UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

Steven J. Shaffer v. Berry Dunn McNeil & Parker, LLC

2026 DNH 028 · No. 25-cv-227-LM-TSM · Decided March 25, 2026

SUMMARY

The United States District Court for the District of New Hampshire denied Berry Dunn McNeil & Parker, LLC's motion to dismiss claims for defamation per se and intentional interference with contractual relations brought by Steven J. Shaffer. The court held that Shaffer plausibly alleged that statements concerning his trustworthiness and integrity could imply undisclosed defamatory facts when published to employees who were not part of the underlying discussions. The court also found plausible allegations of improper intent and damages based on the defendant's alleged interference with Shaffer's employment.

CASE DETAILS

COURT	United States District Court for the District of New Hampshire
WRITING FOR THE COURT	Landya B. McCafferty
JURISDICTION	United States District Court for the District of New Hampshire
DECIDED	March 25, 2026
DOCKET	25-cv-227-LM-TSM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought claims for defamation per se and intentional interference with contractual relations. Defendant moved to dismiss under Federal Rule of Civil Procedure 12(b)(6), and the court denied the motion.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts factual allegations as true, draws reasonable inferences in the plaintiff's favor, and determines whether the complaint states a facially plausible claim for relief. The court ordinarily considers the complaint, attached exhibits, and materials fairly incorporated into the complaint, including documents whose authenticity is undisputed and that are central to or sufficiently referenced in the complaint.
PRECEDENTIAL VALUE	Unknown; district court opinion designated 100trialcourt and marked per curiam.

PARTIES	Steven J. Shaffer v. Berry Dunn McNeil & Parker, LLC

TOPICS

motions to dismiss · defamation · intentional interference with contract · civil procedure · commercial litigation

PRACTICE AREAS

civil procedure · torts · commercial litigation

QUESTIONS PRESENTED

1. Whether Shaffer plausibly alleged that Berry Dunn's statements about his trustworthiness and integrity were actionable defamatory statements of fact or opinions implying undisclosed defamatory facts.
2. Whether the complaint plausibly alleged publication to third parties sufficient to support a defamation claim.
3. Whether qualified privilege required dismissal of the defamation claim at the pleading stage.
4. Whether Shaffer plausibly alleged intentional and improper interference with his contractual relationship with Littleton Regional.
5. Whether Shaffer plausibly alleged that Berry Dunn's conduct caused damage resulting from the alleged interference.

HOLDINGS

1. The complaint plausibly alleged a defamation claim because Berry Dunn's statements about Shaffer's trustworthiness, transparency, and integrity could reasonably be understood by readers who were not privy to the prior discussion as implying undisclosed defamatory facts.
2. The complaint plausibly alleged publication because the letter was allegedly viewed by Littleton Regional employees other than its named addressees, and negligent communication to a third person can constitute publication.
3. Qualified privilege did not provide a basis for dismissal under Rule 12(b)(6) because the privilege's applicability was a factual question for the trier of fact and could be addressed, at the earliest, on summary judgment.
4. The complaint plausibly alleged intentional and improper interference because the allegations supported an inference that Berry Dunn desired to harm Shaffer based on disagreements concerning the Employee Retention Tax Credit and the audit.
5. Shaffer was required to show that Berry Dunn was not a party to his employment contract with Littleton Regional, but he was not required to show that Berry Dunn lacked its own contractual relationship with Littleton Regional.
6. The complaint plausibly alleged resulting damage because the temporal proximity between Berry Dunn's letter and Shaffer's reprimand and employment restrictions, together with his prior positive employment

history, supported an inference that the letter contributed to his discipline and termination.

KEY QUOTATIONS

> *"For the following reasons, Berry Dunn's motion (doc. no. 22) is denied."* (2026 DNH 028)

> *"When the complaint relies upon a document, whose authenticity is not challenged, such a document 'merges into the pleadings' and the court may properly consider it under a Rule 12(b)(6) motion to dismiss."*

> *"Drawing all reasonable inferences in Shaffer's favor, he plausibly alleges that Berry Dunn published the letter to persons who were not present at the previous "candid discussion" where all three high-level executives expressed their "mutual reservations" regarding Shaffer's trustworthiness."*

FACTUAL BACKGROUND

Shaffer was Littleton Regional Healthcare's chief financial officer, and Berry Dunn was Littleton Regional's independent auditor. After Berry Dunn opined that Littleton Regional did not qualify for an Employee Retention Tax Credit, Shaffer obtained a contrary opinion from another accounting firm, helping Littleton Regional obtain approximately $10 million in benefits. Following disagreements concerning the tax credit and an audit, Berry Dunn sent Littleton Regional's leadership a letter stating that it had reservations about Shaffer's trustworthiness and concerns about his transparency and integrity. Other Littleton Regional personnel viewed the letter, after which Shaffer was reprimanded, subjected to employment restrictions, and later terminated.

PROCEDURAL HISTORY

Shaffer filed suit against Berry Dunn based on a letter Berry Dunn sent to Shaffer's employer concerning Berry Dunn's reservations about Shaffer's trustworthiness. Berry Dunn moved to dismiss both claims under Rule 12(b)(6). The court accepted the complaint's factual allegations as true, considered the authenticated letter because it was central to the claims and referenced in the complaint, and denied the motion.

DISPOSITION

other

CASES CITED

- Foley v. Wells Fargo Bank, N.A., 772 F.3d 63, 68, 71 (1st Cir. 2014)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Alternative Energy Inc. v. St. Paul Fire & Marine Insurance Co., 267 F.3d 30, 33 (1st Cir. 2001)
- Watterson v. Page, 987 F.2d 1, 3 (1st Cir. 1993)
- Beddall v. State Street Bank & Trust Co., 137 F.3d 12, 17 (1st Cir. 1998)
- Richards v. Union Leader Corp., 176 N.H. 789, 797 (2024)
- Automated Transactions, LLC v. American Bankers Association, 172 N.H. 528, 532-34 (2019)
- Pierson v. Hubbard, 147 N.H. 760, 763 (2002)
- Thomas v. Telegraph Publishing Co., 155 N.H. 314, 338 (2007)

- Gascard v. Hall, 175 N.H. 462, 465 (2022)
- Piccone v. Bartels, 785 F.3d 766, 772-73 (1st Cir. 2015)
- Catalfo v. Jensen, 657 F. Supp. 463, 468 (D.N.H. 1987)
- Yohe v. Nugent, 321 F.3d 35, 41 (1st Cir. 2003)
- Riley v. Harr, 292 F.3d 282, 289 (1st Cir. 2002)
- Chapin v. Knight-Ridder, Inc., 993 F.2d 1087, 1093 (4th Cir. 1993)
- Martin v. Mooney, 448 F. Supp. 3d 72, 84-85 (D.N.H. 2020)
- Lassonde v. Stanton, 157 N.H. 582, 593 (2008)
- McCarthy v. Manchester Police Department, 168 N.H. 202, 210 (2015)
- Duchesnaye v. Munroe Enterprises, Inc., 125 N.H. 244, 249, 253 (1984)
- Collins v. University of New Hampshire, 746 F. Supp. 2d 358, 373 (D.N.H. 2010)
- Simpkins v. Snow, 139 N.H. 735, 740 (1995)
- Chagnon v. Union Leader Co., 103 N.H. 426, 438 (1961)
- Cross v. Anderson, No. CV-00-51-M, 2000 WL 1867747, at *2 (D.N.H. Dec. 18, 2000)
- Pickering v. Frink, 123 N.H. 326, 329, 331 (1983)
- Hughes v. New Hampshire Division of Aeronautics, 152 N.H. 30, 40-41 (2005)
- Tessier v. Rockefeller, 162 N.H. 324, 338 (2011)
- Madeja v. MPB Corp., 149 N.H. 371, 383 (2003)
- Tsiatsios v. Anheuser-Busch, Inc., Civ. No. 07-CV-003-JL, 2009 WL 114557, at *5 (D.N.H. Jan. 16, 2009)
- Montrone v. Maxfield, 122 N.H. 724, 726 (1982)
