

DANIELLE M. BARNES,	:	IN THE COURT OF COMMON PLEAS OF
	:	LYCOMING COUNTY, PENNSYLVANIA
Plaintiff	:	
	:	
vs.	:	NO. 00-01,978
	:	
MERDAD JOHANSHAI,	:	
	:	
Defendant	:	PRELIMINARY OBJECTIONS

Date: September 26, 2001

OPINION and ORDER

Before the Court are the Preliminary Objections of Plaintiff filed March 7, 2001 to Defendant’s Counterclaims. The Counterclaims assert a claim of defamation/libel/slander as well as disparagement, based upon the statements made by Plaintiff in her Complaint and also as communicated to her counsel in connection with preparing the Complaint. Plaintiff moves to strike and demur to these claims on the basis they are legally insufficient, and because the statements made in the Complaint, and in the preparation thereof, are subject to the absolute privilege of having been made in connection with and pertinent to this litigation.

Plaintiff’s Complaint in one count alleges defamation, libel and slander against Defendant. The assertion is that Defendant falsely advised restaurant customers and Defendant’s co-workers that Plaintiff had stolen money from Huckelberry’s Family Restaurant operated by (and apparently owned by) Defendant. In Defendant’s responsive pleading to the Complaint, Defendant asserted that the allegations of theft by Plaintiff from Huckelberry’s Restaurant were true, that Plaintiff knows that they were true and that the accusations in the Complaint constitute defamation, libel and slander against Defendant.

This Court believes that the Preliminary Objections of Plaintiff to the counterclaims of Defendant must be sustained. The absolute privilege to make statements pertinent to litigation with the privilege from defamation, libel or slander had been well recognized in Pennsylvania Law, regardless as to whether the allegations are made falsely, maliciously and without reasonable and probable cause. *See, Greenburg v. Etna v. USF&G*, 235 A.2d 576, 578 (1967), *Milner v. Ink*, 709 A.2d 417 (Pa. Super. (1998).

Accordingly, the following Order will be entered.

ORDER

The Preliminary Objections of Plaintiff filed March 7, 2001, are granted. Defendant's Counterclaims are dismissed. Defendant shall have a period of twenty days from the notice of this Order in which to file an amended pleading.

BY THE COURT:

William S. Kieser, Judge

cc: Michael J. Zicoello, Esquire
Matthew J. Zeigler, Esquire
Judges
Suzanne R. Lovecchio, Law Clerk
Gary L. Weber, Esquire (Lycoming Reporter)