UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

BARBARA R. BURNS,	:	
	:	
Plaintiff,	:	
	:	
V.	:	CASE NO. 3:02-CV-00897(RNC)
	:	
DAVID S. KING,	:	
	:	
	:	
Defendant.	:	

RULING AND ORDER

Plaintiff Barbara Burns, a resident of Minnesota, brings this diversity action alleging defamation, against defendant David King, an associate dean at Quinnipiac University Law School ("Quinnipiac") and a resident of Connecticut.[1] Defendant has filed a motion for summary judgment [Doc. #55]. For the following reasons, defendant's motion is denied.

I. BACKGROUND

Plaintiff alleges the following facts as the basis for her complaint. She attended law school at Quinnipiac from January 4, 1999, until May 8, 2000, when she sought to transfer to another law school. She applied to several schools and claims that Neil Cogan, Dean of Quinnipiac, issued a letter stating that she was in good

[1] Plaintiff also appears to assert a claim for breach of contract by defendant and Quinnipiac. Because Quinnipiac is not a party to this action, and plaintiff does not allege that a contract existed between herself and defendant, she cannot prevail on this claim.

standing at the law school. On May 24, 2000, plaintiff alleges, defendant told several employees of Quinnipiac that plaintiff was *not* in good standing with the law school and later made the same statement to persons at Georgetown University and to the Dean of the University of Minnesota Law School.[2] Plaintiff further claims that as a result of defendant's statements regarding her lack of good standing, her applications for transfer were suspended and that she suffered emotional distress and damage to her reputation.

II. DISCUSSION

To prevail on a motion for summary judgment, the moving party must establish that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); see generally Celotex Corp. v. Catrett, 477 U.S. 317 (1986). To withstand a properly supported motion, a plaintiff who would bear the burden of proof at trial cannot rest on the allegations in the complaint but must offer evidence that would permit a reasonable person to find in his favor. See Fed. R. Civ. P. 56(e). In deciding a motion for summary judgment, the court resolves "all ambiguities and draw[s] all inferences in favor of the nonmoving party . . . ." Aldrich v. Randolph Cent. Sch. Dist., 963 F.2d 520, 523 (2d Cir.), cert. denied, 506 U.S. 965 (1992). Only when reasonable minds could

[2] The complaint does not specify the circumstances or form of the alleged publication to persons at Georgetown University.

not differ is summary judgment proper. Bryant v. Maffucci, 923 F.2d 979, 982 (2d Cir.), cert. denied, 502 U.S. 849 (1991).

A court of the United States sitting in diversity jurisdiction must look to the law of the forum state for the rules governing choice of law. See Klaxon Co. v. Stentor Co., 313 U.S. 487, 496 (1941). Under Connecticut choice of law rules, the applicable substantive law is that of the state with "the most significant relationship to the occurrence and the parties." O'Connor v. O'Connor, 201 Conn. 632, 648 (1986). "Contacts to be taken into account in applying the principles of § 6 [of the Restatement (Second) Conflicts of Law] to determine the law applicable to an issue include: (a) the place where the injury occurred, (b) the place where the conduct causing the injury occurred, (c) the domicil, residence, nationality, place of incorporation and place of business of the parties, and (d) the place where the relationship, if any, between the parties is centered. These contacts are to be evaluated according to their relative importance with respect to the particular issue." Dugan v. Mobile Medical Testing Services, Inc., 265 Conn. 791, 800 (2003), citing Restatement (Second) Conflicts of Law, § 145(2).

"[T]he law of defamation is designed to protect a person's interest in reputation. Injury is suffered, if at all, at the place in which the plaintiff enjoys a reputation, usually the place where

he or she is domiciled. Accordingly, the place of the plaintiff's domicile typically has the 'most significant relationship' to the occurrence and the parties." Robert D. Sack, Sack on Defamation § 15.3.2 (3d Ed. 2003) Vol. II. See also Wells v. Liddy, 186 F.3d 505, 521 (4th Cir. 1999), cert. denied, 528 U.S. 1118 (2000) (applying Maryland choice of law rules); Lee v. Bankers Trust Co., 166 F.3d 540, 545 (2d Cir. 1999) (applying New York choice of law rules); Zimmerman v. Bd. of Pubs. of Christian Reformed Church, Inc. 598 F. Supp. 1002, 1011 (D. Colo. 1984) (applying Colorado choice of law rules). Connecticut courts have not yet addressed this issue, but federal courts in this district have concluded that, in a case of multistate defamation, Connecticut would apply the law of plaintiff's domicile.[3] See, e.g., Dale Sys., Inc. v. Time, Inc., 116 F. Supp. 527, 530 (D. Conn. 1953). Therefore, Minnesota law applies in the present case.

Defendant contends that the doctrine of substantial truth affords him an absolute defense to plaintiff's defamation claim and that he is therefore entitled to summary judgment. I disagree.

Under Minnesota law, in order to state a claim for defamation,

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[3] Multistate defamation usually arises in the context of mass publication. The same reasons that have persuaded courts in those cases to apply the law of the plaintiff's domicile are also applicable in this more limited context. Even though there was no mass publication, this case involves repeated publication of the same statement to different persons in different jurisdictions, one of which is the plaintiff's domicile.

a plaintiff must "prove that a statement was false, that it was communicated to someone besides the plaintiff, and that it tended to harm the plaintiff's reputation and to lower him in the estimation of the community." Richie v. Paramount Pictures Corp., 544 N.W.2d 21, 25 (Minn. 1996). Truth is an absolute defense to a defamation claim. Stuempges v. Parke, Davis & Co., 297 N.W.2d 252, 255 (Minn. 1980). In evaluating the truth of a statement for purposes of a defamation claim, the court inquires whether the statement is substantially true. "A statement is substantially accurate if its gist or sting is true, that is, if it produces the same effect on the mind of the recipient which the precise truth would have produced." Jadwin v. Minneapolis Star and Tribune Co., 390 N.W.2d 437, 441 (Minn. App. 1986). "If the statement is true in substance, inaccuracies of expression or detail are immaterial." Id. The doctrine of substantial truth, then, protects a speaker who utters a statement that is subject to multiple interpretations. Hunter v. Hartman, 545 N.W.2d 699, 707 (Minn. App.), rev. denied, 1996 Minn. LEXIS 415 (Minn. 1996). "A commentator who advocates one of several feasible interpretations of some event is not liable in defamation simply because other interpretations exist." Id. Defendant contends that the doctrine of substantial truth shields him from liability because his statement, that plaintiff was not in good standing, could refer either to academic or financial standing. Defendant is correct that

the parties contend for two possible interpretations of "good standing."[4] However, plaintiff contests the truth of the statement, regardless of whether good standing referred to academic or financial good standing. Although she disputes that "financial good standing" would be a reasonable interpretation of "good standing," she also disputes that she owed the law school any money. The doctrine of substantial truth cannot shield a party from liability where the truth of both possible interpretations is contested. The purpose of the doctrine is to prevent a speaker from being liable in defamation where the gist of the statement has the same effect as the truth would have had. According to plaintiff, neither interpretation is true. Defendant, therefore, has not sustained his burden.

III. CONCLUSION

For the foregoing reasons, defendant's motion for summary judgment [Doc. #55] is denied.

So ordered.

Dated at Hartford, Connecticut this ___ day of ____ 2004.

_____
Robert N. Chatigny
United States District Judge

[4] Plaintiff claims that the only feasible interpretation is that the phrase refers to academic standing. Defendant contends that he intended to comment only on plaintiff's financial standing.