STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0374

Dr. Eric Ringsred,
Appellant,

vs.

City of Duluth, et al.,
Respondents,

Duluth News Tribune, et al.,
Respondents.

Filed September 19, 2022
Affirmed in part, reversed in part, and remanded
Bjorkman, Judge

St. Louis County District Court
File No. 69DU-CV-20-1055

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Robert Brandon Stock, Charlotte Jo Skar Rusch, Vogel Law Firm, Fargo, North Dakota (for respondents Duluth News Tribune, Forum Communications, and Peter Passi)

Considered and decided by Bjorkman, Presiding Judge; Slieter, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges the dismissal of his defamation and First Amendment retaliation claims against municipal respondents and media respondents. He argues that the district court (1) misapplied the law regarding dismissal under Minn. R. Civ. P. 12.02(e) and erred by dismissing most of his claims for failure to state an actionable claim, (2) abused its discretion by denying his motion to amend the complaint, and (3) erred by granting summary judgment dismissing the remaining defamation claims against the municipal respondents. We affirm in part, reverse in part, and remand for further proceedings.

FACTS

In mid-2020, appellant Eric Ringsred initiated this action against respondent City of Duluth and its former city attorney respondent Gunnar Johnson (collectively, the municipal respondents) and respondent Duluth News Tribune and its reporter respondent Peter Passi (collectively, the media respondents). Ringsred's complaint alleges the following facts.

He has been a long-time outspoken critic of Duluth's efforts with respect to historic preservation, including pursuing litigation against the city multiple times since the late 1990s. One site of particular conflict is an historic building known as the Kozy Bar and Apartments or the Pastoret Terrace (the property), which Ringsred purchased in 2006. After fire damaged the property in 2010, city officials condemned it for human habitation. The city rebuffed Ringsred's efforts to reoccupy undamaged parts of the property. He spent the next five years and significant resources working to repair the property. But he

failed to pay property taxes, and the property was forfeited to St. Louis County in December 2015. Ringsred sought to buy back the property the following month, but the Duluth Economic Development Authority (DEDA) purchased it to prevent its return to Ringsred. He subsequently filed two lawsuits against the city and DEDA regarding the property. During the pendency of those lawsuits, Johnson, who was then city attorney, made several false statements regarding Ringsred and the property. The media respondents published some of Johnson's false statements.

Based on these and similar alleged facts, Ringsred claims that (1) Johnson (and through him, the city) defamed him multiple times; (2) the media respondents defamed him by republishing Johnson's defamatory statements; (3) the municipal respondents interfered with his First Amendment rights by making false statements and engaging in other negative conduct toward him in retaliation for his prior lawsuits against and public opposition to the city; and (4) the media respondents conspired with the city to interfere with his First Amendment rights by publishing false statements and refusing to publish material depicting him positively or the city negatively.

Respondents moved to dismiss this action under Minn. R. Civ. P. 12.02(e) for failure to state a claim upon which relief could be granted. Ringsred opposed the motions with respect to his first three claims but agreed that his First Amendment retaliation claim against the media respondents should be dismissed. The district court granted the media respondents' motion in its entirety and partially granted the municipal respondents' motion, dismissing all but two defamation claims.

Ringsred subsequently moved to amend his complaint. He sought to add his company, Temple Corp., as a second plaintiff and to assert additional claims against the media and municipal respondents. He also sought to add several new defendants: Duluth Mayor Emily Larson, DEDA, St. Louis County, Johnson in his individual capacity, and Zack Filipovich and Roz Randorf, who are both DEDA Commissioners and Duluth City Councilmembers. The district court denied the motion on the grounds that the proposed amendments were procedurally flawed, futile, or both.

Shortly thereafter, the municipal respondents moved for summary judgment on the remaining defamation claims. The district court granted the motion, reasoning that dismissal of the claims was appropriate since Johnson was no longer in office and Ringsred failed to substitute the current city attorney. Rinsgred again moved to amend his complaint to add the current city attorney as a party. The district court denied the motion as an improper request for reconsideration. Ringsred appeals.

DECISION

I. The district court erred by dismissing most of Ringsred's claims under Minn. R. Civ. P. 12.02(e).

A complaint is subject to dismissal if it "fail[s] to state a claim upon which relief can be granted." Minn. R. Civ. P. 12.02(e). We review dismissal of an action under rule 12.02(e) de novo, accepting all alleged facts as true and construing "all reasonable inferences in favor of the nonmoving party." *Abel v. Abbott Nw. Hosp.*, 947 N.W.2d 58, 68 (Minn. 2020) (quotation omitted).

A complaint must "contain a short and plain statement of the claim showing that the pleader is entitled to relief." Minn. R. Civ. P. 8.01. It is sufficient when it affords the adverse party "fair notice . . . of the incident giving rise to the suit with sufficient clarity to disclose the pleader's theory upon which his claim for relief is based." *Halva v. Minn. State Colls. & Univs.*, 953 N.W.2d 496, 503 (Minn. 2021) (quotation omitted). This may be accomplished through broad and conclusory factual statements. *Id.* at 500-01. On a motion to dismiss, "it is immaterial whether or not the plaintiff can prove the facts alleged." *Martens v. Minn. Min. & Mfg. Co.*, 616 N.W.2d 732, 739 (Minn. 2000). Rather, a claim should be dismissed "only if it appears to a certainty that no facts, which could be introduced consistent with the pleading, exist which would support granting the relief demanded." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 602 (Minn. 2014) (emphasis omitted) (quotation omitted).

A. Rinsgred's complaint sufficiently asserts defamation claims against the media respondents.

A party asserting a defamation claim must establish that: (1) the defendant made a statement to someone other than the plaintiff, (2) the statement is false, (3) the statement "tends to harm the plaintiff's reputation and to lower the plaintiff in the estimation of the community," and (4) the recipient "reasonably understands" the statement to refer to a specific individual. *Larson v. Gannett Co., Inc.*, 940 N.W.2d 120, 130 (Minn. 2020) (quotation omitted), *cert. denied*, 141 S. Ct. 559 (2020). But "[e]ven if every element of a defamation claim is established, a speaker is not liable if an absolute or qualified privilege protects the defamatory statement and the qualified privilege is not abused." *Id.*

Ringsred alleges that the media respondents defamed him by republishing three statements made by Johnson that they knew were false. The first two are contained in an April 25, 2018 article stating: (1) "Duluth City Attorney Gunnar Johnson said the building already was structurally compromised when DEDA took over ownership of the building[]," and (2) "'All that [building damage] occurred when Eric owned the building,' Johnson said." And the third statement is contained in an October 7, 2019 article stating: "Duluth City Attorney Gunnar Johnson called the decision 'pivotal' in the prolonged efforts by Ringsred to prevent redevelopment of the property."

Ringsred argues that the district court erred by concluding that the media respondents are protected by a "publishing or transmitting" privilege because they merely republished the three "direct quotes" from Johnson. This argument has merit.

"Under the republication doctrine, a speaker may be liable for repeating the defamatory statements of another." *Id.* at 131; *see also* Restatement (Second) of Torts § 578 (1977) (recognizing that "one who repeats or otherwise republishes defamatory matter" is generally liable "as if he had originally published it"). But a speaker that "merely deliver[s] or transmit[s] defamatory material previously published by another" is not liable unless "they knew, or had reason to know, that the material was false and defamatory." *Church of Scientology of Minn. v. Minn. State Med. Ass'n Found.*, 264 N.W.2d 152, 156 (Minn. 1978). This narrow exception is premised on the speaker's reliance on reputable sources of information. *See id.* (reasoning that state medical association had no reason to know that American Medical Association article it distributed contained false information); *accord Cole v. Star Tribune*, 581 N.W.2d 364, 368-69 (Minn. App. 1998) (determining

that St. Paul Pioneer Press had no reason to know that Associated Press article contained false information). But Ringsred expressly alleges that the media respondents knew Johnson's statements were false. Accordingly, the "publishing or transmitting" privilege does not protect the media respondents from liability for republishing Johnson's allegedly false statements.

Nonetheless, "a dismissal must be affirmed if it is clear that no relief can be granted under any set of facts that can be proved consistent with the allegations." *Nelson v. Productive Alternatives, Inc.*, 715 N.W.2d 452, 454 (Minn. 2006). So we consider whether the defamation claims against the media respondents are subject to dismissal on either of the alternative grounds they asserted in the district court—the limited-purpose public-figure privilege or the fair-and-accurate-reporting privilege.

False statements about a limited-purpose public figure are not actionable as defamation unless made with "actual malice." *Chafoulias v. Peterson*, 668 N.W.2d 642, 648-49 (Minn. 2003). Ringsred does not dispute that he is a limited-purpose public figure with respect to historic preservation in Duluth. *See id.* at 651 (explaining that a plaintiff is a limited-purpose public figure if they "played a meaningful role" in a "public controversy" and the allegedly defamatory statement related to the controversy). But, as noted above, he alleges that the media respondents published the statements in question with knowledge that they were false, which is the very definition of actual malice. *See id.* at 654. As such, the limited-purpose public-figure privilege does not warrant dismissal under rule 12.02(e).

We are similarly unconvinced with respect to the fair-and-accurate-reporting privilege. That privilege protects a speaker from liability for repeating or fairly

summarizing the defamatory statements of another made in a public proceeding or meeting, largely because a fair report would "simply relay" information that a reader could have seen or heard directly at the public meeting. *Larson*, 940 N.W.2d at 132-33. We discern no basis for applying the privilege here, since nothing in or attached to the complaint indicates that the statements in question were made in a public context.

In sum, Ringsred's complaint sufficiently states defamation claims against the media respondents, and none of the claimed privileges warrant rule 12 dismissal.

B. Ringsred's complaint sufficiently asserts a First Amendment retaliation claim against the municipal respondents.

The First Amendment prohibits government officials from retaliating against an individual for engaging in protected speech. *Nieves v. Bartlett*, 139 S. Ct. 1715, 1722 (2019). The avenue for pursuing a retaliation claim is 42 U.S.C. § 1983 (2018). *Peterson v. Kopp*, 754 F.3d 594, 602 (8th Cir. 2014). A plaintiff pursuing a retaliation claim must show that: (1) the plaintiff engaged in protected activity, (2) the government defendant's actions caused an injury to the plaintiff "that would chill a person of ordinary firmness from continuing to engage in the activity," and (3) "a causal connection exists between the retaliatory animus and the injury." *Scott v. Tempelmeyer*, 867 F.3d 1067, 1070 (8th Cir. 2017). The defendant's retaliatory conduct may be official policy or governmental "custom" or "usage." 42 U.S.C. § 1983; *see Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 690-91 (1978) (discussing municipal liability and the reason for section 1983's broad language). But the conduct "does not itself need to be a constitutional violation in order to be actionable." *Cody v. Weber*, 256 F.3d 764, 771 (8th Cir. 2001).

Ringsred alleges the city engaged in a "running battle" against him in retaliation for his lawsuits and other public opposition—activities undisputedly protected under the First Amendment. He alleges as retaliatory the following conduct: city police defamed him in March 2009; city officials denied occupancy of undamaged parts of the property after the 2010 fire; St. Louis County and DEDA prevented him from repurchasing the property in January 2016; Johnson defamed him in April 2018 and October 2019; and city police failed to provide a normal level of police protection at another property he owned in early 2020.

The district court dismissed Ringsred's retaliation claim because it was (1) time-barred by a four-year statute of limitations and (2) failed to state an actionable claim. Ringsred challenges both decisions.

1. Statute of Limitations

As the municipal respondents acknowledge, the district court erred by applying a four-year limitations period; the applicable statute of limitations is six years. *United States v. Bailey*, 700 F.3d 1149, 1153 (8th Cir. 2012). To the extent Ringsred asserts discrete claims, this means claims based on conduct before 2014 are barred. But Ringsred contends the alleged retaliatory actions constitute a continuing violation. "The continuing violations doctrine is an equitable doctrine that can toll the statute of limitations where a pattern of discriminatory conduct constitutes a sufficiently integrated pattern to form, in effect, a single discriminatory act." *Abel*, 947 N.W.2d at 70 (quotation omitted). This doctrine is similar to the concept of retaliation through governmental custom. To the extent a plaintiff alleges retaliation as custom, they must point to, and eventually prove, a "continuing, widespread, persistent pattern." *Mitchell v. Kirchmeier*, 28 F.4th 888, 899 (8th Cir. 2022).

Ringsred alleges such a pattern—a 20-year "running battle" of direct and indirect retaliatory conduct—which is sufficient to toll the statute of limitations.

2. Failure to State a Claim

The district court concluded that Ringsred failed to state a retaliation claim because he has not "shown" a policy or custom, causation, or a chilling effect. In challenging this conclusion, Ringsred argues, in relevant part, that the district court applied too high a pleading standard and failed to assume the truth of his allegations. We agree.

As our supreme court recently reaffirmed, Minnesota law does not require plaintiffs to "allege facts and every element of a cause of action" to survive a motion to dismiss. *Abel*, 947 N.W.2d at 78.[1] They need only set forth allegations from which a court "can infer . . . a factual basis to support each element of the . . . claim." *Hansen v. U.S. Bank Nat'l Ass'n*, 934 N.W.2d 319, 325 (Minn. 2019). Likewise, Minnesota courts faced with a motion to dismiss do not assess a claim's plausibility, *Walsh*, 851 N.W.2d at 603 (declining to adopt federal plausibility standard), or the likelihood that the plaintiff will be able to prove the facts alleged, *Martens*, 616 N.W.2d at 739. Rather, we assume the truth of the plaintiff's allegations and permit the claims to "go forward unless there is no way to construe the alleged facts—and the inferences drawn from those facts—in support of the plaintiff's claim." *Abel*, 947 N.W.2d at 68, 78.

[1] The municipal respondents cite to *Zutz v. Nelson*, 601 F.3d 842, 848-49 (8th Cir. 2010), as authority for requiring Ringsred to plead each element of a First Amendment retaliation claim. Because *Zutz* diverges from Minnesota caselaw on this and other pleading principles, the municipal respondents' reliance is misplaced. *See Walsh*, 851 N.W.2d at 603 (noting supreme court's power to regulate state court pleadings and procedure).

The district court departed from this liberal pleading standard by requiring Ringsred to "show" the elements of his retaliation claim. Ringsred expressly articulated the elements of a First Amendment retaliation claim. And his allegations as a whole support inferences that the city took various adverse actions against him, directly and indirectly, over a number of years; it did so as a matter of formal policy or accepted custom; its motive for doing so was to retaliate for his litigation and public outcry against the city; and the city's actions may have dissuaded an ordinary person from continuing his protected activities. As such, his retaliation claim is not subject to dismissal for failure to state a claim.

C. Ringsred agreed to dismiss the only First Amendment retaliation claim he asserted against the media respondents.

Ringsred acknowledges that he agreed the district court should dismiss his claim that the media respondents conspired with the municipal respondents to deprive him of his First Amendment rights because the claim "erroneously invoked" 42 U.S.C. § 1985 (2018). He appears to suggest that the dismissal was improper because he intended to release only a class-based conspiracy claim under section 1985, not an individual conspiracy claim under section 1983. We are not persuaded. While his memorandum opposing dismissal asserted that a conspiracy claim against the media respondents would be viable under section 1983, it did not suggest that the complaint could be construed as asserting such a claim or seek amendment to add it. We discern no error by the district court in dismissing

Ringsred's First Amendment retaliation claim against the media respondents without addressing the prospect of some alternative iteration of that claim.[2]

II. The district court abused its discretion by entirely denying Ringsred's first motion to amend the complaint.

After a responsive pleading has been served, "a party may amend a pleading only by leave of court or by written consent of the adverse party." Minn. R. Civ. P. 15.01. A court should "freely" grant a motion to amend a pleading, *id.*, unless doing so would "result[] in prejudice to the other party," *Bridgewater Tel. Co. v. City of Monticello*, 765 N.W.2d 905, 915 (Minn. App. 2009), *rev. denied* (Minn. June 16, 2009). Denial is also appropriate "if the proposed amendment would be futile because it would serve no useful purpose." *U.S. Bank Nat'l Ass'n v. RBP Realty, LLC*, 888 N.W.2d 699, 705 (Minn. App. 2016); *see Hunt v. Univ. of Minn.*, 465 N.W.2d 88, 95 (Minn. App. 1991) (stating that "an amendment to a complaint may properly be denied when the additional alleged claim cannot be maintained"). We generally review the denial of a motion to amend a complaint for an abuse of discretion. *Bridgewater Tel. Co.*, 765 N.W.2d at 915. But if a district court denies the motion on the ground that amendment would be futile, we review the underlying legal ruling de novo. *U.S. Bank Nat'l Ass'n*, 888 N.W.2d at 705.

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[2] Ringsred also argues that the district court erred by "dismissing" and "failing to consider" an equal-protection claim. But the complaint does not assert an equal-protection claim. And while he suggested in his memorandum opposing the rule 12 motions that his First Amendment retaliation claim against municipal respondents is "compatible" with an equal-protection retaliation case, he did not contend that his complaint asserted such a claim, either expressly or by logical inference. The district court did not err in dismissing or failing to recognize an equal-protection claim that Ringsred did not assert.

A. The district court did not abuse its discretion by denying the motion to add unrepresented Temple Corp. as a plaintiff.

The district court denied Ringsred's motion because Temple Corp. was not represented by counsel and Ringsred knew or should have known that legal representation was required.[3] Ringsred acknowledges that "a corporation must be represented by an attorney in legal proceedings" from the time it files its first pleading. *Save Our Creeks v. City of Brooklyn Park*, 699 N.W.2d 307, 309 (Minn. 2005). He contends his company was not required to have attorney representation until it was joined as a party, but he cites no authority for the proposition. He also emphasizes that the omission of an attorney's signature on a pleading is a "curable defect." *Id.* at 309-10. But a cure is permissible only if, among other factors, "the corporation act[ed] without knowledge that its action was improper," and "the corporation diligently corrects its mistake by obtaining counsel." *Id.* at 311 (quotation omitted). The district court found these requirements were not satisfied, and Ringsred does not challenge those findings. On this record, Ringsred has not demonstrated an abuse of discretion by the district court in declining to join Temple Corp. as a plaintiff.

B. The district court abused its discretion by denying the motion to add claims against Councilmembers Filipovich and Randorf.

The district court reasoned that joinder of Filipovich and Randorf was improper because (1) Ringsred did not list them in the caption of the proposed amended complaint, and (2) the proposed new claims fail because the defamation claims rely on "nothing but a

[3] Ringsred's current counsel filed a certificate of representation on Temple Corp.'s behalf six weeks after the district court took the motion under advisement.

conclusory statement of harm" and the "constitutional claims" have "the same deficiencies" as those previously dismissed against the municipal respondents.

Ringsred admits that he inadvertently omitted Filipovich and Randorf from the caption but argues that the district court erred by failing to consider the complaint as a whole. We agree. The rules of civil procedure require that a complaint include "the names of all the parties" in "the title of the action." Minn. R. Civ. P. 10.01. But "courts should construe pleadings liberally in favor of the pleader and judge them by their substance and not their form." *Basich v. Bd. of Pensions of Evangelical Lutheran Church in Am.*, 493 N.W.2d 293, 295 (Minn. App. 1992). The body of the complaint plainly identifies Filipovich and Randorf as defendants with respect to particular claims, and their omission from the case caption is easily cured. The district court abused its discretion by denying joinder under these circumstances.

The municipal respondents urge us to affirm on the district court's alternative ground—that the proposed claims against the councilmembers are futile. But their reasoning is legally flawed in two ways. First, the defamation claim does not fail for want of more specific allegations as to harm because Minnesota law requires no greater specificity at the pleading stage.[4] *See Halva*, 953 N.W.2d at 503 (stating that plaintiff may

[4] The municipal respondents also contend the defamation claims are futile because Filipovich's and Randorf's statements are not susceptible of a defamatory meaning—a position they advanced to the district court but which the court did not address. Whether a statement's language "reasonably conveys a defamatory meaning" is a question of law. *McKee v. Laurion*, 825 N.W.2d 725, 731 (Minn. 2013). Ringsred alleges that Filipovich and Randorf said the property was "allowed to fall into that type of disrepair because of [Ringsred's] lack of action" and Ringsred "didn't manage [the property] and maintain it." Because these statements accuse Ringsred of mismanaging the property and causing its

rely on conclusory factual statements). Second, because the First Amendment retaliation claim as originally asserted against the municipal respondents is not deficient, the district court's reliance on its contrary determination as the rationale for denying the amendment is error.

C. The district court abused its discretion by denying the motion to add a claim against Mayor Larson.

As with Filipovich and Randorf, the district court reasoned that (1) the joinder of Mayor Larson was improper because Ringsred failed to list her in the caption, and (2) the First Amendment retaliation claim contains "the same deficiencies" as those previously dismissed.

Ringsred again persuasively challenges the first aspect of the district court's reasoning: Larson's name was, in fact, in the caption of the proposed amended complaint. The municipal respondents repeat their argument that the district court nonetheless appropriately denied the amendment as a futile restatement of Ringsred's dismissed First Amendment retaliation claim. Because we reverse the district court's dismissal of that claim, we conclude it was not futile to reassert the claim and add a claim against Mayor Larson for her alleged role in the retaliation.[5]

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state of disrepair (much like those underlying the original defamation claims against the municipal respondents), they are factual statements that "tend to harm" Ringsred's reputation and, therefore, reasonably convey a defamatory meaning. *Id.* (quotation omitted).

[5] Ringsred does not expressly challenge the denial of his request to add claims against DEDA, St. Louis County, and Johnson in his individual capacity. To the extent he purports to do so by arguing that the district court abused its discretion by denying his request to make "clarifications and modifications" to the complaint, he forfeited the challenge by

III. The municipal respondents are entitled to summary judgment on Ringsred's remaining defamation claims.

Summary judgment is proper when "there is no genuine issue as to any material fact" and the moving party "is entitled to judgment as a matter of law." Minn. R. Civ. P. 56.01. The nonmoving party "must do more than rest on mere averments to create a genuine issue of material fact that precludes summary judgment." *Hagen v. Steven Scott Mgmt., Inc.*, 963 N.W.2d 164, 172 (Minn. 2021) (quotation omitted). When that party "bears the burden of proof on an element essential to that party's case," it must "make a showing sufficient to establish that essential element." *Eng'g & Constr. Innovations, Inc. v. L.H. Bolduc Co.*, 825 N.W.2d 695, 704 (Minn. 2013) (quotation omitted). We review de novo whether there are genuine issues of material fact and whether the district court correctly applied the law. *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017).

The district court granted summary judgment dismissing the remaining defamation claims against the municipal respondents because Johnson is no longer the city attorney and Ringsred did not substitute his successor as a defendant under Minn. R. Civ. P. 25.04. Ringsred argues that the district court erred by dismissing the claims because doing so improperly permits the city to "escape liability." We agree that dismissing the claims against the city on this basis was error.

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failing to provide supporting authority or argument. *See In re Application of Olson*, 648 N.W.2d 226, 228 (Minn. 2002).

By dismissing the claims against both municipal respondents based on Ringsred's failure to substitute Johnson's successor, the district court effectively treated the city's liability as dependent on Johnson's liability. This was the treatment that the municipal respondents sought, arguing that without Johnson as a defendant there was no basis for "vicarious" or "derivative" claims against the city. But this argument mischaracterizes the nature of Ringsred's claims.

Ringsred sued Johnson in his official capacity. An official-capacity suit is "another way of pleading an action against an entity of which an officer is an agent." *Monell*, 436 U.S. at 690 n.55; *see also Hafer v. Melo*, 502 U.S. 21, 25 (1991) (explaining that "the real party in interest in an official-capacity suit is the governmental entity and not the named official"); *McGautha v. Jackson Cnty., Mo., Collections Dep't*, 36 F.3d 53, 56 (8th Cir. 1994) ("Respondeat superior does not apply under section 1983 because municipal liability is limited to conduct for which the municipality is itself actually responsible.") Thus, Ringsred's claims against the city are not derivative of claims against Johnson but duplicative of them—simply an alternative form of pleading. Indeed, the municipal respondents acknowledge that because Johnson "is named in his official capacity only," the claims against him "are tantamount to claims against the City." Consequently, even if rule 25.04 justified dismissing claims against Johnson, that dismissal would not, in and of itself, justify dismissing claims against the city.

The municipal respondents urge us to affirm the district court's decision on the alternative ground that the limited-purpose public-figure privilege shields them from liability. *See Day Masonry v. Indep. Sch. Dist. 347*, 781 N.W.2d 321, 331 (Minn. 2010)

(permitting a party to "stress any sound reason for affirmance" (quotation omitted)). As noted above, since Ringsred does not dispute that he is such a public figure, he must prove that the municipal respondents acted with actual malice in making the allegedly defamatory statements. *Chafoulias*, 668 N.W.2d at 649. To do so, he must present evidence that the municipal respondents knew the statements were false or acted with "reckless disregard" for whether they were false. *Id.* at 654 (quotation omitted); *see also Maethner v. Someplace Safe, Inc.*, 929 N.W.2d 868, 879 n.7 (Minn. 2019) (requiring "sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication," and clarifying that evidence of "ill will" is insufficient (quotation omitted)). Ringsred failed to do so.

In opposing summary judgment, Ringsred asserted that the "facts on record" sufficiently raise a jury question as to whether Johnson's statements were knowingly or recklessly false. But Ringsred conducted no discovery and placed no "facts on record," only a district court decision from one of his lawsuits against the city. Because Ringsred failed to demonstrate a genuine issue of material fact as to actual malice, the municipal respondents are entitled to summary judgment dismissing the remaining defamation claims.

Based on the foregoing conclusions, we remand for the district court to reinstate the matter and permit Ringsred to file an amended complaint asserting (1) defamation claims against the media respondents, (2) a First Amendment retaliation claim against the municipal respondents, (3) defamation and First Amendment retaliation claims against

Councilmembers Filipovich and Randorf, and (4) a First Amendment retaliation claim against Mayor Larson.

Affirmed in part, reversed in part, and remanded.