

---

IN RE PUBLIC DOCUMENTS  
IN THE JUDICIAL PROSECUTION OF  
DAVID & JANE JOHNSON  
BY  
ALLEN H. LIBOW ESQ. ET AL  
FOR  
FILING A COMPLAINT WITH THE FLORIDA BAR

---

Plaintiffs sued Defendants relentlessly for defamation but the suit was dismissed on the bases that some of the opinions expressed in the David Johnson's complaint filed with The Florida Bar were mere opinions and not statements of fact actionable at law; that some statements made to the Plaintiff's assistants did not meet the criterion for defamation that a statement must be published; that complaints made against lawyers with the Florida Bar are privileged communications and are therefore not legal grounds for a defamation suit; and that Mrs. Johnson had not made any statement at all. Whether the statements made were true or not was not examined by the court. The records disclose that Mr. Johnson believed the case was maliciously prosecuted by means of a perversion of legal process, and indicate that he has yet to recover hundreds of thousands of dollars in court costs and attorneys' fees.

---

Attorneys, journalists and others interested in this case can retrieve the documents from the public records sites using the following search information:

LIBOW & SHAHEEN LLP vs. DAVID JOHNSON and JANE JOHNSON

CASE 2005 CA 003299 - IN THE JUDICIAL COURT OF THE 15TH CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

CASES 4D06-2242 & 4D08-1014 - FOURTH DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

---

Examples attached hereto:

May 11, 2006	2005 CA 03299 A1 (502005CA003299) ORDER TO DISMISS
Aug. 18, 2008	4D08-1014 JOHNSON'S ANSWER BRIEF
July 8, 2009	4D08-1014 PER CURIAM AFFIRMED

---

IN THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY,  
FLORIDA

CASE NO. 502005CA003299XXXXMB

LIBOW & SHAHEEN LLP, a Florida  
limited liability partnership,  
Plaintiff(s),

vs.

DAVID JOHNSON and JANE JOHNSON,  
Defendant(s).



**ORDER ON DEFENDANTS' MOTION TO DISMISS FIFTH AMENDED  
COMPLAINT AND ORDER OF MEDIATION**

THIS CAUSE came before the Court **April 28, 2006** on Defendants' Motion to Dismiss Fifth Amended Complaint with Prejudice, with Plaintiffs present and all parties well represented by counsel. The Court, by separate order, has dealt with the portion of the Motion seeking dismissal of Counts 1-4. Consequently, this Order addresses the portion of the Motion seeking dismissal of Counts 5 and 6.

**I. Introduction**

The Fifth Amended Complaint alleges that David and Jane Johnson hired Libow & Muskat, LLP, Libow & Shaheen, LLP's predecessor, as their counsel. Allen Libow is a principal in that firm. He and his wife, Melissa, claim that the Johnsons defamed them in letters written to The Florida Bar and e-mails written to other personnel at the firm.

The Court's January 30, 2006 Order on Defendants' Corrected Motion to Dismiss Fourth Amended Complaint with Prejudice required the Libows to (i) redact non-defamatory statements from exhibits, so that the parties and the court would know which statements they contended were defamatory,<sup>1</sup> and (ii) allege with specificity which statements were uttered by which Defendant. The Libows failed to comply with the first directive as to Exhibit C, the letter allegedly sent to The Florida Bar and copied on the

---

<sup>1</sup>Paragraphs 41, 42, and 51 purport to list a "sample" of the defamatory statements. Particularity in pleading is required for defamation by written statement, though. See Scott v. Busch, 90 So. 2d 662 (Fla. 5<sup>th</sup> DCA 2005).

5/15/06

Florida Attorney General's office, The Federal Trade Commission, and Governor Bush ("Bar Letter").<sup>2</sup> Exhibit D includes a redacted version of Exhibit C which, consistent with the January 30, 2006 Order, the Court has interpreted to include the portions of Exhibit C the Libows contend are defamatory. Further, Mr. Libow contends that Mrs. Johnson published the defamatory statements alleged in paragraph 41 m. - u. Those statements, however, are included in the second document attached as part of composite Exhibit D, a letter to counsel for The Florida Bar on its face authored by Mr. Johnson alone. The Fifth Amended Complaint makes no more specific allegations of the recipients of the allegedly defamatory statements than the attachments themselves. See ¶¶ 16, 17, 41, 42, 51. Consequently, the exhibits control. See Rule 1.130(b), Fla. R. Civ. P.; Trawick Fla. Prac. and Proc., §6-15 (2006 ed.); Harry Pepper & Associates, Inc. v. Lasseter, 247 So. 2d 736 (Fla. 3d DCA 1971), cert. den. 252 So. 2d 797 (Fla. 1971). Mrs. Johnson is facially a party to the Bar Letter only.<sup>3</sup>

## II. The Allegations

Piecing together the allegations of the Fifth Amended Complaint and its attachments, viewed in light of the Court's January 30, 2006 Order and specificity requirement of Scott, the Libows contends the following statements are defamatory. Where the body of the Fifth Amended Complaint paraphrases, draws conclusions from, or incompletely quotes from the exhibits, the specific allegations from the Complaint's body are italicized:

### A. Statements as to Mr. Libow allegedly made by both Defendants:

1. Published to The Florida Bar, the Office of the Florida Attorney General, the Federal Trade Commission, and Governor Jeb Bush by Mr. and Mrs. Johnson:
  - a.) *Jessie James used a horse and a six-gun to carry out his robberies.*  
*Mr. Libow uses a computer and the United States Mail to carry out his.*

---

<sup>2</sup>At the hearing, the Libows' counsel argued that the entire letter was defamatory, but that clearly is not so.

<sup>3</sup>At the hearing, the Libows' counsel argued that that letter attached some of the e-mails, so she is a publisher of those as well. The problem, of course, is that the Bar Letter was allegedly published to different parties than the e-mails. Further, the attachments to the Bar Letter were not included as part of Exhibit C or D and, apparently, are not the subject of the Libows' claims. (see ¶¶ 17, 39).

*Allen H. Libow uses a computer and the U.S. Mail to carry out robberies.*

b.) I have since been told by Ms. Becker that what happened to me was not unique, but was in fact standard practice with regard to what Mr. Libow considers to be his "less sophisticated clients."

*Allan H. Libow performs these robberies on his "less sophisticated clients."*

c.) He had (*has*) no regard for whom he hurt, whom he slandered or whom he stole from.

d.) However that fact [that all communications was done through email] would not prevent Mr. Libow from contacting the Boca Raton Police Department and the Jacksonville Police Department, concocting a story and filing a false police report.

*Allen H. Libow "concoct[ed] a story and file[d] a police report."*

e.) This attorney, made a calculated effort to gain some advantage in this civil controversy and at the same time avoid his ethical obligations as dictated by (DR-7-105 rules; 4-3.1, 4-4.4, 4-8.4(c) and 4-8.4(d)).

*Allen H. Libow "made a calculated effort to . . . avoid his ethical obligations . . ."*

f.) This incident speaks volumes as to the character and total absence of ethics of Mr. Libow.

*Allen H. Libow has a "total absence of ethics . . ."*

g.) I suspect that *it is possible if not probable that Mr. Libow [Allen H. Libow] modified (forged) some of the emails* in order to accomplish the desired effect on his wife.

h.) Also, I am told that his wife [*Melissa T. Libow*] *is on the verge of divorcing him for other transgressions.*

i.) An example of Mr. Libow's propensity for and expertise at twisting the truth to suit his psychotic agenda can be found on exhibit G.

*Allen H. Libow has a "psychotic agenda."<sup>4</sup>*

---

<sup>4</sup>Exhibit G was not attached.

j.) Now, you have to be a pretty creative, twisted, lying son of a bitch to convince your soon to be ex-wife to report that [the Johnsons' statement that they will "seek every lawful remedy available to me under every relevant authority to take you to task for your transgressions"] to the police as a "physical threat".

*Allen H. Libow is a "creative, twisted, lying son of a bitch."*

k.) He [Allen H. Libow] is a pathological liar.

l.) He [Allen H. Libow] is intellectually and emotionally unfit for his position of trust in the community.

2. Published to The Florida Bar counsel and Mr. Libow by Mr. Johnson only:

a.) I believe him to be mentally unstable. That makes him [Allen H. Libow is] dangerous to himself and others.

b.) How much longer is Bar Counsel going to permit this psychotic misfit to abuse the process of law.

*Allen H. Libow is a "psychotic misfit." Allen H. Libow "abuse[s] the process of law.*

c.) This lawyer is totally out of control and uses the legal system not as a tool for resolution but as a weapon of harassment and intimidation. This is without a doubt one of the most psychologically disturbed individuals that I have ever encountered. Something must be done to protect my wife and I and the rest of the public from this mentally unbalanced individual.

*Allen H. Libow "is totally out of control." Allen H. Libow "uses the legal system not as a tool for resolution but as a weapon of harassment and intimidation." Allen H. Libow is "one of the most psychologically disturbed individuals [you] have ever encountered." Allen H. Libow poses a threat to you, your wife or the rest of the public. Allen H. Libow is mentally un-balanced."*

3. Published to Mr. Libow only by Mr. Johnson:

a.) Given your [Allen H. Libow has a] predisposition for dishonesty and wild accusations, I would be a little more careful with the threats if I were you.

b.) Given the [Allen H. Libow used] unlawful and unethical collection methods

employed by you, you have not so much as a prayer of prevailing before a jury in the instant civil matter. A prudent person would realize that fact.

4. Published to Chad Laing by Mr. Johnson:

a.) I am likewise certain that you routinely ignore the rules of the court that run contrary to your *[Allen H. Libow has c] twisted agenda* for winning at any price.

5. Published to Mr. Libow, Marilyn Van Valkenburgh, and Cynthia Becker by Mr. Johnson:

a.) As previously discussed, the primary catalyst for this dispute is and has always been your attempt to steal money from me via your *[Allen H. Libow uses] unlawful [business] billing practices*. That coupled with your disparaging remarks with regard to the character and competence of Cynthia Becker. The secondary catalyst is your attempts to punish me because of a controversy between you and Ms. Becker. I cautioned you of the probable consequences of your actions should you elect to persist in this *[Allen H. Libow] attempted robbery*. I don't know if it was your arrogance or your ignorance that prompted you to press forward with your *[Allen H. Libow has a] larcenous agenda*, not that it makes the least bit of difference one way of the other. In the final analysis the question will be whether or not your actions were lawful or unlawful. We will now move forward to let the authorities make that determination.

6. Published to Marilyn Van Valkenburgh and Mr. Libow by Mr. Johnson:

a.) The suits are to be filed simultaneously in both State and Federal Courts concerning his *[Allen H. Libow has] overbilling habits* and his unlawful collection practices.

7. Published to Lillian Archbold and Joel Klaitz, Bar counsel; Mr. Libow; and Chad Laing by Mr. Johnson:

a.) Are they clouding the issues? You bet they are! Why? Because they have no legitimate defense for their actions. The truth won't support their position so twisting the facts and concocting lies is all they have left.

*Allen H. Libow "twist[s] the facts and concoct[s] lies."*

b.) As a matter of fact, due to circumstances surrounding the issues of Libow & associates v. David and Jane Johnson, we decided that we could not do battle on two fronts at the same time. I was forced by Allen Libow's antics *[Allen H. Libow is the*

*cause of you having to] to settle that lawsuit [your claim] for pennies on the dollar.*

c.) Paragraph eight (8) of Responder.t's answers, Respondent refers to Complainants Exhibit "N" and maintains that this e-mail is not in fact the "forgery" that I claim it is . . . Because it is a forgery!!!! That's why! It is easy for anyone so inclined to forge an e-mail. It is not nearly so easy for those so inclined to forge a log showing the "forged" e-mail was in fact sent.

*Allen H. Libow forged an email dated "July 20, 2004 @ 8:59 a.m.*

8. Published to Klaitz, Archbold, Van Valkenburgh, and Mr. Libow by Mr. Johnson:

a.) . . . a fact that I am certain was known but ignored by these two unethical miscreants.

*Allen H. Libow is an unethical miscreant.*

b.) Allen [H.] Libow is filled with ignorance, hatred and vengeance.

9. Published to Eric Stockel by Mr. Johnson:

a.) The perverted logic of [Allen H. Libow is] a psychotic mad man!

10. Published to "glotzer,"<sup>5</sup> Laing, and Stockel:

a.) Likewise as attorneys you surely must recognize the fact that Allen Libow's motives in pursuing this matter in the manner this far adopted by him are in fact, malicious and thus unethical.

*Allen H. Libow's "motives in pursuing this matter are in fact malicious and thus unethical."*

**B. Statements as to Mrs. Libow allegedly made by both Defendants:**

1. Published to The Florida Bar, the Office of the Florida Attorney General, the Federal Trade Commission, and Governor Bush:

a.) Also, I am told that his wife is on the verge of divorcing him for other transgressions.

---

<sup>5</sup>Apparently an attorney or support personnel in Mr. Libow's office. Sec ¶17, Fifth Amended Complaint.

*Melissa T. Libow is on the verge of divorcing [Allen H. Libow] for other transgressions.*

### III. The Law

Defamation is the unprivileged publication to a third party of a false statement which naturally and proximately results in injury. Razner v. Wellington Regional Medical Center, Inc., 837 So. 2d 437 (Fla. 4<sup>th</sup> DCA 2002); Mile Marker, Inc. v. Petersen Publishing, L.L.C., 811 So. 2d 841 (Fla. 4<sup>th</sup> DCA 2002); Byrd v. Hustler Magazine, Inc., 433 So. 2d 593 (Fla. 4<sup>th</sup> DCA 1983), rev. den. 443 So. 2d 979 (Fla. 1984). Whether a statement is false should be determined by reading the entire publication in context. Pullum v. Johnson, 647 So. 2d 254 (Fla. 1<sup>st</sup> DCA 1994), rev. den. 654 So. 2d 919 (Fla. 1995); Smith v. Cuban American Natural Foundation, 731 So. 2d 702 (Fla. 3<sup>d</sup> DCA 1999), rev. den. 753 So. 2d 563 (Fla. 2000).

"The First Amended requires neither politeness nor fairness." Pullum at 258. Consequently, statements of opinion made on disclosed facts are not actionable. Morse v. Ripken, 707 So. 2d 921 (Fla. 4<sup>th</sup> DCA 1998); Friedgood v. Peters Publishing Co., 521 So. 2d 236 (Fla. 4<sup>th</sup> DCA 1988), rev. den. 531 So. 2d 1353 (Fla. 1988), cert. den. 488 U.S. 1042, 109 S. Ct. 867 (1989).<sup>6</sup> Mixed opinion that imply concealed or undisclosed defamatory facts or based on false statements made by. Morse; Town of Sewall's Point v. Rhodes, 852 So. 2d 949 (Fla. 4<sup>th</sup> DCA 2003); LRX, Inc. v. Horizon Associates Joint Venture, 842 So. 2d 881 (Fla. 4<sup>th</sup> DCA 2003), rev. den. 859 So. 2d 514 (Fla. 2003).

Statements made to The Florida Bar in a complaint are absolutely privileged. Tobkin v. Jarboe, 710 So. 2d 975 (Fla. 1998). Further, the privilege extends to all statements having "any bearing" on the subject. See Restatement (Second) of Torts §587, cmt. c. (1977); see, also, Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, P.A. v. United States Fire Insurance Co., 639 So. 2d 609 (Fla. 1994). It is fair to say that the Bar Letter contends Mr. Libow's aggressive and inappropriate behavior affects his ability to represent clients. Further, it claims that he told his wife she and her children they were in

---

<sup>6</sup>It would appear that most adjectives and adverbs represent the utterer's opinion. See, e.g., Friedgood.

danger because of threats by Mr. Johnson. The Bar Letter's reference, then, to the Libows' marital status is sufficiently related to be privileged.

The Bar Letter complains of allegedly improper billing practices. Consequently, its direction to the Florida Attorney General's Office, the Governor, and the Federal Trade Commission is not necessarily inappropriate. In any event, a citizen complaint directed to the wrong governmental entity does not lose its privileged status. Thus, in Imperial v. Drapeau, 716 A. 2d 244 (Ct. App. Md. 1998), a physician directed a complaint about an emergency medical technician to the governor and a federal congressman. The EMT sued for defamation. In granting a motion to dismiss on the grounds of absolute immunity, the Court held that:

[The EMT] contends that the absolute privilege for witness testimony, as extended, cannot reach the instant matter because [the physician's] complaint was not made directly to the appropriate body exercising disciplinary authority. We reject so technical a restriction on the privilege. The ordinary citizen need not, at the peril of defending a defamation action, sort through the complexities of governmental organization in a system of dual sovereigns, with county, municipal, and special taxing district overlays on the State component . . . A complainant cannot be expected to discern those nuances. Rather, it was appropriate for [the physician] to invoke the 'constituent service' aspect of representative government in order to have the complaint reach the governmental agency that was charged with the responsibility to investigate. (citations omitted).

Id. at 252.

See, also, Nodar v. Galbreath, 462 So. 2d 803 (Fla. 1985).

Likewise here, the only competent allegation of publication of the Bar Letter outside its privileged publication to The Bar itself was the reflection on the letter itself that copies were provided to the Florida Attorney General's Office, the Federal Trade Commission, and the Governor. See, also, ¶16, Fifth Amended Complaint. The only way a reasonable person could construe those publications, without more, was that the letter's authors were asking those representatives of government to help regulate Mr. Libow's business practices.

Florida has a strong public policy in favor of encouraging its citizens with knowledge of potential attorney misconduct to step forward and present evidence so that the Florida Supreme Court may carry out its disciplinary duties. Tobkin. Granting absolute immunity to complainants recognizes the

inequitable balance of power that may exist between an attorney who brings a defamation action and the client who must defend against it . . . (T)he cost of litigation coupled with the risk of liability in defending against such an action could be enough to discourage an individual from bringing a meritorious complaint. The mere possibility of chilling valid complaints would undermine public confidence in this Court's ability to regulate and discipline unethical members of The Florida Bar.

Id. at 977.

Those same concerns dictate that a complaint directed to the wrong agency of government should not forfeit the privilege. Otherwise, a potential complainant may choose not to pursue a claim because of doubt as to whom it should be directed. Further, while the affected attorney may suffer additional embarrassment caused by having a complaint, which may be totally without merit, published to yet another person, government agencies have systems in place to direct a complaint to the proper channels. The possibility a complaint will be misused by a governmental entity or necessarily republished is minimal. Consequently, the letters to The Bar were privileged. A claim of privilege appearing on the face of a pleading may be raised in a motion to dismiss. See Rule 1.110(d), Fla. R. Civ. P.; Trawick, Fla. Prac. and Proc. §10-4 (2006 ed.).

#### **IV. Application of the Law to the Allegations**

Applying the principles to the Fifth Amended Complaint's allegations lead to the following conclusions, organized under the same numbering system used earlier:

- A. 1. All the statements are privileged. In addition, Mr. Libow quoted the allegedly defamatory statements at b.) and h.) selectively in the body of the complaint, omitting "I am told . . ." Consequently, the complaint does not allege that the statements actually made were untrue. Finally, those at i.) and l.) represent unactionable opinions.

2. All the statements are privileged. In addition, those statements at a.) and b.) and those in c.) expressing Mr. Johnson's subjective belief in Mr. Libow's relative mental stability represent opinions and are not actionable.
  3. The exhibit does not reflect publication to a third party. It is not actionable.
  4. Mr. Libow has no claim for allegedly defamatory statements made about a third party.
  5. Any reasonable reader would understand that Mr. Johnson disputes Mr. Libow's billing practices, characterizing them as "attempted robbery" and indicative of a "larcenous agenda." Those statements are not actionable. However, the statement that Mr. Libow uses unlawful billing practices is.
  6. An allegation that an attorney "overbills" is a statement of opinion and is not actionable. The complaint does not allege defamation based on the portion of the attached exhibit that states that Mr. Libow uses unlawful collection practices.
  7.
    - a.) The statement implies that Mr. Johnson has information that Mr. Libow lies. It is actionable.
    - b.) This is a statement of opinion on disclosed facts and is not actionable.
    - c.) The allegation that Mr. Libow forged an email is actionable.
  8.
    - a.) This is a statement of opinion. It is not actionable.
    - b.) This is a statement of opinion. It is not actionable.
  9. a.) This is a statement of opinion. It is not actionable.
  10. This is a statement of opinion. It is not actionable.
- B. 1. The statement relates to a privileged proceeding and is not actionable. Further, Mrs. Libow quotes the allegedly defamatory statement selectively at paragraph 51a., leaving out "I am told that . . ." Consequently, the Fifth Amended Complaint does not allege that the statement actually made--the Johnsons had been told that Mrs. Libow was contemplating

divorcing her husband- -is not substantially true.

Based on the foregoing and on the proceedings before the Court, it is

ORDERED AND ADJUDGED that the Motion is Granted, in part, and Denied, in part. The allegations at paragraphs 41a.-u.; 42v.-z.; 42bb.-ff ; and 42hh.-kk. are stricken, with prejudice, leaving only the allegations found at paragraphs 42aa., 42ec., and 42gg. Count 5 is dismissed, with prejudice.<sup>7</sup> This is the fifth iteration of the Libows' complaint for defamation. The Court declines to grant leave to amend absent compliance with Rule 1.190(a), Florida Rules of Civil Procedure. Defendants shall serve their Answer to the remaining allegations, within 10 days. It is further

ORDERED AND ADJUDGED that all further action in this case, except for the filing and serving of Defendant David Johnson's Answer, are stayed until completion of mediation. It is further

ORDERED AND ADJUDGED that

1. All parties are required to participate in mediation.
  - a. The appearance of counsel who will try the case for each party represented by counsel and representatives of each party with full authority to enter into a complete compromise and settlement is mandatory. If insurance is involved, an adjuster with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.
  - b. At least one week before the conference, all parties shall file with the mediator a brief, written summary of the case containing a list of issues as to each party. If an attorney or party filing the summary wishes its content to remain confidential, he/she must advise the mediator in writing at when the report is filed.
  - c. All discussions, representations, and statements made at the mediation conference shall be privileged consistent with Florida Statutes 44.302 and 90.408.
  - d. The mediator has no power to compel or enforce a settlement

---

<sup>7</sup>Consequently, all claims against Mrs. Johnson in Counts 5 and 6 and the claim by Mrs. Libow in Count 6 are disposed of by this Order.

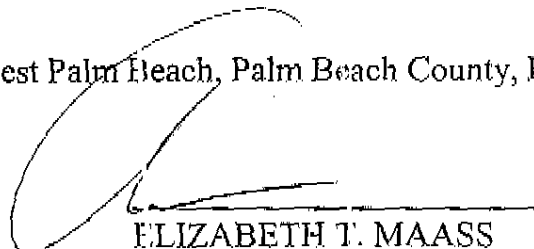
agreement. If a settlement is reached, it shall be the responsibility of the attorneys or parties to reduce the agreement to writing and to comply with Florida Rule of Civil Procedure 1.730(b), unless waived.

2. Plaintiffs' attorney shall be responsible for scheduling mediation. **Mediation shall be held within the next 60 days.** The parties should agree on a mediator, if possible. If they are unable to agree, any party may apply to the Court for appointment of a mediator. The lead attorney or party shall file and serve on all parties and the mediator a Notice of Mediation giving the time, place, and date of the mediation and the mediator's name. The mediator shall be paid \$175.00 per hour, absent Court order or the agreement of all parties and the mediator.

3. Completion of mediation is a prerequisite to trial. If mediation is not conducted, or if a party fails to participate in mediation, the case may be stricken from the trial calendar, pleadings may be stricken, and other sanctions may be imposed.

4. Any party opposing mediation may proceed under Florida Rule of Civil Procedure 1.700(b).

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 11 day of May, 2006.

  
ELIZABETH T. MAASS  
Circuit Court Judge

copies furnished:  
Mark C. Perry, Esq.  
2455 E. Sunrise Blvd., Suite 905  
Ft. Lauderdale, FL 33304

Chad R. Laing, Esq.  
3351 NW Boca Raton Blvd.  
Boca Raton, FL 33431

Arthur W. Tifford, Esq.  
1385 NW 15 Street  
Miami, FL 33125

IN THE DISTRICT COURT OF APPEAL OF FLORIDA  
FOURTH DISTRICT

---

CASE NO.: 4D08-1014

Lower Tribunal No. 2005CA003299

---

ALLEN H. LIBOW

Appellant/Plaintiff,

vs.

DAVID JOHNSON,

Appellee/Defendant.

---

On Appeal from the Circuit Court of the  
Fifteenth Judicial Circuit in and for Palm Beach, Florida

---

**ANSWER BRIEF**

LAW OFFICES OF MARK C. PERRY, P.A.

Attorneys for Appellees

2400 East Commercial Boulevard, Suite 201

Ft. Lauderdale, FL 33308

Office: (954) 351-2601

Fax: (954) 351-2605

Fla. Bar No.: 251941

[markperryesq@yahoo.com](mailto:markperryesq@yahoo.com)

## TABLE OF CONTENTS

### Page

Table Of Contents.....	2
Table Of Citations.....	3
Statement Of The Facts And Case.....	4
Summary of Argument.....	9
Argument.....	11
I.    THE AUGUST 5, 2004 EMAIL IS PRIVILEGED.....	
11	
II.    THE STATEMENT THAT ALLEN LIBOW	
“TWIST[S] THE FACTS AND COCOCT[S]	
LIES IS ABSOLUTELY PRIVILEGED .....	

III. THE STATEMENT AT 42(gg) THAT “ALLEN H. LIBOW FORGED AN EMAIL DATED JULY 20, 2004 AT 8:59 A.M.” IS ABSOLUTELY PRIVILEGED.....

IV. COURT PROPERLY REFUSED TO STRIKE DEFENDANT DAVID JOHNSON’S AFFIRMATIVE DEFENSE AS FRAUD ON THE COURT DID NOT PRECLUDE SUMMARY JUDGMENT .....

Conclusion..... 30, 31

Certificate of Service.....

Certificate of Compliance.....

**TABLE OF CITATIONS**

**Pages**

**CASES**

*American Ideal Mgmt. vs. Dale Village, Inc.*, 567 So.2d 497, 499 (Fla. 4<sup>th</sup> DCA,1990) 14

*Cherubino v. Fenstersheib and Fox, P.A.*,925 So. 1068  
(Fla. App. 4 Dist, 2006).....  
29

*Fridovich v.Fridovich*, 598 So.2d 65,66 (Fla. 1992). .....  
14

*Hope v. National Alliance of Postal and Federal Employees*,  
*Jacksonville Local 320*, 649 So.2d 897 (Fla. 1<sup>st</sup> DCA 1995).....  
14

*Imperial v. Drapeau*, 716 A.2d 244 (Ct. App. MD 1988).....  
21

*Morgan v Campbell*, 816 So.2d 251 (Fla. 2d DCA 2002).....  
28

*Motel 6, Inc. v. Dowling*, 595 So.2d 260 (Fla. App. 1 Dist., 1992).....  
30

*Nodar v. Galbreath*, 462 So.2d 803 (Fla. 1985).....  
21

*Razner v. Wellington Regional Medical Center, Inc.*,  
837 So.2d 437 (Fla. 4 DCA 1992).....  
19

*Stucchio v. Pincher*, 726 So.2d 372 (Fla. 5<sup>th</sup> DCA 1999).....  
16

*Tobkin vs. Jarboe*, 710 So.2d 975, 977 (Fla. 1988)..... 18,  
24

## **STATEMENT OF FACTS AND CASE**

Allen H. Libow and Melissa Libow, his wife, initiated their defamation claims against David Johnson and Jane Johnson by filing an Amended Complaint in Circuit Court. Defendants moved to dismiss the Amended Complaint because the Complaint did not identify any defamatory statements, but contained only conclusory allegations that the August 16, 2004 bar complaint contained false and defamatory statements, and that Defendants had forwarded multiple emails to A. Libow, M. Libow and Libow & Shaheen, LLP, which contained false and defamatory statements regarding A. Libow and A. Libow's wife, M. Libow. (R. III, p. 398 - 400).<sup>1</sup>

This Complaint was dismissed by Order on June 6, 2005 (R. III, p. 404 - 405). On June 29<sup>th</sup>, 2005, Plaintiff filed its Second Amended Complaint (R. III, p. 414-423). In the Second Amended Complaint, M. Libow sought a permanent injunction claiming that an undisclosed letter received by M. Libow defaming M. Libow and other harassing emails caused her to have concern that her family

needed to be protected from violence. On September 7, 2005, Counts V and VI, the defamation counts, were dismissed without prejudice. (R. III, p. 433-435).

On October 14, 2005, Plaintiff filed its Third Amended Complaint. (R. III, p. 463 - 552). On November 27, 2005, the Third Amended Complaint was dismissed without prejudice. (R. III, p. 568). On December 29, 2005, Plaintiffs filed their Fourth Amended Complaint and again sought relief for defamation on behalf of M. Libow and A. Libow, and permanent injunction. (R. III, p. 580 - 600).

Pursuant to a Corrective Motion to Dismiss, this Complaint was dismissed by the court on January 30, 2006. (R. IV, p. 696). The court Order specifically dismissed Counts V, and VI without prejudice for failure to state a cause of action, and allowed Plaintiffs 10 days to serve amended claims for Counts V and VI, only, which were the defamation claims filed on behalf of A. Libow and M. Libow while Count VII, which was for injunctive relief was dismissed without the ability to amend. The court specifically ordered, "If the Fifth Amended Complaint attaches any document containing allegedly defamatory statements, only the transmittal information and any allegedly

defamatory statements shall be included; all other information shall be redacted. Further, any Fifth Amended Complaint shall allege with specificity which allegedly defamatory statements were uttered by which defendant.”

On February 14, 2006, Plaintiffs A. Libow and M. Libow filed a Fifth Amended Complaint seeking damages against both Defendants for defamation. (R. IV, p. 698 - 738). A. Libow set forth 37 statements which he claimed were defamatory. M. Libow set forth one statement which she claimed was defamatory. Attached to the Fifth Amended Complaint were various exhibits in redacted format which contained the alleged defamatory statements upon which Plaintiffs A. Libow and M. Libow based their defamation claims.

Like the previous four complaints, the Fifth Amended Complaint was also dismissed by the court. The court’s 11 page detailed Order of May 11, 2006 addressed Count V and VI of the Fifth Amended Complaint, which were the two defamation claims that had been brought by Plaintiffs A. Libow and his wife. (R. IV, p. 781 - 792). The court dismissed all of the M. Libow’s claims with prejudice, and dismissed all of A. Libow’s claims against Jane Johnson with prejudice. As the court stated, all claims against Mrs. Johnson in Counts V and VI, and the claim by Mrs. Libow in Count VI were disposed by the Order

and dismissed with prejudice. The only allegations the court did not dismiss with prejudice were contained in paragraphs 42(aa), 42(ee), and 42(gg) of A. Libow's defamation count against David Johnson.

Defendant David Johnson filed a Motion for Summary Judgment on October 2, 2006, which was heard by the court on December 1, 2007 before the Honorable Judge Diana Lewis who heard oral argument from counsel for all parties. (R. V, p. 1019 - 1033). The three statements that were subject to the Motion for Summary Judgment were 42(aa) which was contained only on the August 5, 2005 email where A. Libow alleged , "Allen H. Libow uses, 'unlawful billing practices'". It was not included in the August 16, 2004 bar complaint in redacted format that had been attached to the Fifth Amended Complaint, but only in an email dated August 5, 2004.

This statement on its face was published only to two people: Cynthia Becker, an attorney representing David Johnson and Marilyn Van Valkenburg. The actual statement is contained in the August 5 email relates to David Johnson's concern with Libow's law firm's billing practices as to his representation. The actual statement is as follows: "As previously discussed, the primary catalyst for this dispute is, and has always been, their attempt to

steal money from me via their unlawful billing practices.”

The second statement that was subject of the Motion for Summary Judgment alleged in paragraph 42(ee) was that ‘Allen H. Libow “twist[s] the facts and concoct[s] lies”’. The second statement is only contained in a letter addressed to the Florida Bar dated November 3, 2004 which references both the Complaint of David Johnson against Allen Libow and another attorney in Mr. Libow’s law firm, Chad Laing (Florida Bar File No. 2004-50,223 15A). The letter was addressed to the Florida Bar to Lillian Archbold and Joel Klaitis with a copy to Allen Libow and Chad Laing. The actual statement contained in this correspondence is as follows: “Are they clouding the issues? You bet they are! Why? Because they have no legitimate defense for their actions. The truth won’t support their position so twisting the facts and concocting lies is all they have left.” This letter was a complaint to the Florida Bar against Allen Libow and Chad Laing and was published only to The Florida Bar, and the subjects of the complaint.

The third statement as alleged in the Fifth Amended Complaint is contained in paragraph 42(gg) and states, “Allen H. Libow ‘forged an email dated July 20, 2004 at 8:59 a.m.’” This statement does not appear in any of the

exhibits attached to Plaintiff's Complaint as alleged by Plaintiff, but appears in a different format in two of the exhibits, that being the letter to The Florida Bar dated August 16, 2004 wherein it stated in context, ". . . I suspect that it is possible but not probable that Mr. Libow modified (forged) some of the e-mails in order to accomplish the desired affect on his wife." This document was transmitted to The Florida Bar and contains a cc: to the Florida Attorney General's Office, The Federal Trade Commission, and Governor Jeb Bush. However, it was never sent to these three entities. (R. VI, p. 1035 - 1037).

A similar statement also appears in the November 3, 2004 letter to The Florida Bar addressed to Lillian Archbold and Joe Klaitis with copy to Allen Libow and Chad Laing, both respondents to the bar complaint wherein it is stated, "Paragraph Eight (8) of Respondent's answers, Respondent refers to complainants' Exhibit "N" and maintains that this e-mail is not in fact the "forgery" that I claim it is, . . . **"BECAUSE IT IS A FORGERY!!!!!!!!!!!!!!** **THAT'S WHY** it is easy for anyone so inclined to forge an e-mail it is not nearly so easy for those so inclined to forge a log showing the *'forged'* e-mail was in fact sent."

The court granted the Motion for Summary Judgment on January 3,

2008. (R. XIX, p. 3745). Final Judgment for Plaintiff was entered on February 13, 2008 (R. XX, p. 3812). On March 17, 2008 a Corrected Notice of Appeal was filed, appealing the granting of the Summary Judgment. (R. XX, p. 3815 - 3817).

## **SUMMARY OF ARGUMENT**

### **I. THE AUGUST 5, 2004 EMAIL IS PRIVILEGED**

The August 5, 2005 e-mail which contained a statement that Allen H. libow engaged in unlawful billing practices with regard to the billing of David and Jane Johnson was published only to attorney Cynthia Becker, Allen H. Libow, and a secretary in his office, Marilyn Van Valkenburg. Accordingly, this statement is absolute privileged under the litigation privilege.

### **II. THE STATEMENT THAT ALLEN LIBOW “TWIST[S] THE FACTS AND COCOCT[S] LIES IS ABSOLUTELY PRIVILEGED**

The statement of Allen H. Libow “twist[s] facts and cococt[s] lies” was only published to the Florida Bar, and respondents to Mr. Johnson’s bar complaint, which included Allen H. Libow and Chad Laing and is absolute privileged as it is communication to the Florida Bar. Defendant Johnson’s

separate and complete distinct complaint with the Attorney General's Office that merely mentions the fact that he had filed a similar complaint with the Florida Bar did not waive his absolute privilege.

**III. THE STATEMENT AT 42(gg) THAT "ALLEN H. LIBOW FORGED AN EMAIL DATED JULY 20, 2004 AT 8:59 A.M." IS ABSOLUTELY PRIVILEGED**

The statement that Allen H. Libow forged an email dated July 20, 2004 at 8:59 a.m. is not contained in any of the attachments to the Fifth Amended Complaint, but is paraphrased in the Florida Bar complaint dated August 16, 2004, and the November 3<sup>rd</sup> letter to the Florida Bar was absolutely privileged for the same reasons the first two statements were privileged.

**IV. COURT PROPERLY REFUSED TO STRIKE DEFENDANT DAVID JOHNSON'S AFFIRMATIVE DEFENSE AS FRAUD ON THE COURT DID NOT PRECLUDE SUMMARY JUDGMENT**

Plaintiff has failed to appeal to this court the denial of the Motion to Strike Defendant's affirmative defense for fraud. Further, Plaintiff has failed to demonstrate that the court abused its discretion in denying his request that David Johnson's affirmative defense be stricken for fraud.

## **ARGUMENT**

### **I. THE AUGUST 5, 2004 EMAIL IS PRIVILEGED**

Defendant argued at the summary judgment hearing, that the first statement regarding “unlawful billing practices” was published only to Marilyn Van Valkenburg, a secretary at the law offices of Libow & Shaheen, who was handling matters related to Mr. Johnson, and Cynthia Becker who as an attorney representing David Johnson. The only three persons who received this email was Mr. Libow, Cynthia Becker, and Marilyn Van Valkenburg. The alleged defamatory statement was contained in the sentence, “As previously discussed, the primary catalyst for this dispute is, and has always been, their attempt to steal money from me via their unlawful billing practices.”

The basis for the bar complaint initiated by David Johnson against Allen Libow was, in part, due to the dispute that arose with regard to the fees Libow & Muskat were claiming from Johnson wherein they had tacked on a charge of \$397.57 for time expended in complying with David Johnson’s request that they substantiate their bill, and in part due to Johnson’s concern over the derogatory remarks that Mr. Libow had made about the integrity and competence of Ms. Becker, who Mr. Libow claimed was working out of a

suitcase. (R. IV, p. 698-738), August 16<sup>th</sup> letter attached to Fifth Amended Complaint).

This dispute arose prior to August 4, 2004, the date that Libow & Muskat filed their lawsuit to collect fees. A demand letter was forwarded from Chad Laing, an attorney and associate at Libow & Muskat on July 7, 2004 demanding payment of the alleged outstanding invoice. As outlined in the August 16, 2004 letter to the Florida Bar attached as Exhibit C to the Fifth Amended Complaint (R. IV, p. 698 - 738), Johnson delivered an e-mail on July 15, 2004 advising Libow & Muskat that all communications between them should be reduced in writing. According to Mr. Johnson, Mr. Libow persisted with his demands and a torrent of emails went back and forth between them.

Marilyn Van Valkenburg, a secretary in the offices of Libow & Muskat on August 3, 2004, advised Mr. Johnson of various dates and times available for hearings. (R. V, 1019 - 1033, see attachment to Motion for Summary Judgment). It is uncontroverted that at the time the August 5<sup>th</sup> email from David Johnson that Marilyn Van Valkenburg was employed by Libow & Shaheen and that she was involved in the dispute involving David Johnson and Jane Johnson and the law firm over fees including the charging lien that had

been filed by them.

At this time, David Johnson was represented by Cynthia Becker, an attorney who used to be an associate in the law firm of Libow & Muskat who left this firm in June of 2004 (Appellant's Statement of Case, p. 2). Johnson provided unrebutted testimony at his deposition on December 22, 2006, that Cynthia Becker provided him with information that was incorporated in correspondence to the Florida Bar concerning Allen Libow. (R. XVI, p. 3193/Dep. at p. 122, December 22, 2006).

Libow has claimed however that counsel for Appellee, Mark C. Perry, represented David Johnson with respect to the bar complaint and cited to David Johnson's December 22, 2006 deposition. Appellant took statements of David Johnson out of context and failed to inform this court that testimony elicited from Mr. Johnson at the same December 22, 2006 deposition clearly disclosed that Johnson had made a mistake in his answer to the questions as to representation. Johnson in response to the question, "Did Mr. Perry review the bar complaint before it went out?" stated, "No. I didn't even know Mr. Perry when I filed the bar complaint." (R. XVII, p. 3213 - 3214), Deposition of David Johnson, December 22, 2006 at p. 142 -143). In response to the question, "Did

Mr. Perry review any of the addenda submitted to the Florida Bar relating to Allen H. Libow bar complaint.” Mr. Johnson states, “The bar issue was resolved before I even knew Mr. Perry.” Nevertheless, with full knowledge of this fact, Plaintiff has attempted to persuade this court to that counsel for Appellee represented David Johnson concerning the bar complaint. The only possible motivation for this is to impugn the integrity of Appellee’s counsel.

This first statement is not actionable as a defamatory statement as it was absolutely privileged under the litigation or judicial proceedings privilege

In accordance with Hope v. National Alliance of Postal and Federal Employees Jacksonville Local 320, 649 So.2d 897 (Fla. 1<sup>st</sup> DCA 1995), where the court considered a grievance proceeding with the postmaster, the court stated at 901:

Statements made within the course of a judicial or quasi judicial proceeding are protected as long as the statements are relevant to the subject of the inquiry, *Fridovich v. Fridovich*, 598 So.2d 65,66 (Fla. 1992). In recognition of the necessity of providing for the free flow of information, however, courts have not imposed a strict relevancy test in

determining whether a statement made in the judicial process is entitled to immunity; rather, courts provide for absolute immunity if a statement is made during the course of the proceeding and “has some relation to the proceeding.” *Levin, supra, at 608*. See also *Fridovich, supra at 66*, which cites with approval the **Restatement (Second) of Torts § 587 (1977)**, which provides that the privilege applies “if the matter has some relation to the proceeding.” We feel that the same level of protection should be provided to statements made during the course of the grievance proceeding where the free flow of information is essential to the integrity of the grievance process. We, therefore, must analyze the statements in the instant case in accordance with the relaxed relevancy standard utilized in the **restatement** in order to determine if they were absolutely privileged. *See Bell v. Gellert, supra*.

Since the litigation privilege is an absolute privilege, cases cited by Appellant with regard to qualified privilege are not relevant. The case of *American Ideal Mgmt. vs. Dale Village, Inc.*, 567 So.2d 497, 499 (Fla. 4<sup>th</sup> DCA,1990), cited by Appellant, had nothing to do with a litigation privilege. At the time the statement was made, A. Libow had already filed a charging lien

(See Statement of Case, Appellant's Brief, p. 4). On July 22, 2004, the firm filed a charging lien against the Johnsons. Appellant has admitted in its Brief that his law firm had already filed a lawsuit on August 4, 2006 in County Court against David and Jane Johnson to collect fees.

Even if as claimed by Appellant there was a qualified privilege, the statement made by David Johnson was only communicated to three people: a secretary in the law firm of Allen Libow who was handling the dispute regarding the fee issue, Allen Libow himself and David Johnson's attorney. The statement specifically related to David Johnson's concerns over the firm's unlawful billing practices as to his bill only. The heading of the email was "Re: Hearing on Notice & Claim of Attorney Charging Lien *Johnson v. Many*. *Johnson v. Many* was the same litigation in which David and Jane Johnson were represented by Cynthia Becker, both while she was in A. Libow's law firm and after she left. The only other person other than Libow and his secretary to whom this email was published was David Johnson's own attorney. This email was not disseminated to clients and other attorneys in an attempt to defame Allen Libow, but was limited to those persons involved in the grievance process with the Florida Bar and involved in the litigation between Libow & Muskat's law firm and David Johnson as to the dispute of

attorney's fees.

Contrary to the argument of Appellant, the statement need not be made in the actual judicial proceeding. As stated in *Stucchio v. Pincher*, 726 So.2d 372 (Fla. 5<sup>th</sup> DCA 1999), statements would be protected during the due course of a judicial proceeding or necessarily preliminary thereto, *at* 374. The court stated that for an absolute privilege to exist the question is merely whether the statement was made "in connection with" or in the course of an existing judicial proceeding. At the time the statement had been made, the Plaintiff had already initiated a judicial proceeding by seeking to impose a lien in the *Many* case against Johnson. The law firm of Libow & Muskat had filed a lawsuit against the Defendants. As a matter of law, the statement was absolutely privileged under the litigation privilege and, accordingly, the court properly granted Defendants' Motion for Summary Judgment.

## **II. THE STATEMENT THAT ALLEN LIBOW "TWIST[S] THE FACTS AND COCOCT[S] LIES IS ABSOLUTELY PRIVILEGED**

The second statement which is the subject of Plaintiff's defamation claim is the statement that Mr. Libow twists facts and concocts lies. This statement is found only in one of the exhibits attached to Plaintiff's Complaint and that is the November 3, 2004 letter addressed to The Florida Bar to Lillian

Archbold and Joe Klaitis with a copy to Allen Libow and Chad Laing. The actual statement contained in this correspondence is as follows: “Are they clouding the issues? You bet they are! Why? Because they have no legitimate defense for their actions. The truth won’t support their position so twisting the facts and concocting lies is all they have left.” Johnson had filed a bar complaint against Chad Laing and A. Libow. This bar complaint was a complaint against Allen Libow and Chad Laing and was published only to The Florida Bar, and the subjects of the complaint.

The November 3, 2004 letter to The Florida Bar references that it is a complaint “Re: Complaint of David Johnson against Allen Libow and Chad Laing, Florida Bar file #2004-50,223 (15A).” The full content of this statement was as follows:

Counsel for Respondent claims in paragraph two (2) that, “***Mr. Johnson continually insists on maintaining that the charging lien and subsequent lawsuit filed on behalf of Libow & Muskat LLP (the “Firm”) was a scheme to defraud in violation of Fla. Stat. 817.43***”.

FALSE! First of all, Counsel for the Respondent cites the wrong statute in “**817.43**”. Second, I have never made any such claim or assertion. I defy

counsel for the Respondent to cite one (1) single instance where I ever made a claim that even vaguely resembles the one referenced above. So, if I didn't say it and they are claiming that I did, ask them to cite the source. They won't be able to cite the source because it doesn't exist. Are they clouding the issues? You bet they are! Why? Because they have no legitimate defense for their actions. The truth won't support their position so twisting the facts and concocting lies is all they have left.

Clearly, this statement that they are twisting the facts and concocting lies contained in the November 3, 2004 letter was sent only to The Florida Bar to Lillian Archbold and Joel Klaitz with a copy to the Respondents Allen Libow and Chad Laing. The statement related to a specific complaint about Laing and Libow. Chad Laing was also counsel at Libow & Shaheen at the time. The statement referenced above as set forth in the letter was a response by David Johnson to the letter of October 20, 2004 sent to The Florida Bar by the Respondents. This statement is privileged pursuant to Tobkin v. Jarboe, 710 So. 2d 975 (Fla. 1998). The court stated at 977 the following:

Granting a complainant absolute immunity when filing a

complaint against a member of this state's integrated Bar is essential in order for the legal profession, and this court, to adequately police its members and discipline those who violate the ethical standards of the legal profession. The net result will benefit both the legal profession and the public.

The court further stated:

We also recognize the inequitable balance of power that may exist between an attorney who brings a defamation action and the client who must defend against it which in turn creates the potential for attorney intimidation of bar complainants. Attorneys schooled in law have the ability to pursue defamation litigation through their own means and with minimal expense when compared with bar complainants. Conversely, the cost of litigation coupled with the risk of liability in defending against such an action could be enough to discourage an individual from bringing a meritorious complaint. The mere possibility of chilling valid complaints would undermine public confidence and this court's ability to regulate and discipline unethical members of

The Florida Bar.

Both Libow & Laing were respondents in a bar complaint filed by Johnson is not disputed by Appellant. Appellant's position however is that the case number referenced in this letter contained the wrong case number. (Appellant's Brief, p. 19). The fact that Johnson had filed a complaint against Libow and one against Laing is what is important not that he may have made a mistake and quoted the wrong case number.

The November 3 letter clearly references that Johnson thought that his correspondence with regard to the complaint against Allen Libow and Chad Laing as identified in the heading **"In Re: Complaint of David Johnson against Allen Libow and Chad Laing."** Johnson understood the letter to refer to both Mr. Libow and Mr. Laing and they were copied on this correspondence. The reference on page 1 of the letter, "Are they clouding the issues" clearly refers to Mr. Libow and Mr. Laing in the plural. The publication to the Florida Bar of this correspondence and to the respondents of Mr. Johnson's complaint was privileged. See, *Razner v. Wellington Regional Medical Center, Inc.*, 837 So.2d 437 (Fla. 4 DCA 1992).

Appellant claims the complaint filed by Johnson with the Attorney General's Office causes a waiver of the privilege.

In Johnson's letter of the September 24, 2004 to the Attorney General's Office, the only reference to the complaint to the Florida Bar was the statement, "I have sent a letter similar to this to the Florida Bar. Their representative advised me that they are only concerned with ethical transgressions of an attorney." Johnson sought their intervention as a law enforcement agency.

Appellant is urging the court to hold that Johnson waived the absolute privilege because he filed a complaint seeking criminal enforcement from the Florida Attorney General's office at the same time he had filed a bar complaint.

This issue was previously decided by the same trial court in its ruling in granting Defendant's Motion to Dismiss the Fifth Amended Complaint. The allegations in the Fifth Amended Complaint were admitted for purposes of the Motion to Dismiss. The allegations in the Fifth Amended Complaint were that the August 16, 2004 bar complaint which contained cc: Florida Bar, Office of the Florida Attorney General, Federal Trade Commission, and Governor Jeb Bush was defamatory. The court in deciding the Motion to Dismiss specifically

determined that these statements were in fact published to these four agencies (R. IV, p. 781 - 792). The court order specifically addressed this issue and held that publication to other government agencies was an indication that Johnson was asking of those representatives of the government to help regulate Mr. Libow's business practices. The court specifically states, "The Bar Letter complains of allegedly improper billing practices. Consequently, its direction to the Florida Attorney General's Office, the Governor, and the Federal Trade Commission is not necessarily inappropriate. In any event, a citizen complaint directed to the wrong governmental entity does not lose its privileged status. "Thus, in Imperial v. Drapeau, 716 A.2d 244 (Ct. App. Md. 1998), a physician directed a complaint about an emergency medical technician to the governor and a federal congressman." The EMT sued for defamation. In granting a motion to dismiss on the grounds of absolute immunity, the Court held that:

[The EMT] contends that the absolute privilege for witness testimony, as extended, cannot reach the instant matter because [the physician's] complaint was not made directly to the appropriate body exercising disciplinary authority.

We reject so technical a restriction on the privilege. The ordinary citizen need not, at the peril of defending a defa-

mation action, sort through the complexities of governmental organization in a system of dual sovereigns, with county, municipal, and special taxing district overlays on the State component. . . A complainant cannot be expected to discern those nuances. Rather, it was appropriate for [the physician] to invoke the ‘constituent service’ aspect of representative government in order to have the complaint reach the governmental agency that was charged with the responsibility to investigate. (citations omitted). Id. At 252

See, also, Nodar v. Galbreath, 462 So.2d 803 (Fla. 1985).

“Likewise here, the only competent allegation of publication of the Bar Letter outside its privileged publication to The Bar itself was the reflection on the letter itself that copies were provided to the Florida Attorney General’s Office, the Federal Trade Commission, and the Governor. See, also ¶16, Fifth Amended Complaint. “The only way a reasonable person could construe those publications, without more, was that the letter’s authors were asking those representatives of government to help regulate Mr. Libow’s business practices.”

“Florida has a strong public policy in favor of encouraging its citizens

with knowledge of potential attorney misconduct to step forward and present evidence so that the Florida Supreme Court may carry out its disciplinary duties.” *Tobkin*. Granting absolute immunity to complainants recognizes the Inequitable balance of power that may exist between an attorney who brings a defamation action and the client who must defend against it. . . (T)he cost of litigation coupled with the risk of liability in defending against such an action could be enough to discourage an individual from bringing a meritorious complaint. The mere possibility of chilling valid complaints would undermine public confidence in this Court’s ability to regulate and discipline unethical members of The Florida Bar.

“Those same concerns dictate that a complaint directed to the wrong agency of government should not forfeit the privilege. Otherwise, a potential complainant may choose not to pursue a claim because of doubt as to whom it should be directed. Further, while the affected attorney may suffer additional embarrassment caused by having a complaint, which may be totally without merit, published to yet another person, government agencies have systems in place to direct a complaint to the proper channels. The possibility a complaint will be misused by a governmental entity or necessarily republished is minimal. Consequently, the letters to The Bar were privileged. A claim of

privilege appearing on the face of a pleading may be raised in a motion to dismiss. See Rule 1.110(d), Fla. R. Civ. P.; Trawick, Fla. Prac. And Proc. §10-4 (2006) ed.)”.

Whether Appellee forwarded the August 16 letter that had been addressed to the Florida Bar or filed a separate complaint with the Attorney General’s Office, would according to the Appellant, waive the absolute bar privilege. This issue however has been decided previously by the trial court and affirmed on appeal where Appellant appealed the granting of the Motion to Dismiss, which was *per curium* affirmed. . All of the allegations of the Fifth Amended Complaint for the purposes of the Motion to Dismiss were deemed to be true including the allegations incorporated into the Fifth Amended Complaint by attachment of the August 16<sup>th</sup> letter to the Florida Bar that contained the cc: to the Florida Attorney General’s Office, the Federal Trade Commission, and Governor Jeb Bush.

Since the court determined the actual mailing of the complete copy of the bar complaint with all of its attached exhibits to the Attorney General’s Office, did not result in the forfeiture of the “absolute privilege,” certainly the mere announcement of the existence of the bar complaint to the Florida Attorney

General's Office, could not be sufficient to waive the privilege.

As argued by Appellee at the hearing of the Motion for Summary Judgment (Vol XX, p. 3933, 116 of Transcript) under the Florida Bar's website, the public is advised that disclosure of the existence of an inquiry or a complaint "and the contents thereof outside the disciplinary system must be published, if there is to be a basis for legal action (*Emphasis Supplied*).

Johnson did not disclose the contents of the August 16, 2004 letter or the November 3<sup>rd</sup> letter to the Florida Bar to the Attorney General's Office, but merely referenced that he had filed a similar complaint. Since this did not occur, there was not a sufficient disclosure of the contents of the Bar complaint to warrant a waiver.

The statement was published only to The Florida Bar and to the Respondents who were entitled to receive copies of all documents provided by David Johnson to The Florida Bar. Accordingly, these statements as a matter of law are privileged. Since both Mr. Laing and Mr. Libow were Respondents to this bar complaint, they were both entitled to receipt of this correspondence. Further, Laing was counsel to Libow. Even if Defendant had not sent the letter to The Florida Bar, the Bar would have sent a copy to them for their

response. As set forth in *Tobkin, supra* at 877 “an individual who files a complaint against an attorney and makes no public announcement of the complaint, thereby allowing the grievance procedure to run its natural course, is afforded absolute immunity from a defamation action by the complained against attorney.” The complaint filed by DAVID JOHNSON was filed against both Mr. Laing and Mr. Libow and, accordingly, was not published outside the bar process nor was it published to any person who was not entitled to receive it. Accordingly as a matter of law, there has been no waiver of the privilege.

### **III. THE STATEMENT AT 42(gg) THAT “ALLEN H. LIBOW FORGED AN EMAIL DATED JULY 20, 2004 AT 8:59 A.M.” IS ABSOLUTELY PRIVILEGED**

As stated above, this statement does not appear in any of the exhibits attached to Plaintiff’s Complaint as alleged by Plaintiff, but appears in a different format in two of the exhibits, that being the letter to The Florida Bar complaint dated August 16, 2004 wherein he stated in context, “. . . I suspect that it is possible but not probable that Mr. Libow modified (forged) some of the e-mails in order to accomplish the desired affect on his wife.” This document was transmitted to The Florida Bar and contains a cc: to the Florida Attorney General’s Office, The Federal Trade Commission, and Governor Jeb Bush. However, it was never sent to these three entities and even if it were, it

would still be privileged. (See Declaration of David Johnson, Exhibit 1).

A similar statement also appears in the November 3, 2004 letter to The Florida Bar addressed to Lillian Archbold and Joe Klaitis with copy to Allen Libow and Chad Laing, both respondents to the bar complaint wherein it is stated, “Paragraph Eight (8) of Respondent’s answers, Respondent refers to complainants’ Exhibit “N” and maintains that this e-mail is not in fact the “**forgery**” that I claim it is, . . . **“BECAUSE IT IS A FORGERY!!!!!!!!!!!!!! THAT’S WHY** it is easy for anyone so inclined to forge an e-mail. Is not nearly so easy for those so inclined to forge a log showing the *‘forged’* e-mail was in fact sent.”

The statement specifically related to email correspondence that A. Libow had provided to the Florida Bar, which Mr. Johnson contended was a forgery, and Mr. Johnson’s claim that A. Libow had convinced his wife to file a police report with the Boca Raton Police Department and Jacksonville Police department claiming that David Johnson had made physical threats against he and his family. (R. IV, p. 698 - 738). Since Johnson contended that he never made any physical threats the obvious conclusion by him was that A. Libow had forged some of the emails that A. Libow shared with his wife, to convince

his wife that she should file criminal charges. All of A. Libow's and M. Libow's claims for injunctive relief for their claims of violence were dismissed by the court without leave to amend.

As argued above, the opposition to Appellant's Brief as to the first two statements are reincorporated here and the court properly granted summary judgment.

#### **IV. COURT PROPERLY REFUSED TO STRIKE DEFENDANT DAVID JOHNSON'S AFFIRMATIVE DEFENSE AS FRAUD ON THE COURT DID NOT PRECLUDE SUMMARY JUDGMENT**

Appellant is seeking appellate review of its Amended Motion to Strike Defendant Johnson's pleadings and enter a default based on fraud on the court that was first filed on October 15, 2007 (R. XII, p. 2393 - 2400, XIII, p. 2401 - 2485). Plaintiff admits that it was aware that David Johnson had filed a Complaint with the Attorney General's Office of Florida, at least in January 2007, nine months before filing this Motion. Appellant claims to have been prejudiced by David Johnson's failure to reveal that he had sought assistance from the Florida Attorney General's Office as to his Complaint against A. Libow, but offered no explanation as to why he waited so long to bring this to the attention of the court.

A. Libow claims that “he was prejudiced by the Circuit Court’s dismissal of claims on the basis of Johnson’s argument that the Bar complaint was absolutely privileged because he had not announced it outside the Bar grievance process.” (Appellant’s Brief, p. 32).

Appellant claims that Johnson did not produce the letter to the Attorney General’s Office in response to a discovery request. Appellant would have this court believe that this discovery request predated the hearing on the Motion to Dismiss. However any request seeking these documents and any testimony elicited from David Johnson, was all subsequent to the hearing on the Motion to Dismiss and Order that was entered by the court on May 11, 2006 (R. IV, p. 781 - 792). Johnson was not even deposed until December 2006.

Plaintiff’s argument that it was prejudiced at the hearing on the Motion to Dismiss because of the claimed fraud on the court is without merit for the additional reason that the court assumed that the Bar Complaint had in fact been sent to the Attorney General’s Office.

Appellant’s Motion to Strike was denied by the court and Appellant did not seek any form of appellate review of its denial. The denial of this Motion is not properly before this court as the Notice of Appeal was limited to the

granting of the Motion for Summary Judgment (R. XX, p. 3815 - 3817).

Even if this court has jurisdiction to hear Plaintiff's argument that Defendants' affirmative defense should have been stricken it failed to demonstrate that the court abused its discretion in denying Plaintiff's Motion to Strike. As set forth in Morgan v Campbell, 816 So.2d 251 (Fla. 2d DCA 2002), the court in considering sanctions of dismissal with prejudice similar to the sanction sought in the instant case, held that "this sanction should only be imposed on a clear showing of fraud, pretense, collusion, or similar wrongdoing." Since the imposition of a sanction is a discretionary act, the ruling of the trial judge would not be disturbed unless the decision fails to satisfy the test of reasonableness. In reviewing a true discretionary act, the Appellate Court must recognize the superior vantage point of view of the trial judge and apply the "reasonableness test" to determine whether the trial judge abused his discretion; if reasonable men could differ as to the propriety of the action taken by the trial court, then the action is not unreasonable and there could be no finding of an abuse of discretion, *at 253*.

In fact, the abuse of discretion standard is even more narrow where a dismissal is imposed for fraudulent conduct, "Although a dismissal imposed as

a sanction is viewed as an abuse of discretion standard, the trial court's discretion is narrowed when dismissal is imposed for fraudulent conduct." See, Cherubino v. Fenstersheib and Fox, P.A., 925 So. 1068 (Fla. App. 4 Dist, 2006).

Johnson was deposed on separate occasions, December 22, 2006, February 1, 2007, and September 25, 2007. Within a reasonable time after the deposition of Johnson, he prepared and executed an errata sheet on October 30, 2007 and served Plaintiff with it on November 16, 2007 (R. XVIII, p. 3425 - 3428). The errata sheets clearly revealed that Johnson misunderstood Plaintiff's questions with reference to whether or not he in fact filed "this Complaint" with the Attorney General's Office. The affidavit presented to the court by Johnson clearly revealed that he forgot that he in fact filed a complaint with the Attorney General's Office. In this affidavit, Johnson states the following, "In responding to prior Request to Produce after the deposition, I searched my computer for all hard copies of documents that I had concerning Allen Libow and did not find a copy of the letter to the Attorney General's Office in any of my files. Had I remembered that I wrote the Attorney General's Office back in 2004, I would have disclosed this to Plaintiff and would have provided a copy of the letter in

response to the discovery requested.” (R, XVIII, p. 3445 -3448).

Plaintiff never sought to re-depose Defendant after the filing of the errata sheet. Plaintiff had sufficient time in which to reopen the deposition and file a Motion to Suppress with respect to the issue. *See, Motel 6, Inc. v. Dowling*, 595 So.2d 260 (Fla. App. 1 Dist., 1992). (*Defendant waived the purported irregularities and witnesses reading of his deposition by not filing a motion to suppress prior to trial*) at262. For these reasons the court properly denied Plaintiff’s Motion to strike Affirmatives Defenses.

### **Conclusion**

The trial court properly granted the Motion for Summary Judgment with regard to the three remaining statements that were the subject of the Plaintiff’s Fifth Amended Complaint. Further, the court did not abuse its discretion in denying the Motion to Strike the Affirmative Defense of David Johnson asserted in his Answer and Affirmative Defenses, and the motion is not subject to this appeal.

---

MARK C. PERRY

Attorney for Defendant/Appellee

2400 E. Commercial Boulevard

Suite 201

Ft. Lauderdale,

FL

33308

Tel: (954) 351-2601

Fax: (954) 351-2605

cc: Client

Fla. Bar No.: 251941

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail on this 18<sup>th</sup> day of August, 2008, to D. Patricia Wallace, Esq., Walter J. Mathews, P.A., Attorneys for Appellant, Courthouse Law Plaza, 700 S.E. Third Avenue, Suite 300, Ft. Lauderdale, FL 33316.

---

MARK C. PERRY

Attorney for Appellee

2400 E. Commercial Boulevard

Suite 201

33308

Ft. Lauderdale,  
Tel: (954) 351-2601

FL

Fax: (954) 351-2605

Fla. Bar No.: 251941

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 9.210(a)(2), Florida Rules of Appellate Procedure, I hereby certify that the foregoing Answer Brief of Appellees was printed in Times New Roman 14 font.

---

MARK C. PERRY

Attorney for Defendant/Appellee

2400 E. Commercial Boulevard Suite 201 Ft. Lauderdale, FL 33308 Tel: (954)  
351-2601 Fax: (954) 351-2605 cc: Client Fla. Bar No.: 251941

---

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FOURTH DISTRICT

*January Term 2009*

**LIBOW & SHAHEEN, LLP,**

Appellant,

v.

**DAVID JOHNSON and JANE JOHNSON,**

Appellees.

**No. 4D08-1014**

**[July 8, 2009]**

**PER CURIAM.**

*Affirmed.*

FARMER, HAZOURI and CIKLIN, JJ., concur.

\* \* \*

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm

Beach County; Diana Lewis, Judge; L.T. Case No. 2005CA003299AI.

D. Patricia Wallace of Walter J. Mathews, P.A., Fort Lauderdale, for

appellant.

Mark C. Perry of Law Offices of Mark C. Perry, P.A., Fort Lauderdale

(withdrawn as counsel after filing of brief) and David Johnson,

Jacksonville, pro se.

***Not final until disposition of timely filed motion for rehearing.***

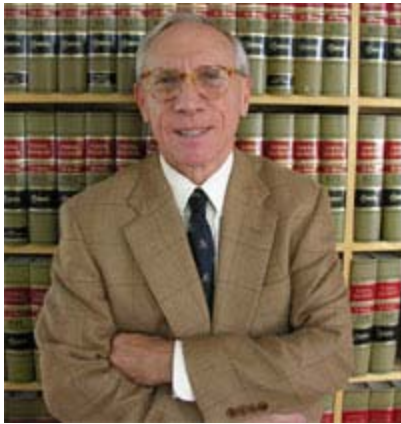
---

<sup>1</sup>References to the Record are made by volume number and page number in the format “R.\_\_\_\_, p.\_\_\_\_”).

## PUBLISHED BIOGRAPHICAL INFORMATION

ALLEN H. LIBOW IS THE SON-AND-LAW OF ARTHUR W. TIFFORD, THE ATTORNEY WHO ULTIMATELY HELPED HIM PROSECUTE THE CASE AGAINST DAVID JOHNSON

---



305-545-7822

[arthur\\_tifford@tiffordlaw.com](mailto:arthur_tifford@tiffordlaw.com)

### Education

- J.D., Brooklyn Law School, 1967
- B.S., Queens College, 1965

### Bar & Court Admissions

- Florida Bar
- New York Bar
- U.S. District Courts, Southern, Middle and Northern Districts of Florida
- U.S. Court of Appeals, First, Fourth, Fifth, Ninth, Tenth, Eleventh and Federal Circuits
- U.S. Tax Court
- U.S. Court of Military Appeals
- U.S. Court of Federal Claims

Arthur W. Tifford, P.A.

Arthur Tifford is a shareholder in the firm. He practices in all areas of complex civil litigation and federal white collar criminal defense. Arthur Tifford graduated from Brooklyn Law School in 1967. He was admitted to the Florida and New York Bars in 1967. He began his career in the law in Vietnam as a Judge Advocate General for the United States Marine Corps and a Military Judge, among other responsibilities. Following his return to the states, he served as an instructor at the Naval Justice School, Newport before returning to his civilian career which then started with his position as an Assistant United States Attorney for the Southern District of Florida, where he worked in the Criminal Division. While there, he created and headed the Special Prosecutions Section of the Criminal Division. As a federal prosecutor, Mr. Tifford supervised federal grand jury investigations and specialized in jury trials involving mail fraud, wire fraud and racketeering. During his tenure as an Assistant U.S. Attorney, Mr. Tifford received the outstanding performance rating awarded by the United States Department of Justice.

Mr. Tifford has been in private practice in Miami, Florida since 1972 specializing in complex civil litigation and federal white collar criminal defense. He has received many awards including: National Law Journal "Top 100 Verdicts" in 2005, 2003 and 2001. See Highlights page for awards and other recognition.

Mr. Tifford is licensed to practice law as a member in full and good standing before the Supreme Court of Florida, the Court of Appeals of the State of New York, the United States District Courts for the Southern, Middle, and Northern Districts of Florida, the United States Courts of Appeal for the First, Fourth, Fifth, Ninth, Tenth, Eleventh and Federal Circuits, the United States Court of Federal Claims, United States Tax Court, and the United States Court of Military Appeals (recently renamed). He has also been certified as a judge advocate general of the United States Marine Corps and Military Judge j.g. (currently referred to as Military Magistrate Judge) pursuant to Article 27(b), Uniform Code of Military Justice, Title 10 Appendix, United States Code.

---

<http://www.tiffordlaw.com/attorneys.php>



Allen H. Libow [Arthur Tifford's son-in-law]

Member

Biography

Allen Libow is a shareholder and member of the firm's Transaction Team. Prior to joining the firm, Mr. Libow was the founding and managing partner of an established law firm in Boca Raton, Florida for over 12 years. Though predominately a transactional lawyer, representing clients in tax matters, corporate and real estate mergers and acquisitions, probate and estate planning, Mr. Libow has also litigated, both judicially and administratively, several prominent state and local tax cases in taxing jurisdictions nationwide. Mr. Libow has, likewise, successfully litigated in the adversarial processes of the probate and bankruptcy courts, both in the state of Florida and in other states. As a trusted business advisor to his clients, Mr. Libow has served as sole outside general, tax and litigation counsel. Additionally, he has served on the board of directors, as well as an officer and trustee for several of his clients. Mr. Libow has been both active and inactive as a CPA for over 21 years in addition to his practice as a lawyer. Significant Tax Representation; Represented publisher American Media in their defense of a use tax assessment against Soap Opera Magazine for their purchase of photography, where the court struck the tax on First Amendment Grounds. Taxpayer was awarded attorney's fees under sec. 57.111, Florida Statutes, and laid the precedent as to a taxpayer's right to a jury trial under the acclaimed Printing House case, which Mr. Libow worked on as a law student; Represented Hollywood silkscreen T-shirt manufacturer, Swago T-Shirts, in their defense of an over \$1 million assessment, resulting in a decision in favor of Swago on the grounds of unconstitutional duplicate taxation, unlawful usurpation of delegated legislative authority and unconstitutional and unauthorized penalty on a taxpayer, as well as setting forth and clarifying the court's discretionary power to establish subject matter jurisdiction under Sec. 72.011 of the Florida Statutes. This case also resulted in the amendment of Sec 212.07 to add a provision and maximum penalty to mistakenly unregistered purchasers of taxable goods in the State of Florida; Represented Pagenet of Tennessee, Inc. in a subject matter jurisdictional battle, where Pagenet prevailed in the First District Court of Appeal, utilizing Libow's decision in Swago from the

Fourth District Court of Appeal, as its precedent. Established the laws regarding venue for both individual and class action taxpayers under both Sec. 72.011, Florida Statutes, as well as under the common law "sword-wielder doctrine" in representing the two separate and distinct groups (one individual and one class), producing the most relied upon and concise decisions regarding the proper venue for tax cases in Florida; In addition to the specific representations mentioned above, Mr. Libow has represented several individual and class action plaintiffs in state tax litigation including the challenge of a state's power under both the U.S. Commerce and Due Process clauses to levy an income tax on a foreign taxpayer under IRC sec. 482 principals (New Jersey), the power of a state to impose its income taxing jurisdiction over the press without a substantial physical presence in the face of First Amendment prohibitions on abrogating speech (Michigan), a the power of a state to tax electronic security systems under the United State's constitution's First Amendment and the State of Florida's Due Process Clause (Florida), as well as a state's right to include either intangible or non-business income in the sales factor for state income tax apportionment purposes (Florida, New Jersey and Illinois). In addition to his litigation experience, Mr. Libow has been successful in the negotiation and settlement of hundreds of tax cases at the Federal level based on income, estate and gift and international tax matters. At the state level, Mr. Libow has negotiated and settled cases in practically every state in the United States, as well as many of its locales, and is widely considered an expert in the taxation of telecommunications companies, as well as other media providers, across the country. Professional & Community Involvement Past President, South Florida Council of State Taxation (1998-2005). Certified Public Accountant (Inactive), State of Maryland (1987—). Lecturer, Ajilon Finance Sarbanes-Oxley Seminar (2004).Lecturer, NBI Sales and Use Taxation, Leasing and Other Real Property Arrangements.Lecturer, South Florida Institute of State Taxation, "How to Litigate a State Tax Case in Florida".Instructor, Arthur Andersen State Sales and Use Tax Masters Program Instructor, Arthur Andersen State Income and Franchise Tax Masters Program. Member/Sponsor, Suited for Success, Miami Inaugural Sponsor, ALS Foundation, Run through The Grove Founding Member/Attorney, Craig W. Tifford Foundation (New York). Sponsor, Susan G. Komen Foundation, Race for the Cure.

#### Practice Areas

Federal, State and International Taxation; Tax Litigation; Corporate Law; Estate Planning; Probate; Mergers and Acquisitions; Telecommunications Law

#### University

St. John's University, B.S., Accounting, 1986

#### Law School

Florida State University, J.D., 1991

#### Admitted

1991, Florida; 1996, U.S. Tax Court; 2003, U.S. District Court, Southern District of Florida and U.S. Supreme Court

#### Memberships

The Florida Bar (Member, Tax Section and Real Property and Probate Section); American Bar Association (Member, Tax Section); American Institute of Certified Public Accountants; The Association of Trial Lawyers of America.

#### Born

Brooklyn, New York, February 21, 1965

#### Reported Cases

Department of Revenue v. SOM Publishing, Inc., 747 So.2d 946 (Fla. 4th DCA 1999); Cayman Manufacturing, Inc. v. Department of Revenue, 833 So.2d 177 (Fla. 4th DCA 2002); Department of Revenue v. Swago, 877 So.2d 761 (Fla. 4th DCA 2004); Pagenet, Inc. v. Fla. Dept. of Revenue, 896 So.2d 824 (Fla. 1st DCA 2005); Goodman v. Crown Leasing Corp., 913 So.2d 1241 (Fla. 4th DCA 2005).

#### Transactions

Represented, as outside counsel and Secretary, ImpSat Fiber Networks in a \$175 million public offering, with multinational effect on the telecommunications industry; Represented Data Warehouse Corporation of Boca Raton in their multi-million dollar Acquisition by Tranzact of New Jersey; Assembled the acquisition and clean-up team for the American Media building by Crown Contractors in Boca Raton, Florida, where the acclaimed and contaminated building was purchased post-9/11, cleaned and resold in 2007; Represented several physical therapy groups and other allied health care professionals in the sale of their practices due to the consolidation of the industry in the mid to late 1990's; Represented and assembled several investment partnerships and entities in acquiring and selling over \$20 million in resort real estate in Park City and Deer Valley, Utah; Performed the federal and state & local tax due diligence for Billions of dollars of South Florida acquisitions, including Republic Industries' acquisition of Scott Alarm, Broward Security, Mullinax, Alamo and National Rent-A-Car; Successfully represented large private company in 10-year carryback claim under IRC sec. 172(f), resulting in a \$172 million refund to the client from the Internal Revenue Service; Successfully obtained a federal income tax refund for a widowed taxpayer on her individual tax return after the IRS' disallowance of a casualty and theft loss deduction on the Estate's return under the state law theory of trusts and marital ownership; Successfully represented a large Miami international airline in their contest of criminal allegations of bribery for failure to pay over airline federal excise taxes, resulting in not only a drop of charges, but a significant refund to the airline;

Successfully settled many condominium and real estate lawsuits, through his employment of the "every commercial case, has a business solution" process. In his view, Libow believes that every commercial dispute can be solved by figuring out the right business solution; be it with adversaries or through interposing third parties into the deal; This is done by not only analyzing the legal rights at stake, but also by taking into account the potential business and tax solutions, where the client can and should end up the winner on their monetary investment in their counsel.

<http://www.ulblaw.com/attorneys/libow/>