

STATE OF MICHIGAN
COURT OF APPEALS

THE RINK, INC.,

Plaintiff-Appellant,

v

EDWARD F. SOSNOSKI and KELLY
SOSNOSKI,

Defendants-Appellees.

UNPUBLISHED

July 27, 2001

No. 221279

Macomb Circuit Court

LC No. 98-005119-NZ

Before: Wilder, P.J., and Hood and Griffin, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order dismissing its complaint for failure to comply with an order directing it to disclose the basis for its demand of damages. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this action, seeking \$1,000,000 in damages for defamation and tortious interference with business relations. When plaintiff failed to properly respond to a request to admit that it had not suffered any loss of income or other economic damages, the trial court entered an order directing it to provide substantiation for the pecuniary harm it claimed to have resulted from the defamation. Plaintiff failed to do so and the court ordered the requested matters deemed admitted and dismissed the complaint.

Plaintiff first contends that the trial court erred in entering the dismissal because plaintiff did not receive notice of the hearing. It appears from the record that the trial court canceled all motions the day the matter was to be heard and put them over to the following week. MCR 2.119(E)(1). There is nothing in the court rules that requires the court to send written notice when it schedules a new hearing date and plaintiff has not cited any authority in support of its claim that it was entitled to written notice in such circumstances. Therefore, the issue has not been preserved for appeal. *Price v Long Realty, Inc*, 199 Mich App 461, 467; 502 NW2d 337 (1993).

Plaintiff next contends that it stated a claim for defamation, which is actionable irrespective of damages when the defamation pertains to one's business, and thus the court should not have dismissed the complaint for failure to provide evidence of pecuniary loss.

It is true that one element of a defamation claim is actionability of the statement irrespective of special harm (defamation per se) or the existence of special harm caused by the publication (defamation per quod), *Ireland v Edwards*, 230 Mich App 607, 614; 584 NW2d 632 (1998), and that defamation per se exists where the false statement injures a person in his profession or employment. *Glazer v Lamkin*, 201 Mich App 432, 438; 506 NW2d 570 (1993). Therefore, plaintiff was not required to plead or prove special damages. *Croton v Gillis*, 104 Mich App 104, 109-109; 304 NW2d 820 (1981). In this case, however, plaintiff did plead special damages, alleging that defendants' defamatory statements caused damage to its reputation in excess of \$1,000,000.

A complaint must include a demand for judgment. If the demand is for money damages, a specific amount may not be stated unless "the claim is for a sum certain or a sum that can by computation be made certain, or if the amount sought is \$25,000 or less." MCR 2.111(B)(2). By alleging and demanding specific damages of \$1,000,000, plaintiff implied that it could back its demand for that sum with evidence. Thus, in lieu of ruling that plaintiff was deemed to have admitted it had not suffered any damages at all when it failed to respond to the request for admissions, the court properly ordered plaintiff to file an amended answer disclosing the basis for the specific damages demanded. MCR 2.312(C). Rather than comply with the order or seek relief therefrom, plaintiff ignored it and offered no reasonable excuse for its failure to comply, other than its belief that the order was incorrect. However, a party may not disobey a court order even if it believes it was wrong. *Schumacher v Tidswell*, 138 Mich App 708, 722; 360 NW2d 915 (1984); *ARA Chuckwagon of Detroit, Inc v Lobert*, 69 Mich App 151, 161; 244 NW2d 393 (1976). Therefore, the trial court did not abuse its discretion in deeming the matters admitted. MCR 2.312(C). Although plaintiff's admission did not warrant dismissal in and of itself, see 2 Dean & Longhofer, Michigan Court Rules Practice (4th ed), § 2312.14, p 390, its refusal to obey the court's order without justification did. MCR 2.504(B)(1). *Marquette v Fowlerville*, 114 Mich App 92, 97; 318 NW2d 618 (1982). This Court will not reverse where the trial court reaches the right result for the wrong reason. *Taylor v Laban*, 241 Mich App 449, 458; 616 NW2d 229 (2000).

Affirmed.

/s/ Kurtis T. Wilder

/s/ Harold Hood

/s/ Richard Allen Griffin