

A Better Mt. Pleasant: Calls on village attorney Chris Smith to be removed after judge tosses frivolous lawsuit filed against village resident

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MOUNT PLEASANT, WI JUNE 2, 2022 – On Tuesday, May 24, 2022, Racine County Judge Jon Fredrickson ordered a lawsuit filed by Mount Pleasant Village Attorney Chris Smith, against Kelly Gallaher, a resident and vocal critic of the Foxconn development, to be dismissed with prejudice, after Smith said a comment made by Gallaher on social media had [caused him emotional distress](#) and was defamatory.

Judge Fredrickson ruled that the Village Attorney was a public official who had not met the threshold for proving actual malice. The judge also ruled that Gallaher's statement was not defamatory, and she [had done her due diligence](#) in trying to determine the facts from the source — who was Smith. Saying to him, “The individual accused of defamation did the research. You didn't take the time to clarify with her.”

During [the hearing](#), Judge Fredrickson questioned Smith's complaint and response brief at length, in which Smith misquoted his own statement made in his official capacity as Village Attorney to [local media](#). A quote that was at the heart of the lawsuit, which he swore was true and accurate.

“Why am I looking at someone suing for defamation that doesn't have their quote correct in their pleadings?” Judge Fredrickson said, “Right out of the gate here, we've got an issue . . . I have concerns about the veracity of the complaint and your due diligence in filing your own statement . . . I don't have a lot of confidence, Attorney Smith, that you know whether it's right or not even sitting here today . . .

[T]hat due diligence, in my view, should have been done before you signed your name on that pleading.”

“Village Attorney Chris Smith’s lawsuit against me rightly failed on merit,” said Gallaher. “Judge Fredrickson found there was no defamation and no malice. But this case was not designed to win. This was a textbook SLAPP (Strategic Lawsuit Against Public Participation) suit filed to intimidate and silence me at significant personal cost. It was a message to me and everyone else engaging in public debate that village officials view as critical or negative.”

After the hearing, Smith told the [Racine Journal Times](#) that he did not file the lawsuit to silence Gallaher, saying “No, not at all.”

However, in a [list of conditions](#) sent to Gallaher days before filing the lawsuit, Smith insisted that Gallaher “refrain from publicly referencing [him] in any comment, regardless of whether such comment is written or spoken,” or Smith would “quickly proceed with a lawsuit against [Gallaher] and seek damages for the harm [she has] caused my professional reputation.”

“Chris Smith’s intentional and outrageous demand that I never say or write his name — or face legal action — disqualifies him to serve as a public official in our community.” Gallaher continued, “No resident can be assured that they too will not become the focus of a bogus lawsuit with Smith at Village Hall. Every citizen has the constitutional right to criticize their government without fear of retaliation.”

On May 24th, Village Attorney Smith told the [Milwaukee Journal Sentinel](#) that he was “satisfied” with Fredrickson’s decision and to be spared “having to go through a lengthy court process,” but Smith actually requested twice during the hearing to be allowed by Judge Fredrickson to amend his complaint against Gallaher, presumably to make the case continue longer.

Gallaher was represented by the Arlington based non-profit public policy law firm the [Institute for Justice](#) at no cost, whose mission is to end widespread abuse of governmental power and to protect constitutional rights.

“Had I not secured high-powered, cutting edge lawyers willing to represent me for free, this poorly written, frivolous suit could have easily cost me thousands of dollars — perhaps tens of thousands — in legal fees to just get through the initial court hearing,” said Gallaher. “That represents money dedicated to my daughter’s

college tuition, or to my mother's residential memory care. If anyone would know how much a case like this could cost me personally, it would be Chris Smith. That was the point. But not every resident is so lucky."

To date, Wisconsin has not joined thirty-two other states and the District of Columbia who have passed anti-SLAPP legislation which discourage retaliatory and expensive defamation lawsuits like Smith's. Gallaher says passing this legislation is long overdue.

"Without anti-SLAPP legislation in Wisconsin, there will be another Chris Smith," Gallaher said. "Hopefully, this victory serves to put every public official on notice that they cannot abuse their authority and silence public debate."

A Better Mt. Pleasant calls upon the Village of Mount Pleasant Board of Trustees and Village Administration to remove Attorney Chris Smith from his position as Village Attorney immediately.