged with a crime in an Indictment by the Cuyahoga County Grand Jury, and that she was accepted into and successfully completed Diversion. Therefore, there can be no false light that Prasser participated in Diversion because it is true.

Prasser's primary allegation of false light is based on Lobe's statement in the article published by the Chagrin Valley Today on April 28, 2014. Prasser alleged that Lobe stated, "Prasser had pled guilty to the crimes of which she was accused, and had been accepted into the criminal diversion program." Prasser Br. in Opp. to Def. Mot. Page 39, citing Prasser Ex. 39. See also Def. Ex. 17 including the same article as Prasser's Ex. 39.

However, a review of that article does not support Prasser's allegation. The actual quote by Lobe is, with emphasis added:

"The county prosecutor offered the diversion program to Ms. Prasser, wherein she must, in writing, admit to the issues involved in the indictment," Solon Law Director Thomas

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<sup>2</sup> Pursuant to R.C. 2953.31 - 2953.62 eligible individuals may have their criminal record, including non-convictions, dismissals, and arrests sealed from the view of the general public, and permits the individuals to lawfully state on most job applications, and housing applications that they have not been convicted of these crimes.

G. Lobe said Tuesday. ‘The city is pleased that Ms. Prasser has admitted to these matters, and I appreciate everything that the county prosecutor has done in getting a good resolution to this matter.’” Prasser ex. 39: Defendants’ ex.17.

The article then states in the following paragraph: “‘That is simply not true,’ Ms. Prasser said Tuesday that the only way you get into the diversion program is by pleading guilty.” Def. Ex. 17.

Further, in a letter dated May 5, 2014 from Emoff to Assistant Prosecuting Attorney Paul Soucie (Soucie) assigned to handle Prasser’s criminal case, Emoff writes, with emphasis added:

“... with regard to Ms. Prasser’s comments in the Reid article<sup>3</sup>, she was stating a fact that was actually an agreed term of her diversion. It is true that she had not pled guilty. When challenged by the reporter to respond to Mr. Lobe’s comments, Ms. Prasser was told that he (Lobe) had said that she pled guilty. If Lobe’s comments were misrepresented by the reporter, Ms. Prasser’s reaction is understandable.” Def. Ex. 19.

On Prasser’s behalf, Emoff clearly states that Lobe did not report that she “pled guilty.” This acknowledgment occurred long before this claim was asserted in this lawsuit. Also in this letter, Emoff states that as a condition of her participation in Diversion, she had to include a statement in which she admitted the facts underlying the charges in the indictment and that Prasser has “admitted her conduct which is a condition precedent to anyone’s acceptance into diversion.” *Id.*

As established by her criminal attorney’s letter and by the words in the article itself, this article does not contain any statement by Lobe or any other Solon official “that Prasser had pled guilty to the crimes of which she was accused.”<sup>4</sup>

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<sup>3</sup> Sue Reid wrote the April 28, 2014 for the Chagrin Valley Today.

<sup>4</sup> The article then discusses Diversion in detail. Prasser, Emoff, Groedel, and the Prosecuting Attorney’s Director of Communications, Joe Frolic explain what a Diversion typically requires, and what Prasser’s Diversion requirements did or did not require.

To the extent additional evidence is needed, Prasser's Exhibit 40 supports the statements made in this article. These documents relate to her participation in Diversion for the charges of theft in office and tampering with records, Case Number CR-13-577789. The Application Packet for the Cuyahoga County Prosecutor's Office Pre-Trial Diversion Program, Effective March 5, 2014, includes a provision for an admission of guilt statement that requires a complete, accurate and truthful statement concerning the circumstances surrounding the charge(s), including dates, times, locations, and names of other persons involved. Prasser Ex. 40. According to this form, failure to provide this information precludes participation in Diversion. *Id.* The Diversion Program Checklist informs the participant that a plea agreement with the Prosecuting Attorney's office is required to participate, but that the actual plea is held in abeyance. *Id.* Prasser also signed the Cuyahoga County Prosecutor's Office Pre-trial Diversion Program General Rules form that indicates that Diversion is a voluntary program. *Id.* The form entitled Cuyahoga County Prosecutor's Office Pre-trial Diversion Program Admission of Guilt statement contains Prasser's name and case number, and a note that states "see statement of Karen Prasser in file." *Id.* Prasser's statement addresses matters related to keeping track of employee time cards, full time and part-time employee benefits, the relationship between Solon Center for the Arts (SCA) and the Friends of Solon Center for the Arts (Friends), a not-for-profit corporation to benefit the SCA, and use of Solon computers for non-Solon work, including the Godspell production at her church, Our Redeemer Lutheran Church and Preschool (Our Redeemer). *Id.* Lastly, Prasser signed the Cuyahoga County Prosecutor's Office Pre-Trial Diversion Program, Diversion Agreement on April 7, 2014, which states at paragraph eighteen that she agreed to refrain from further criminal conduct. *Id.*

Based upon all the evidence produced by the parties there is no genuine issue of material facts, and reasonable minds can come to one conclusion - the statement that Lobe actually made in the April 28, 2014 article was not false. Therefore, Defendants are entitled to judgment as a matter of law because Prasser cannot demonstrate any facts that Defendants provided any false statement for publicity against Prasser.

Even if this Court considered Lobe's statement to be objectively false, Prasser has not established that Lobe made the statement with the knowledge that it was false, or with reckless disregard for the truth. All of the documents in Prasser's Exhibit 40 demonstrate that a requirement to participate in the Diversion Program is the submission of a written statement of admissions. Prasser Ex. 40. The Prosecutor's office in the same article discusses the requirement of admitting guilt in a signed statement. Def. ex. 17, Chagrin Valley Today April 28, 2014 article.

Defendants also cite to Prasser's deposition to demonstrate that she cannot establish Lobe acted with knowledge of falsity or with reckless disregard for the truth because: (1) she has no reason to believe that Lobe lied to the press when he made the statements, and (2) that she was unaware of what information Lobe had when he made his statements to the press. Def. Ex. 1 Prasser's Depo. Pages 418-420.

Prasser has not produced any evidence that establishes that Lobe acted with knowledge of falsity, and no evidence of reckless disregard for the truth. Instead, she merely asserts that he should have investigated further before making the statement to the press. However, all of the documents regarding the Diversion Program plainly show that even if Lobe had done further investigation, the result would have been the same.

Based upon all the evidence produced by the parties, there is no genuine issue of material fact and reasonable minds can come to but one conclusion - Lobe did not act with knowledge of falsity or with a reckless disregard for the truth. Therefore, Defendants are entitled to judgment as a matter of law on this aspect of Plaintiff's false light claim.

Prasser alleges other acts of false light arising out of articles published on September 20, 2012 and December 4, 2012 by the Chagrin Solon Sun, and on Cleveland.com Solon news. She claims that Defendants commented on her resignation in a false light when she resigned as Director of SCA because Solon officials made it to appear that her resignation was due to "irregularity and fraud" in these published articles.

In analyzing these claims, the Court finds that there is no genuine issue of material fact these articles publicized that Prasser resigned from her position. These articles, the depositions of Prasser and Lobe, including the accompanying exhibits to those depositions, all support this conclusion<sup>5</sup>. As for "irregularity and fraud," this requires a detailed explanation. Solon adopted a fraud policy on August 20, 2012. Prasser Ex. 38. The first reading of the proposed fraud ordinance occurred on March 5, 2012, based on the drafting by the Financial Committee of the Solon City Council. *Id.* Thereafter, additional readings were presented to City Council before the final fraud policy was adopted. *Id.*

During this same time, Solon officials and Prasser were discussing her operation of activities of SCA and Friends in the spring and summer of 2012. Dennis Kennedy (Kennedy), who was appointed Solon Finance Director in mid-2011, discovers that SCA and Friends had allowed improper accounting and cash handling issues to develop between these two entities.

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<sup>5</sup> The Court will consider Prasser's arguments that her resignation was the result of constructive discharge in its pending Journal Entry and Opinion on Prasser's claim for age discrimination.

Kennedy sent a memorandum to Prasser and other Solon officials on May 17, 2012 that clarifies these relationships, establishes new requirements, and imposes certain prohibitions for Solon SCA employees regarding Friends. Def. Ex. 2. May 17, 2012 Memo from Kennedy to Prasser. Kennedy and Prasser work together to implement the new requirements, and by June 2012, Lobe and Kennedy consider these issues resolved. Def. Ex. 5 pages 16-18, 23-25, 31-32,34-36,97-99,112-114, 145-147, 148-150; Def. Ex. 3 pages 55, 57, 97-98, 102-103.

However, in July 2012, Joan Long, who recently retired after working at SCA as Prasser's assistant, contacted Solon Human Resource Director Thomas Cornhoff (Cornhoff) complaining that Prasser forced her to work too many hours off-the-clock, complete fraudulent time cards, and as a result she was denied hundreds of hours of overtime. Def. Ex. 7 pages 92-93, 109-120, Def. Ex. 8 Long e-mail to Cornhoff. She alleged that Prasser knowingly instructed her and other SCA employees to complete improperly their time cards<sup>6</sup>. Def. Ex. 7 pages 92-93, 109-120, 135-137 Def. Ex. 8 Long e-mail to Cornhoff.

In July and August, Lobe, Kennedy, and Cornhoff investigated Long's claims by questioning her and at least two other SCA employees. Def. Ex. 3 pages 116-119. These employees confirmed Long's time card allegations. Def. Ex. 3 pages 116-119; Def. Ex. 1 pages 24-26, 246-247, 271-272. Long also informed Solon officials that she performed work for Prasser's other employer, Our Redeemer, by creating tickets, fliers, and posters on her work computer, while on the clock for Solon, for the church's production of Godspell. Long Depo.

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<sup>6</sup> As a result, Long claimed that she was due overtime payments because these allegedly falsified time cards under-reported the actual time she worked. As a result of the investigation, Solon ultimately entered into a settlement agreement with Long regarding her overtime compensation claim.

pages 73, 119-121. She further asserted that other employees assisted on Godspell and SCA would lend other equipment to the church. *Id.* pages 120-122.

On August 29, 2012, nine days after Solon City Council adopts the fraud policy, Lobe meets with Prasser regarding these “irregularities” raised by Long. Def. Ex. 1 page 271; Def. Ex. 3 pages 110-112, 119-120. Prasser explains to Lobe her timekeeping practices which she characterizes as “averaging time/flex time.” Def. Ex. 1 pages 272-273

On September 4, 2012, Prasser and Our Redeemer, which allegedly benefitted from these “irregularities,” sent letters explaining their views of these allegations to Kennedy. Prasser Ex. 33; Def. Ex. 16. That same night Lobe, attended an executive session of Solon City Council meeting on the issues concerning SCA. Def. Ex. 3 page 122.

As Solon’s Law Director, Lobe stated that the decision to refer these SCA issues for an independent investigation was primarily his, and this decision was “concreted after [we] received Karen’s letter.” Def. Ex. 3 pages 127-128. Before he made this decision, Lobe had strong concerns after the informal investigation of interviewing Long, four other SCA employees, and Prasser. Def. Ex. 3 pages 112-128. When Prasser reduced her views to writing in her September 4 2016 letter, she reaffirmed and confirmed Lobe’s concerns that criminal conduct occurred, primarily related to time cards and the Godspell production. *Id.*

Lobe, Cornhoff, and Jessica Vest (Vest), the City of Solon Human Resource Coordinator, met with Prasser on September 6, 2012 to discuss these issues. *Id.* 124-125. In preparation for that meeting, Cornhoff created two written options for presentation to Prasser - paid administrative leave and resignation. Def. Ex. 2 Affidavit of Vest. At that meeting, Prasser,

Lobe, Cornhoff, and Vest, discussed Prasser taking administrative leave or resigning; Prasser signed the resignation letter.<sup>7</sup> Def. Ex. 1 pages 111-119.

On September 14, 2012, Solon issues its press release concerning the investigation into “irregularities.” Def. Ex. 17 September 20, 2012 article. In this article, the reporter quotes Solon’s press release as stating that “the proper course of action would be to follow the city’s recently adopted Fraud Policy and refer the matter to the proper authorities for further independent review.” *Id.* About one year later on September 24, 2013, that independent review resulted in Prasser’s indictment by the Cuyahoga County Grand Jury for theft in office and tampering with records. Def. Ex. 14.

After reviewing these facts, the Court has determined that nowhere in the September 20, 2012 and December 4, 2012 articles does Lobe or any other Solon official connect Prasser’s resignation to the “irregularity and fraud.” The newspaper articles, in fact, expressly state that Solon officials would not comment publically on Prasser’s resignation or the independent review of the SCA irregularities until after it was completed. Prasser confirmed this conclusion during her deposition. Def. Ex. 1 pages 234-244.

The December 4, 2012 article is part of continuing media coverage of the investigation into “irregularity and fraud” in Solon. The significant aspect of this article is that it is the author who makes the connection between Prasser and “irregularity and fraud,” not the City of Solon representatives. The author explains that she researched Prasser’s personnel file<sup>8</sup>, and discovered

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<sup>7</sup> The events of this meeting and related matters are the basis of Prasser’s age discrimination claim that is the subject of a future Journal Entry and Opinion.

<sup>8</sup> Because Prasser was a city government employee, her personnel file would be accessible in a Freedom of Information Act (FOIA) request.

a letter Prasser wrote to Cornhoff on September 4, 2012, just two days before her resignation. Def. Ex. 17, “A Look into former Solon Center for the Arts executive director Karen Prasser’s personnel file: Update.” In that letter, Prasser provides her responses to “questions and allegations.” *Id.*

This article proceeded to outline various issues Prasser addresses, and provided direct quotes from her letter to Cornhoff. *Id.* While Prasser responded to these “questions and allegations,” the article states that Mayor Drucker refused to comment on Prasser or anything in her personnel file. *Id.* By this letter, it is Prasser herself who is the primary source for the media or the public to make an inference that her resignation is connected to “irregularities and fraud”, not Defendants.

While Prasser disputes that there were “irregularities,” it is clear from the depositions and exhibits that Solon officials such as Lobe, Kennedy, Cornhoff, Drucker, and the City Council perceived there to be irregularities in the operation of the SCA, and referred this matter involving Prasser for a further independent investigation pursuant to the new fraud policy. The record is clear that because of an independent investigation of the SCA irregularities, Prasser was indicted by a grand jury on criminal charges of theft in office, and tampering with records.

Prasser failed to produce any evidence to demonstrate that: (1) Defendants caused any inference to be made that she resigned because of irregularities or fraud, or (2) such inference is false. The letter she wrote to Cornhoff contains the information that only the media - not the Solon representatives - used that created the inference connecting Prasser’s resignation to the irregularities, especially since her resignation occurred two days after writing the letter.

Based on all the evidence produced by the parties, there is no genuine issue of material fact, and reasonable minds can come to but one conclusion - Prasser cannot demonstrate that Defendants made any false statement about Prasser's resignation, about Solon's fraud policy, or about irregularities at SCA. Furthermore, Prasser cannot demonstrate that Lobe or any other Solon official acted with knowledge or reckless disregard for the truth or falsity of the matters. Therefore, Defendants are granted judgement as a matter of law on Prasser's claim for false light.

### **Defamation**

In addition to Prasser's claim for false light, she also asserts a claim for defamation. These two claims overlap including the requirement that the statements must be false. *Welling* at ¶ 46.

Defamation "occurs when a publication contains a false statement 'made with some degree of fault, reflecting injuriously on a person's reputation, or exposing a person to public hatred, contempt, ridicule, shame or disgrace, or affecting a person adversely in his or her trade, business or profession.' To establish a claim for defamation, a plaintiff must show; (1) a false statement of fact was made about the plaintiff, (2) the statement was defamatory, (3) the statement was published, (4) the plaintiff suffered injury as a proximate result of the publication, and (5) the defendant acted with the requisite degree of fault in publishing the statement." (citations omitted) *Sullins v. Raycom Media, Inc.*, 2013-Ohio-3530, 996 N.E.2d 553, ¶ 15 (8th Dist.).

To prevail on a claim for defamation, like a claim for false light, Prasser must establish that statements about her were false. *Id.* As discussed in the section considering Prasser's false

light claim, she did not produce evidence that establishes that any statements by Solon officials about her were false.

She relies on the same news articles in asserting this claim. However, both parties direct the Court to consider the September 20, 2012 Chagrin Solon Sun article. Prasser Ex. 36; Def. Ex. 17. Defendants argue that there is nothing false or defamatory in the article.

The article is about the Solon's September 14, 2012 press release announcing a pending review of "alleged 'irregularities' in the [SCA]." Prasser Ex. 36; Def. Ex. 17. The article further reports that the press release stated "Jointly, the city administration and council determined that the proper course of action would be to follow the city's recently adopted fraud policy and refer the matter to the proper authorities for further independent review." Prasser Ex. 36; Def. Ex. 17. The press release concludes by stating, "city officials will not be making any public statements until after a complete review has been conducted." Prasser Ex. 36; Def. Ex. 17. The reporter attempted to solicit additional comment from Lobe on September 14, 2012, and Lobe is quoted as stating, "I don't know much, and what I do know, I really can't comment on at this point."

The article goes on to report that the Solon confirmed it received Prasser's resignation on September 6, 2012, and that "in recent months City Council [was] meeting to discuss matters of personnel as well as "disciplinary action." Prasser Ex. 36; Def. Ex. 17. The reporter then states "it was not clear yet whether these executive sessions had anything to do with the SCA, Prasser or any other employee or instructor." Prasser Ex. 36; Def. Ex. 17. The article concludes with commentary on the SCA's annual budget, enrollment, fundraising, and an anniversary project, including a quote from Prasser about budgeting for SCA. Prasser Ex. 36; Def. Ex. 17.

Defendants cite to Prasser's deposition, and these articles to demonstrate that no Solon representative made a false statement of fact about her. Def. Ex. 1 pages 235-250. Prasser testified that she is unaware of any statement by a Solon official that stated that she resigned due to irregularities at SCA. *Id.* Prasser admitted that Solon officials routinely refused to comment on why Prasser resigned, and that they would not comment on the review of the irregularities until it was completed. *Id.*

Prasser fails in her brief in opposition to address whether the statements in this article are false, and does not direct this Court to any place in the record to demonstrate a genuine issue of material of fact. Instead, she argues that the connection between her resignation and irregularities was unmistakable. At the hearing, Prasser's counsel explained to the Court that it was somebody from the newspapers that was quoting the press release, discussing implications, and then tying the fraud policy to Prasser. Hearing Trans. page 158. Counsel also argued that there was nothing irregular about the activities. Hear Trans. Page 156. However, she offers no rebuttal evidence as to Defendants' argument and citations in the record that the statements in the articles were not false.

Based upon all the evidence produced by the parties there is no genuine issue of material facts, and reasonable minds can come to one conclusion - the statements made by Solon officials in the September 20, 2012 article were not false. Therefore, Defendants are entitled to judgment as a matter of law because Prasser cannot demonstrate any facts that Defendants published any false statement against Prasser in this article.

In her brief in opposition, Prasser also asserts for the first time, that there are additional examples of defamatory conduct by Defendants. Her first example is an affidavit by Beth Cohen,

President of Friends. Cohen attested in paragraph 18 that “Mayor Susan Drucker called her cell phone on Friday, June 29, 2012, prior to the SCA Phil Dirt fundraiser at Solon High School, that Solon sustained a \$30,000 loss as a result of Cuyahoga Arts and Culture’s \$32,433 grant to the City of Solon, which could not have been true since 2 of the events had not even taken place. She also stated that it was the “last grant Karen would ever write for the City of Solon.” Prasser Ex. 25.<sup>9</sup> Prasser asserts that Drucker’s statement – [the] “last grant Karen would ever write for the City of Solon” - is defamatory.

Defendants rebutted Prasser’s claim that this statement is defamatory because the statement about her not writing another grant for Solon is true. Hearing Trans. Page 63. Further, Defendants argue that there is nothing defamatory about the comments because there is nothing in the record that demonstrates that Prasser’s reputation suffered as a result of this alleged comment. *Id.* Finally, Defendants argued that Cohen’s statement lacks foundation because she would have no knowledge of the Solon’s finances in July 2012. *Id.* at page 64.

Prasser did not elaborate or present additional supportive facts in her brief in opposition or at oral argument why the alleged statements to Cohen were defamatory, false, or how she was injured by the alleged statement. She produced no evidence to rebut Defendants’ assertion that the grant was the last grant she wrote for Solon. Based upon all the evidence produced by the parties, there is no genuine issue of material facts, and reasonable minds can come to one conclusion – Cohen’s statement in her affidavit regarding Prasser not writing any more grants for

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<sup>9</sup> At page 63 of Transcript, Defendants move to have this affidavit struck because it was not provided to them, and they were never given an opportunity to depose anyone about the statements.

Solon turned out to be true. Therefore, Defendants are entitled to judgment as a matter of law because Prasser cannot demonstrate any facts that Defendants published any false statement against her.

Prasser next alleges that the statements that put her in a false light were also defamatory. The only different statement that Prasser raises as being defamatory is the Chagrin Valley Today article on April 28, 2014. In that article, Lobe stated: “In the event that Ms. Prasser continues to pursue her age discrimination case, we will be utilizing [Assistant Prosecuting Attorney] Soucie as a witness in the civil case because the admission was made to him, and not technically to the city, as a matter of law.” Prasser Ex. 39.

The Court takes judicial notice *su sponte* that Prasser has asserted an age discrimination claim and has continued to pursue that claim during this case and that on September 29, 2015, the Court heard testimony from Soucie as Defendant’s witness in a hearing held on September 25, 2015. Evid.R. 201(B) and (C). Lobe’s statement in the news article turned out to be accurate and truthful; Soucie did testify in a hearing regarding this case while Prasser’s claims are still pending.

Based upon all the evidence produced by the parties, and the Court’s judicial notice of facts, there is no genuine issue of material facts, and reasonable minds can come to one conclusion - Lobe’s statement made in the April 28, 2014 article regarding Soucie was true. Therefore, Defendants are entitled to judgment as a matter of law because Prasser cannot demonstrate any facts that Defendants published any false statement against her.

For all the reasons stated in the section analyzing Prasser’s false light claim, the Court determines that based upon all the evidence produced by the parties there is no genuine issue of

material facts, and reasonable minds can come to one conclusion regarding Prasser's defamation claim - the statements made by Solon officials in all the publications were not false. Therefore, Defendants are granted judgment as a matter of law on her defamation claim because she cannot demonstrate any facts that Defendants provided any false statement for publicity against Prasser.<sup>10</sup>

In conclusion and for all the reasons stated in this Journal Entry and Opinion, Defendants are granted judgment as a matter of law on Prasser's false light and defamation claims.

**IT IS SO ORDERED.**

**DATED:** \_\_\_\_\_

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**JUDGE MICHAEL E. JACKSON**

**THE CLERK OF COURT SHALL SERVE A COPY OF THE FOREGOING JOURNAL ENTRY AND OPINION ON ALL COUNSEL OF RECORD AT THE ADDRESS LISTED ON THE COURT DOCKET.**

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<sup>10</sup> The Court notes that Defendants have pending claims against Prasser and Prasser's counsel for frivolous conduct under R.C.2323.51, and against Prasser's counsel for Civ.R. 11 violations. Those claims have not been discussed in this Journal Entry and Opinion and will be resolved during further proceedings. The Court notes that these motions apply to Prasser's claims of false light and defamation.