

Summary Judgment Win in “Heart Balm” Action for Alienation of Affections

By Brian H. Alligood November 16, 2022

North Carolina is a state that continues to recognize tort causes of action for adultery and destroying a marriage. The torts are respectively known as “criminal conversation” and “alienation of affections.”

Our North Carolina office successfully defended an action that alleged both claims. First, the plaintiff alleged that his wife of 18 years had engaged in an adulterous relationship for several years and sued the alleged adulterous partner for criminal conversation. The plaintiff also alleged that the plaintiff’s pastors and two other fellow church members willfully destroyed the marriage by referring the wife to an abused women’s shelter in response to the plaintiff’s conduct in confiscating his wife’s car keys and other controlling behavior. The shelter assisted the wife in preparing a motion for domestic violence protective order, which, in turn, caused the plaintiff to be evicted from his home. Divorce proceedings followed. Bovis, Kyle represented the pastors and church members only.

Our attorneys, Brian Alligood and Matthew Anderson, successfully filed a motion for summary judgment on primary grounds that the actions in referring the wife to a women’s shelter were privileged and devoid of any evidence of malicious intent. The plaintiff cross motioned for summary judgment, contending that an email in which one pastor stated that the church was “instrumental in the separation,” constituted smoking gun proof of liability.

The defense summary judgment was a substantial victory. Heart balm actions tend to be quite volatile before juries. They often produce very large damages awards. The plaintiff here was seeking over two million dollars (\$2,000,000.00) in combined compensatory and punitive damages and presumably will continue in that quest against the remaining defendant.