Filed in District Court
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 GRANTING MOTION IN LIMINE TO EXCLUDE EXPERT WITNESS TESTIMONY

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 exclude expert witness testimony.

2. On December 19, 2025, Defendant filed a memorandum of law in opposition to Defendant's motion to exclude expert witness testimony.

3. Plaintiffs included Marshall Tanick on their witness list as an expert. Mr. Tanick is an attorney.

4. "Admission of an expert's opinion generally rests within the discretion of the trial court." *State v. Myers*, 359 N.W.2d 604, 609 (Minn. 1984).

5. "The basic consideration in admitting expert testimony under Minn. R. Evid. 702 is whether it will assist the jury in resolving the factual questions presented." *Id*.

6. 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".

7. 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.

8. Mr. Tanick's initial report states the following: "My opinion is that statements posted on Facebook social media by Defendant that are referenced in the Amended Complaint in this lawsuit are defamatory *per se* because they ascribe illegal or immoral conduct or assert improprieties by Plaintiffs in their trades or professions, all of which would tend to lower the reputation of plaintiffs in the eyes of the community."

9. In their amended complaint, Plaintiffs have asserted a breach of contract, breach of duty of loyalty, defamation *per se*, and defamation.

10. The Court will instruct the jury on the law in the jury instructions.

11. Mr. Tanick's testimony will not aid the trier of fact. The jury can hear the testimony and evidence and come to a determination based on the law provided by the Court.

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

Order

1. The motion in limine to exclude Marshall H. Tanick testimony as expert witness testimony is hereby **granted**.

Dated: July 1, 2026

By the Court:

Kevin M. Miller
Judge of District Court

MINNESOTA JUDICIAL BRANCH