

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. RICHARD S FIELDS

CASE NO. C20133885

DATE: November 24, 2015

TERRI BENNETT
Plaintiff

VS.

PIMA COUNTY COMMUNITY COLLEGE DISTRICT,
ET AL.
Defendant(s)

R U L I N G

CIVIL RULING RE: MOTION FOR NEW TRIAL

This Court has reviewed the Motion for New Trial filed by Plaintiff. The Court has also reviewed the excellent Response filed by the Defendant. The Court has determined that oral argument is unnecessary under the circumstances.

While Plaintiff's counsel raises many arguments and contentions, some of which were not even raised at trial, all of the arguments are well disposed of in Defendants' Response.

The one area that this Court will specifically address is Plaintiff's claim that Defense counsel was coaching certain witnesses.

What Plaintiff and apparently others mention was not coaching, but rather demonstrative gestures of approval by counsel via head nods. At times many case participants, including attorneys, engage in that sort of cheerleading, even though they know better.

This Court had a bird's eye view of the participants and is absolutely certain that no one was "coaching" a witness to answer questions affirmatively or negatively. The Court did observe Ms. Staton indicating that witnesses needed to speak louder.

While this Court recognizes that Defense counsel stridently and zealously represent their clients, it also recognizes that both of these attorneys are too professional to ever engage in the conduct of coaching witnesses in the courtroom or even contemplate doing so.

Donna Hughes
Judicial Administrative Assistant

RULING

As to the Reply filed by Plaintiff's counsel, the Court takes note of Defendants' Objection to Plaintiff's Request to Exceed Page Limits. Plaintiff's Reply suffers from the same wave of revisionist history as the original Motion for New Trial. At no point does counsel refer to the actual trial transcript or the actual arguments or reasoning for the Rulings which followed. The Reply mistakenly asserts that the Court's ruling on the defamation claim came at summary judgment when actually it was a Judgment as a Matter Of Law following Plaintiff's presentation of their case.

What the attorneys for Plaintiff seem to forget, and the actual trial record will reflect, is that this Court had to allow them to reopen their case because no damages evidence had been presented. This Court gently expressed its concern regarding the dearth of admissible evidence produced in support of any claim for damages in Plaintiff's case-in-chief and directed the parties to brief the issue. Of particular note was the prayer for future lost wages without any expert testimony to support such a request. This Court allowed the Plaintiff to be recalled to the stand in an effort to allow her to cobble together a damages claim at all. Absent that, the jury would have had nothing to consider. The trial record will support the Rulings made; finality must come.

While this Court shares Defense counsel's assessment of the nature of language proffered by Plaintiff's counsel in the Reply¹, it recognizes that all of the superlative language and come-lately arguments do not provide Plaintiff a basis for relief. That must flow from the trial record.

Incorporating in large part the Response filed by defendants herein. Plaintiff is not entitled to a new trial. The Motion is **DENIED**. The Jury's Verdict was sound and entirely supported by the evidence.

Dated: November 24, 2015.


HON. RICHARD S. FIELDS
(ID: d360de9d-f227-4050-90c0-a5ea2b28a1db)

cc: Hon. Richard S Fields
Adriane J Hofmeyr, Esq.
Andrew H. Barbour, Esq.
Elizabeth A Gilbert, Esq.
Georgia Staton, Esq.
John Munger, Esq.
Clerk of Court - Civil Unit

¹ See Defendants' Objection to Plaintiff's Request to Exceed Page Limits.

Donna Hughes
Judicial Administrative Assistant