

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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DAVID RUDOVSKY and	:	CIVIL ACTION –
LEONARD SOSNOV,	:	JURY TRIAL DEMANDED
	:	
Plaintiffs,	:	
	:	
v.	:	NO. 09-CV-727
	:	
WEST PUBLISHING CORPORATION,	:	
WEST SERVICES INC., AND	:	
THOMSON LEGAL AND REGULATORY	:	
INC. t/a THOMSON WEST,	:	
	:	
Defendants.	:	
	:	

ORDER

AND NOW, this ____ day of _____, 2010, upon consideration of Defendants’ Motion For Reconsideration Of That Portion Of The Court’s July 15, 2010 Memorandum and Order Addressing Defamation *Per Se*, and Plaintiffs’ Response thereto, response thereto, it is hereby ORDERED and DECREED that the Court’s July 15, 2010 Memorandum and Order, granting in part and denying in part Defendants’ Motion For Summary Judgment, is AMENDED as follows:

The first full sentence on Page 6 of the Memorandum (and the accompanying citation)¹ shall be DELETED and shall be replaced with the following language:

¹ That sentence states: “If it accepted this interpretation, i.e., that the pocket part communicates that purported experts on a legal subject had provided outdated and incomplete information, knowing that the reader would rely upon it, a jury could conclude that the pocket part constituted defamation per se, because the work ‘ascribes to another conduct . . . that would adversely affect his fitness for the proper conduct of his lawful business.’ Restatement (Second) of Torts § 573 (1977).”

“Because the statements at issue in this case are printed, this is a libel case, rather than a slander case. Under Pennsylvania law, all libels constitute defamation *per se*. *Agriss v. Roadway Express, Inc.*, 334 Pa. Super. 295, 322, 483 A.2d 456, 470 (1984); *Rhine v. Dick Clark Productions, Inc.*, 2000 WL 14875, at * 3 (E.D. Pa. Jan. 10, 2000), *aff’d*, 254 F.3d 1078 (3d Cir. 2001). Plaintiffs in libel cases are not required to prove special damages. *Marcone v. Penthouse Int’l Magazine for Men*, 754 F.2d 1072, 1080 (3d Cir.) (“In *Agriss*, the Superior Court reasserted the traditional rule under Pennsylvania law that a plaintiff may recover in a libel suit without proving special damages Thus *Marcone* need not have established any actual pecuniary harm”) (citation omitted), *cert. denied*, 474 U.S. 864 (1985); *Sprague v. American Bar Ass’n*, 276 F. Supp. 2d 365, 369 (E.D. Pa. 2003) (“Pennsylvania caselaw unambiguously holds that general damages are sufficient in libel cases”); *Caplan v. Fairchild Publications Corp.*, 1985 WL 4464, at * 2 (E.D. Pa. Dec. 13, 1985) (citing *Agriss* as “announcing the rule that all libel is actionable without proof of special damages”); Restatement (Second) of Torts § 569 (1977) (“One who falsely publishes matter defamatory of another in such a manner as to make the publication a libel is subject to liability to the other although no special harm results from the publication.”).”

IT IS SO ORDERED.

BY THE COURT:

Hon. John P. Fullam, U.S.D.J.