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State of Minnesota
07/01/2026

STATE OF MINNESOTA **IN DISTRICT COURT**

COUNTY OF OTTER TAIL **SEVENTH JUDICIAL DISTRICT**

Precision Locating, LLC and Arvig Enterprises, Inc.,

Plaintiffs,

ORDER DENYING MOTION IN LIMINE TO DETERMINE DEFENSES

vs.

Martin D. Starkebaum,

Defendant.

Court File No. 56-CV-25-198

The above-entitled matter came before the Honorable Kevin M. Miller, Judge of District Court, on April 6, 2026, for a motion hearing at the Otter Tail County Courthouse in Fergus Falls, Minnesota. Kurt Erickson, Esq., and Collin Abress, Esq., appeared on behalf of Plaintiffs Precision Locating, LLC and Arvig Enterprises, Inc. Lauren Meder, Arvig representative, appeared. V. John Ella, Esq., and Zachary Hennen, Esq., appeared on behalf of and with Defendant Martin Starkebaum.

Based on the arguments of counsel and all the files, records, and proceedings herein, the Court makes the following:

Findings of Fact and Conclusions of Law

1. On December 4, 2025, Defendant filed a memorandum of law in support of Defendant's motion in limine to determine defenses.

2. On December 19, 2025, Defendant filed a memorandum of law in opposition to Defendant's motion in limine to determine defenses.

3. Defendants have argued that Christopher Mayer's Facebook post about Plaintiffs is

constitutionally protected speech on matters of public concern. Therefore, Defendants are entitled to the affirmative defenses of qualified privilege and protected speech under the First Amendment.

4. The issues in this case revolve around a Facebook post written by an anonymous user on a page called "The Cable Vine" stating, "Seems that Percision Locating / Arvig of Minnesota . Like to hire pedophiles/rapist…while they locate school fibers . ..Google there names Richard Jenkins jr , Derek Schmidt , Matthew Guthmiller".

5. The anonymous user who made the Facebook post has been determined to be Christopher Mayen. However, Plaintiffs have alleged that Defendant caused Mr. Mayen to make the anonymous post regarding Plaintiffs in "The Cable Vine" group.

6. "[S]peech involving a public concern 'falls within the core of First Amendment protection in order to assure the 'unfettered interchange of ideas for the bringing about of political and social changes desired by the people.' To determine whether the speech involved a matter of public or private concern . . ., the Court considered the 'content, form, and context" of the speech 'as revealed by the whole record.'" *Maethner v. Someplace Safe, Inc.*, 929 N.W.2d 868, 879 (Minn. 2019) (citations omitted).

7. "[T]he determination of whether speech involves a matter of public or private concern is based on a totality of the circumstances." *Id* at 881.

8. Based on the totality of the circumstances and the record as a whole, the statements in the Facebook post were not of public concern.

9. The statements were directed toward Plaintiffs and three of Plaintiffs' employees rather than addressing criminal sexual conduct or child sex abuse in society at large.

10. The statements in the Facebook post were made in a group on Facebook, and members of

the Facebook group were able to view the post.

11. The statements in the Facebook post are not matters of public concern. Therefore, the statements are not subject to heightened protection under the First Amendment, and Defendants are barred from using the defense of protected speech.

12. "One who makes a defamatory statement will not be held liable if the statement is published under circumstances that make it qualifiedly privileged and if the privilege is not abused. Qualified privilege applies when a court determines that 'statements made in particular contexts or on certain occasions should be encouraged despite the risk that the statements might be defamatory.' For a defamatory statement to be protected by a qualified privilege, the statement must be made in good faith and 'must be made upon a proper occasion, from a proper motive, and must be based upon reasonable or probable cause.' Whether a qualified privilege exists is a question of law for the court to decide." *Bol v. Cole*, 561 N.W.2d 143, 149 (Minn. 1997) (citations omitted).

13. The statements in the Facebook post are not subject to qualified privilege.

14. The statements were made in a Facebook group rather than to law enforcement or another party who could take action on the allegations, which does not support that the statements were made on a proper occasion or from a proper motive. The statements were also speculative or based on conjecture, which does not meet the requirement of being based upon reasonable or probable cause.

15. As a result, Defendants are barred from using the defense of qualified privilege.

Based on the above Findings of Fact and Conclusions of Law, the Court makes the following:

Order

1. The motion in limine to determine defenses is hereby **denied**. Defendants are barred from using the defenses of qualified privilege and protected speech.

Dated: July 1, 2026

By the Court:

Kevin M. Miller
Judge of District Court

MINNESOTA JUDICIAL BRANCH