

## **Disgruntled Association Member Gets Hit with 7 Figure Judgment by Lawrence Szabo, Esq. | Jan 29, 2021 | Case Decisions, Dispute Resolution**

This case involved a dispute between two husband-wife couples who are members of a homeowners' association ("Association") that governs a luxury condominium complex. The first couple, Mr. and Mrs. Bents (hereinafter jointly "Bents"), have lived in the community since 2008. The second couple, Mr. and Mrs. Tarter (hereinafter jointly "Tarters"), moved into the community in 2013. The acrimony between the two couples dated back to 2013, when Mr. Tarter and the Bents ran Association's annual election of new directors for the year 2014. Mr. Tarter, who was one of the candidates for election to the board, was elected to the board for 2014 and his fellow board members elected him to serve as president for that year.

During Mr. Tarter's term as a director and the president of Association, Mrs. Bendt engaged in a campaign of attacking Mr. Tarter's reputation and his actions as president of Association. Mrs. Bendt's attacks on Mr. Tarter were contained in a newsletter that was emailed to other members of Association. In response to Mrs. Bendt's attacks, the Tarters filed suit against the Bendts for defamation. In the lawsuit, the Tarters alleged that Mrs. Bendt's assertions caused other members to falsely believe, in part, that: (1) Mr. Tarter lacked ethics and/or behaved unethically or illegally; (2) Mr. Tarter concealed material financial information from Association members; (3) Mr. Tarter misled Association members and acted unlawfully; (4) Mr. Tarter conducted and facilitated secret Board meetings; and (5) Mr. Tarter wrongfully over-spent Association funds.

Evidence presented to the trial court showed that on various occasions Mrs. Bent called Mr. Tarter: "idiot", "fool", "spineless", "disgusting", "chicken shit", "lowlife", "low-class sneak", "unethical", "lazy", "weak", and "a complete fake". She also referred to Mr. Tarter as a "habitual liar" and "unethical" and wrote that he could be disciplined by the State Bar Association and investigated by the Attorney General. Mrs. Bendt also wrote emails in which she called Mrs. Tarter "a bitch" and a "drinking dog walker."

The trial court found in favor of the Tarters and awarded them damages in the amount of \$150,000 for damage to their reputation, \$350,000 for emotional distress, \$1,000,000 for punitive damages, and \$20,120.42 for costs. After denying the Bents' post-trial motions seeking to overturn the judgment, the Bents filed an appeal.

The appellate court found that the evidence presented to the trial court, and the reasonable inferences therefrom, were sufficient to enable reasonable jury members to find that Mrs. Bendt's statements were false. The appellate court further found that the jury in the trial court proceedings had received "abundant and compelling" evidence to find that Mrs. Bendt had defamed Mr. Tarter with actual malice. Regarding the amount of the damages awarded, the appellate court found that the awards by the jury were supported by sufficient evidence of actual injury, and that Mrs. Bendt's conduct was sufficiently reprehensible to justify the \$1,000,000 award of punitive damages.

UNPUBLISHED Arizona Appellate Court decision (January 28, 2021).

See case decision: [Tarter v. Bendt](#)