

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-799

Filed: 21 February 2017

Caldwell County, No. 15 CVS 1016

JOHN FLETCHER CHURCH, Plaintiff,

v.

NANCY BLACK NORELLI and THE NORELLI LAW FIRM, Defendants.

Appeal by plaintiff from order entered 20 January 2016 by Judge W. Todd Pomeroy in Caldwell County Superior Court. Heard in the Court of Appeals 25 January 2017.

John Fletcher Church, pro se, for plaintiff-appellant.

The Van Winkle Law Firm, by Stephen J. Grabenstein and Heather Whitaker Goldstein, for defendants-appellees.

ZACHARY, Judge.

John Fletcher Church (plaintiff) appeals from an order dismissing his complaint seeking damages for defamation against Nancy Black Norelli (defendant, with the Norelli Law Firm, collectively, defendants), pursuant to N.C. Gen. Stat. § 1A-1, Rule 12(b)(6), for failure to state a claim upon which relief could be granted. On appeal, plaintiff argues that the trial court erred by dismissing his complaint, on the grounds that his complaint stated facts that, if proven, would establish the

elements for a claim of defamation. After careful consideration and for the reasons that follow, we agree and conclude that the trial court's order should be reversed.

I. Background

Plaintiff and his former wife “were married on 23 December 1992, separated on 31 August 2001, and divorced on 22 November 2002. . . . [Plaintiff and his ex-wife] have appeared before the trial and appellate courts of this State on numerous occasions for the purpose of litigating multiple issues relating to the custody and support of their children.” *Church v. Decker*, 234 N.C. App. 115, 761 S.E.2d 753 (2014) (unpublished). Some of plaintiff's appeals to this Court arose from proceedings conducted by defendant, a former emergency district court judge. Specifically, between 30 March 2009 and 9 April 2009, defendant presided over an eight-day hearing that addressed contested issues between plaintiff and his ex-wife regarding child custody, child support, and other matters. During this hearing, plaintiff appeared *pro se* and his ex-wife was represented by counsel. “On 30 April 2009, the trial court entered three separate orders: (1) an interim attorney's fees order, (2) an interim child support order and (3) an order addressing child custody and visitation issues.” *Church v. Church*, 212 N.C. App. 419, 713 S.E.2d 790 (2011) (unpublished).

Between 2009 and the present, plaintiff has pursued appeals in this Court from, *inter alia*, the 30 April 2009 order directing him to pay attorney's fees, an order entered by defendant ordering him to obtain psychological counseling from a specific

mental health professional, and other orders entered in relation to plaintiff's domestic litigation. This Court has upheld some of the orders challenged by plaintiff, including some of defendant's orders, and has granted plaintiff relief in some of his appeals, including our reversal of the portion of one of defendant's orders that required plaintiff to obtain a psychological evaluation from a specific counselor, without granting plaintiff an opportunity to be heard regarding the identity of the counselor from whom he would receive psychological counseling. *See Church, id.*

In 2013, while plaintiff was still litigating appeals arising from the dissolution of his marriage, defendant published an article in the North Carolina State Bar Journal, titled "Working with a *Pro Se* Claimant - Never Easy, but Completely Manageable" (hereinafter "the Article"). The Article is still available to the general public on the website of the N.C. State Bar. Because the Article is the basis of plaintiff's claim for defamation, we reprint it below in its entirety:

No one ever said practicing law, presiding in court, or mediating cases was going to be easy. If it was, then just about anyone could do it, and that's emphatically not the case. However, the complexity involved doesn't stop everyone from taking on the legal system *pro se* with no training or skills and expecting justice to be best served. The *pro se*, or self-representing claimant, certainly has a place in our democratic legal system. Some people cannot afford an attorney, some people don't trust attorneys, and at the end of the day everyone has the choice to exercise his or her legal rights as they see fit. That said, on those days when you -- a trained attorney, judge, or mediator -- face a *pro se* party, you have to acknowledge that your job just got a little bit trickier.

In my longtime career as a lawyer, judge, and mediator, I have encountered a variety of *pro se* parties that I now am able to separate into several general types. First, there is what I call the “classic *pro se*” claimant. This person feels beaten up by the system and is both bitter and pessimistic about the outcome, regardless of any assurances or additional consideration offered on your part.

You will also come across what I call the “delusional *pro se*” claimant. This person has watched enough reality TV shows and legal courtroom dramas to feel like he or she is embodying the spirit of Clarence Darrow himself. This *pro se* feels equipped to win with style and ease and is largely unconscious to the reality and challenges that face the unrepresented in the court system.

Lastly, there is what I call the “Eddie Haskell¹ *pro se*” claimant. This person is determined to muck-up the wheels of justice while grinning sheepishly and milking the attorneys, judges, and clerks for legal advice and special favors with his or her “aw shucks” antics. This is perhaps the most difficult of all of the *pro se* types because they tend to be more clever than anyone suspects and can position themselves to take advantage of the system, whether they deserve it or not.

While each of the above types of *pro se* clients presents their own unique challenges, there are some tips I have compiled through the years that are applicable to each and every one. It’s up to you - the trained attorney or mediator -- to prevent time-consuming, on-the-record confrontations with the *pro se* claimant. As a judge, only you can keep your courtroom from turning into a three-ring circus between a *pro se* client and a trained attorney, and it is up to you to prevent the *pro se* from wasting your most valuable judicial resource -- time. The theme of my advice is simple: start on your right foot and avoid reaching the end of your rope.

¹ Eddie Haskell was a “fictional character on the Leave It to Beaver television situation comedy” which aired on television from 1957 to 1963. The name Eddie Haskell “has become a cultural reference, recognized as an archetype for insincere sycophants.” https://en.wikipedia.org/wiki/Eddie_Haskell

First, let me assure you that I know of what I speak by telling a true story. During my tenure as an emergency district court judge, I was called upon to handle a difficult custody case involving a father appearing *pro se* and a distinguished attorney who represented the mother. The veteran attorney undoubtedly thought I was naïve as I explained rules for the case and remained patient as the *pro se* asked questions. Whenever possible, I unscrambled statements to clarify for the record what the *pro se* was attempting to say. Three weeks after the conclusion of an eight-day trial, I returned to present a detailed custody order including psychological counseling for the father, schedules for the children, rules for attending school events, availability of email addresses, and a host of other details including the *pro se* claimant's obligation to pay attorney's fees. I knew I had done my best to ensure that the rights of both parties were being equally addressed and that the *pro se* father wasn't on unequal footing simply because he was unrepresented by counsel.

I carefully presented the order to the parties and their adolescent children myself in a pleasant conference room. My purpose in investing this time was to avoid spin from either party about my ruling and how it was presented. My effort to start on the right foot was well received, and general euphoria prevailed with hugs and handshakes all around. Unfortunately, the *pro se* father failed to meet any portion of his monetary obligations and disregarded terms of the order relating to care of his children. I was called back to the county for a contempt hearing two months later.

Could it be that the *pro se* father disregarded much of what was said? Did he remember nothing of the trial? Had the courtesies extended and my patient good humor for eight days gone for naught? While I had made a concerted effort to start on the right foot in dealing with the *pro se* claimant, I was incensed by his inability to follow my directions, or to appreciate the time and efforts exerted on his behalf. Instead of stopping and taking a deep breath, I slid quickly to the end of my rope, and with a heavy hand ordered a psychological evaluation of the defendant by a certain psychologist.

Opinion of the Court

Unfortunately, this decision came back to haunt me. The clever *pro se*, perhaps empowered by “getting my goat,” appealed both sets of orders and a multitude of other issues to the court of appeals. The result? A 26-page opinion affirming the conduct of the trial and custody order, but remanding to let the appellant have an opportunity to be heard with respect to the evaluating psychologist. Clearly, the system was hurt by my end-of-rope decision, and all of the effort I spent starting on the right foot was diminished. Don’t let this story come true for you.

Below are some additional tips I have learned along the way in dealing with a host of *pro se* claimants. I hope you find them helpful and useful.

Tips for Judges

1. Find your right foot and start on it.
2. Explain your rules for the case, which must be observed by both the lawyer and the *pro se* party.
3. Let everyone know the *pro se* party is on his/her own. Repeat this frequently so everyone remembers that you are not providing legal assistance to the *pro se*.
4. Give the *pro se* some fundamental ground rules for courtroom etiquette. Explain that the person addressing the court must stand and wait to be recognized; the person who is standing “has the floor” and no one else may address the court except for objections, at which time the *pro se* or attorney may stand and say only the word: “Objection.”
5. Require reasons for each objection and make sure each is stated clearly in simple English by both the *pro se* and opposing counsel.
6. Ask questions to the heart of the matter and restate a scrambled response from the *pro se* to clarify, for the record, the interpretation that you, the judge, are relying upon.
7. Make the judge’s door off-limits to the attorney and anyone from his or her office. The appearance of an associate sashaying through the door and straight to the attorney’s table is unsettling for the *pro se* and provides fodder for confronting the judge.
8. Tolerate only calm presentations and announce recess as necessary.

CHURCH V. NORELLI

Opinion of the Court

9. Do not tolerate rudeness, finger pointing, other gestures, loud voices, and repetition. Use summary contempt powers as necessary.
10. Consider delivering your judgment and orders in open court so everyone hears simultaneously – helpful to have older children in court to hear the decision so that neither party can put a “spin” on your order.
11. Stay calm, carry on, and avoid reaching the end of your rope.

Tips for Opposing Lawyers

1. Start on the right foot.
2. Carefully consider the judge’s rules, or suggest some if none are given, and request modification at the outset if you have unique knowledge of the propensities of the *pro se* party.
3. Rise to the challenge and try to get the case successfully litigated. Your client depends on you to get the matter tried to a final judgment that will withstand challenge.
4. Alert your office that you have a *pro se* trial and ask them to be thoughtful if entering the courtroom. For example, delivering papers to the attorney by walking merrily through the judge’s door creates an appearance that rattles and annoys *pro se* litigants.
5. Object if it is important and explain reason in simple terms.
6. If the judge is losing control, ask for a recess.
7. Alert your client that you will be treating the opposing party with extreme respect to avoid increasing tensions in the courtroom, which in this context is part of your zealous representation.
8. Offer to draft orders, and generously provide possible language.
9. Help the judge!
10. When selecting a mediator, avoid advocating for the mediator you customarily use. If possible, accept the choice made by the *pro se*. Even encourage the *pro se* to go to the Dispute Resolution Commission website to make an independent selection.
11. Take a deep breath and do everything possible to avoid reaching the end of your rope.

Tips for Mediators

1. Start on the right foot.
2. Consider declining a designation if you frequently mediate for the attorney and believe you may have trouble gaining the *pro se* claimant's respect.
3. Explain in the opening conference, and re-state each time you enter a room, that you cannot be the lawyer for the *pro se* party.
4. Allow a *pro se* to bring an advisor to the mediation, but only for assistance in the private conference and not the joint session.
5. Encourage the *pro se* to phone a friend for help to evaluate an offer.
6. Provide calculator and assistance with math.
7. Maintain conversation and negotiation.
8. Address the cost of litigation in dollars, lost work hours, lost recreation time, and emotional stress.
9. Help the *pro se* articulate what would be a satisfying result. Suggest alternatives such as non-disparagement provisions, avoiding certain venues, and payment schedules.
10. Reiterate the importance of closure.
11. Ask questions to help the *pro se* assess an offer. Give offers a chance to be understood, even if rejected at first.
12. Step out of the room and give the *pro se* space to think.
13. Take a deep breath, do not give up too soon, and avoid the end of your rope.

The more time and effort you invest during the action involving a *pro se* claimant, the better your rewards will be as you march toward an outcome. It is possible to manage the challenges presented by the *pro se* claimant and the value of patience should never be underestimated. Everyone in the action will appreciate your consideration and it will go far in solidifying your reputation as competent counsel, judge, or mediator.

On 22 October 2015, plaintiff filed his first amended complaint against defendants seeking damages for defamation, and attached a copy of the Article to his complaint. In his complaint, plaintiff alleged that the Article contained “false allegations” about him that constituted libel *per se*. On 30 November 2015, defendants

moved for dismissal of plaintiff's complaint pursuant to N.C. Gen. Stat. § 1A-1, Rule 12(b)(6) (2015) for failure to state a claim upon which relief could be granted. The trial court entered an order on 20 January 2016 that granted defendants' motion and dismissed plaintiff's complaint with prejudice. Plaintiff noted a timely appeal to this Court.

II. Standard of Review

A party may move for dismissal of a claim or claims pursuant to N.C. Gen. Stat. § 1A-1, Rule 12(b)(6), based on the complaint's "[f]ailure to state a claim upon which relief can be granted[.]" "The motion to dismiss under N.C. R. Civ. P. 12(b)(6) tests the legal sufficiency of the complaint. In ruling on the motion the allegations of the complaint must be viewed as admitted, and on that basis the court must determine as a matter of law whether the allegations state a claim for which relief may be granted." *Stanback v. Stanback*, 297 N.C. 181, 185, 254 S.E.2d 611, 615 (1979) (citations omitted). "[T]he well-pleaded material allegations of the complaint are taken as admitted; but conclusions of law or unwarranted deductions of fact are not admitted." *Sutton v. Duke*, 277 N.C. 94, 98, 176 S.E.2d 161, 163 (1970) (internal quotation omitted). "A motion to dismiss pursuant to Rule 12(b)(6) should not be granted 'unless it appears to a certainty that plaintiff is entitled to no relief under any state of facts which could be proved in support of the claim.'" *Isenhour v. Hutto*, 350 N.C. 601, 604-05, 517 S.E.2d 121, 124 (1999) (quoting *Sutton*, 277 N.C. at 103,

176 S.E.2d at 166). “The standard of review of a Rule 12(b)(6) motion to dismiss is *de novo*.” *Alston v. Hueske*, __ N.C. App. __, __, 781 S.E.2d 305, 308 (2016) (citing *Leary v. N.C. Forest Prods., Inc.*, 157 N.C. App. 396, 400, 580 S.E.2d 1, 4 (2003)).

III. Legal Analysis

Under North Carolina law, “[t]he term defamation covers two distinct torts, libel and slander. In general, libel is written while slander is oral.” *Phillips v. Winston-Salem/Forsyth County Bd. of Educ.*, 117 N.C. App. 274, 277, 450 S.E.2d 753, 756 (1994). “In order to recover for defamation, a plaintiff must allege that the defendant caused injury to the plaintiff by making false, defamatory statements of or concerning the plaintiff, which were published to a third person.” *Boyce & Isley, PLLC v. Cooper*, 153 N.C. App. 25, 29, 568 S.E.2d 893, 897 (2002) (citation omitted).

It is long established that North Carolina recognizes three categories of libel:

(1) Publications which are obviously defamatory and which are termed libels *per se*; (2) publications which are susceptible of two reasonable interpretations, one of which is defamatory and the other is not; and (3) publications which are not obviously defamatory, but which become so when considered in connection with innuendo, colloquium and explanatory circumstances. This type of libel is termed libel *per quod*.

Flake v. News Co., 212 N.C. 780, 785, 195 S.E. 55, 59 (1938). In the instant case, plaintiff alleges that his complaint set out facts sufficient to support a claim for libel *per se*. Accordingly, our inquiry is limited solely to a determination of the adequacy

of plaintiff's complaint to state a claim for libel *per se*. There are four types of writing that may support a claim for libel *per se*:

Under the well established common law of North Carolina, a libel *per se* is a publication by writing . . . which, when considered alone without innuendo, colloquium or explanatory circumstances: (1) charges that a person has committed an infamous crime; (2) charges a person with having an infectious disease; (3) tends to impeach a person in that person's trade or profession; or (4) otherwise tends to subject one to ridicule, contempt or disgrace.

Renwick v. News & Observer, 310 N.C. 312, 317, 312 S.E.2d 405, 408-09 (1984) (citing *Flake*, 212 N.C. at 787, 195 S.E. at 60). "When [a] . . . publication is libelous *per se*, malice and damage are presumed from the fact of publication and no proof is required as to any resulting injury." *Flake* at 785, 312 S.E.2d at 59.

"Whether a publication is libelous *per se* is a question of law for the court." *Boyce*, 153 N.C. App. at 31, 568 S.E.2d at 899 (citation omitted). "When documents are attached to and incorporated into a complaint, they become part of the complaint and may be considered in connection with a Rule 12(b)(6) motion without converting it into a motion for summary judgment." *Schlieper v. Johnson*, 195 N.C. App. 257, 261, 672 S.E.2d 548, 551 (2009) (citation omitted). In this case, the parties agree that the adequacy of plaintiff's claim for defamation depends upon the contents of the Article, which was attached to plaintiff's complaint. There is no suggestion in the Article that plaintiff had committed an "infamous" crime or was suffering from an "infectious disease." Furthermore, plaintiff does not allege that the Article impeached

him in his trade or profession, the nature of which is not indicated in the record. Thus, resolution of this issue depends upon whether the Article contained false statements about plaintiff that would “tend to subject [him] to ridicule, contempt or disgrace.” *Flake, id.* “The system of notice pleading affords a sufficiently liberal construction of complaints so that few fail to survive a motion to dismiss.” *Ladd v. Estate of Kellenberger*, 314 N.C. 477, 481, 334 S.E.2d 751, 755 (1985). Upon review of the Article in light of this liberal pleading standard, and without consideration of the merits of plaintiff’s claim, we conclude that plaintiff’s complaint stated a claim for defamation.

The Article first describes three “general types” of *pro se* litigants: the “classic” *pro se* claimant, whom defendant describes as “bitter and pessimistic”; the “delusional” *pro se* litigant, who “has watched enough reality TV shows and legal courtroom dramas” that the litigant “feels equipped to win with with style and ease,” but is unaware of the “challenges that face the unrepresented in the court system”; and the “Eddie Haskell” *pro se* claimant, who “is determined to muck-up the wheels of justice while grinning sheepishly” and seeking “special favors with his or her ‘aw shucks’ antics.” On appeal, the parties have offered arguments as to whether the Article identified plaintiff as being the “Eddie Haskell” type of *pro se* litigant. However, the Article does not state that plaintiff typified one of these “types” of *pro se* litigants. Therefore, we conclude that this part of the Article is not defamatory

and that we need not determine whether plaintiff was intended to represent one of these general types of claimants.

Following the introduction to these “general types” of *pro se* litigants, the Article states: “First, let me assure you that I know of what I speak by telling a true story.” The “true story” in the Article first sets out in detail defendant’s efforts to ensure that “the *pro se* father wasn’t on an unequal footing simply because he was unrepresented by counsel.” Defendant states that throughout the trial she carefully explained the relevant legal issues and then “presented a detailed custody order including psychological counseling for the [plaintiff/father], schedules for the children, rules for attending school events, availability of email addresses, and a host of other details including the *pro se* claimant’s obligation to pay attorney’s fees.” The part of the Article upon which plaintiff’s claim for defamation rests is set out immediately following the description of defendant’s actions in conducting the hearing and presenting the order:

Unfortunately, the *pro se* father failed to meet any portion of his monetary obligations and disregarded terms of the order relating to care of his children. I was called back to the county for a contempt hearing two months later. Could it be that the *pro se* father disregarded much of what was said? Did he remember nothing of the trial? Had the courtesies extended and my patient good humor for eight days gone for naught? While I had made a concerted effort to start on the right foot in dealing with the *pro se* claimant, I was incensed by his inability to follow my directions, or to appreciate the time and efforts exerted on his behalf. Instead of stopping and taking a deep breath, I slid quickly

to the end of my rope, and with a heavy hand ordered a psychological evaluation of the defendant by a certain psychologist. (emphasis added)

“When examining an allegedly defamatory statement, the court must view the words within their full context and interpret them ‘as ordinary people would understand’ them.” *Boyce* at 31, 568 S.E.2d at 899 (quoting *Renwick*, 310 N.C. at 319, 312 S.E.2d at 409 (1984)). The crux of plaintiff’s claim for defamation rests on defendant’s assertion that plaintiff had “failed to meet any portion of his monetary obligations and disregarded terms of the order relating to care of his children.” We hold that these statements, considered alone and without any inferences, were of the type that would tend to expose plaintiff to “ridicule, contempt or disgrace” in plaintiff’s community and that plaintiff’s complaint, considered in conjunction with the Article attached to it as an exhibit, adequately stated a claim for defamation. Accordingly, the trial court erred by granting defendant’s motion for dismissal pursuant to N.C. Gen. Stat. § 1A-1, Rule 12(b)(6).

In urging us to reach a contrary result, defendants “do not dispute” that the Article “was published to third persons.” In addition, defendants agree that this Court “should focus on the Article itself for purposes of determining whether [plaintiff] has an actionable defamation claim” and “concede that [plaintiff] is the *pro se* father described in the True Story section of the Article[.]” We also observe that in his complaint plaintiff asserted that, although the Article did not identify him by

name, it was detailed enough that he was approached by several attorneys who recognized plaintiff as the subject of the “True Story,” an allegation that we are required to accept as true for purposes of reviewing a motion to dismiss pursuant to N.C. Gen. Stat. § 1A-1 Rule 12(b)(6). Defendants further acknowledge that the heart of plaintiff’s claim rests upon the Article’s statements that plaintiff “failed to meet any portion of his monetary obligations and disregarded terms of the order relating to care of his children.” As a result, the only disputed issue is whether these were false and defamatory statements.

Defendants first argue that this sentence from the Article contains only true statements. As discussed above, when considering a motion for dismissal under N.C. Gen. Stat. § 1A-1, Rule 12(b)(6), the factual allegations of plaintiff’s complaint are treated as true. Plaintiff has alleged that the statements at issue are false, and we are required to accept this for purposes of evaluating the sufficiency of plaintiff’s complaint. Defendants, however, contend that we should take “judicial notice” of our opinion in *Church v. Church*. Because a motion under N.C. Gen. Stat. § 1A-1, Rule 12(b)(6) is decided on the basis of the pleadings and any attachments, this Court has generally “decline[d] to take judicial notice of materials outside of the plaintiff[‘s] . . . complaint.” *Gilmore v. Gilmore*, 229 N.C. App. 347, 351, 748 S.E.2d 42, 45 (2013) (citing *Weaver v. Saint Joseph of the Pines, Inc.*, 187 N.C. App. 198, 203, 652 S.E.2d

701, 707 (2007) (“matters outside the complaint are not germane to a Rule 12(b)(6) motion”)).

Moreover, even assuming, *arguendo*, that we were to take judicial notice of *Church v. Church*, the opinion does not change the result in this case. Defendants contend that the truth of the statement that plaintiff had “failed to meet any portion of his monetary obligations” is demonstrated by the fact that *Church* upheld defendant’s finding that plaintiff was in contempt for failure to pay his ex-wife’s attorney’s fees. The sentence at issue, however, is not limited to attorney’s fees but expressly states that plaintiff had failed to “meet any portion” of his court-ordered obligations. Therefore, the fact that plaintiff was shown to be in arrears as to attorney’s fees does not establish the truth of defendant’s assertion that plaintiff had failed to meet “any portion” of his legal obligations. Secondly, defendants contend that the truth of the statement that plaintiff had “disregarded terms of the order relating to care of his children” is demonstrated by the fact that *Church* upheld defendant’s order directing plaintiff to obtain psychological counseling. However, the terms of the custody order “relating to care of his children” included, as stated in the Article, “schedules for the children, rules for attending school events, availability of email addresses, and a host of other details[.]” Defendants have articulated no connection between defendant’s order for plaintiff to obtain psychological counseling and his “disregard” of unspecified terms of the custody order, which included terms

addressing everyday matters such as school and vacation schedules. We conclude that the fact that defendant directed plaintiff to obtain counseling does not establish the truth of the statement that he had disregarded “terms of the order relating to care of his children.”

Defendants also argue that, even if false, these statements are not defamatory. Defendants essentially contend that the statement that plaintiff “failed to meet any portion of his monetary obligations and disregarded terms of the order relating to care of his children” is not defamatory absent an inference that the “monetary obligations” included child support. We disagree and conclude that it is for the jury to decide whether the statements were defamatory *per se*.

We have carefully reviewed the Record in this matter and have given much consideration to the issues presented. “As this case was dismissed [pursuant to Rule 12(b)(6)] prior to trial, the facts set forth herein are taken from the allegations of the complaint, which must be taken as true at this point. We express no opinion, of course, as to whether the plaintiff[] will be able to prove at trial that these allegations are true.” *Johnson v. Ruark Obstetrics & Gynecology Assocs., P.A.*, 327 N.C. 283, 286, 395 S.E.2d 85, 87 (1990) (citing *Ragsdale v. Kennedy*, 286 N.C. 130, 137, 209 S.E.2d 494, 499 (1974)).

IV. Conclusion

CHURCH V. NORELLI

Opinion of the Court

For the reasons discussed above, we conclude that the trial court erred by dismissing plaintiff's complaint and that its order must be

REVERSED.

Judges ELMORE and DILLON concur.

Report Per Rule 30(e).