

IN THE OHIO COURT OF APPEALS  
FIFTH APPELLATE DISTRICT  
LICKING COUNTY, OHIO

WATSON HORSE FARMS, LLC, ET AL

Plaintiffs-Appellees

TANIYA AVENA, et al

Defendant-Appellant

Case No. 2026-CA-00039

Opinion And Judgment Entry

Appeal from the Licking County Court of  
Common Pleas, Case No. 2025-CV-01491

Judgment: Affirmed

Date of Judgment Entry:  
September 21, 2026

BEFORE: William B. Hoffman, Robert G. Montgomery, and Kevin W. Popham, Judges

APPEARANCES: W. Douglas Lowe, for Plaintiffs-Appellees; Austin T. Warehime, for  
Defendant-Appellant Taniya Avena

OPINION

*Popham, J.,*

{¶1} Appellant Taniya Avena appeals the April 20, 2026, judgment entry of the Licking County Court of Common Pleas denying her motion in part and granting her motion in part. Appellees are Aria Watson, her husband Bill Watson, and Watson Horse Farms (collectively, “the Watsons”). For the reasons below, we affirm.

*Facts & Procedural History*

{¶2} On September 6, 2025, Defendant Stacey Tiemeier posted statements regarding William Sheets on Facebook. Tiemeier’s statements described Sheets as a “convicted child rapist,” “a Tier III sexual offender,” and someone who is “violent especially towards women

and children he grooms.” Tiemeier also asserted that Sheets was attempting to gain employment at horse farms in the area in order to locate new victims. Tiemeier encouraged others to message her if they had information about Sheets because “it takes a village.”

{¶3} Appellant is a former romantic partner of Sheets. Appellant publicly responded to Tiemeier’s Facebook post – first posting a link to an article from the Newark Advocate entitled “Former Pataskala Horse Riding Instructor Gets Prison for Sex Offenses.” Appellant also posted, as a comment to Tiemeier’s post, the following statement:

The horses are utilized as a tool in the toolbox (candy store if you will) ...

Current work location on his registration comes back to Watson Horse Farms in Newark, Ohio. I will always encourage others to be mindful of surroundings and the predators that are around. Cognitive awareness is a defense mechanism.

{¶4} On September 22, 2025, the Watsons filed a complaint against Appellant, Kadie Jenne McGregor, and Tiemeier. The Watsons asserted claims against Appellant for defamation and intentional infliction of emotional distress. The same day, the Watsons filed a motion for preliminary injunction.

{¶5} On October 27, 2025, the trial court held a hearing on the motion for preliminary injunction<sup>1</sup>. Aria Watson testified that she runs Watson Horse Farms. She further testified that Sheets has no connection to Watson Horse Farms, does not work there, and has never worked there. Aria explained that Appellant’s statement is untrue because multiple businesses are located at 7868 Licking Springs Road Northeast, Newark, Ohio, including

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<sup>1</sup> The transcript of the hearing was made part of the record on appeal.

Watson General Contracting and Watson Trucking. Aria also testified regarding the effect Appellant's post had on the horse farm's business.

{¶6} Bill Watson testified that he owns Watson Horse Farms but that his wife operates the horse farm. He stated that Sheets is employed by Watson General Contracting, which is unrelated to Watson Horse Farms, and that he has never seen Sheets near the horse farm. Bill further testified that twelve different businesses use the same address as Watson Horse Farms and operate from that location. According to Bill, Appellant's statement is untrue because Sheets is not associated with Watson Horse Farms. Bill also testified regarding the effect Appellant's post had on the business.

{¶7} Bill Watson also testified that Appellant sent him a private Facebook message informing him that Sheets was a sexual predator. According to Bill, Appellant made no effort during that exchange to determine whether Sheets worked at Watson Horse Farms. Bill responded by messaging Appellant to "please mind your own business" and "go away."

{¶8} Appellant did not appear for the hearing. On October 28, 2025, the trial court granted the motion for preliminary injunction.

{¶9} On December 2, 2025, Appellant filed a motion for expedited review pursuant to R.C. Chapter 2747 – attaching attached multiple exhibits to the motion; however, none of the exhibits were incorporated into or accompanied by an affidavit. The Watsons filed a memorandum in opposition to the motion for expedited relief, and Appellant filed a reply. At Appellant's request, the trial court conducted an oral hearing on the motion on February 2, 2026. However, the transcript of that oral hearing was not made part of the record on appeal.

{¶10} On April 20, 2026, the trial court issued a judgment entry denying Appellant's motion in part and granting it in part. First, the trial court found that because the claims arose from Appellant's public statements concerning a matter of public concern – the location of a sex-offender registrant – they implicated the freedom of speech and, therefore, Ohio Revised Code Chapter 2747 applied. Second, the trial court found that none of the exceptions set forth in R.C. 2747.01(C) applied.

{¶11} The trial court then considered whether the Watsons had established a prima facie case for defamation and intentional infliction of emotional distress. The court found that the Watsons had failed to establish a prima facie case for intentional infliction of emotional distress and, therefore, granted Appellant's motion as to the IIED claim.

{¶12} The trial court denied Appellant's motion as to the Watsons' defamation claim, finding that the Watsons established a prima facie case regardless of whether the claim was characterized as defamation per se or defamation per quod. The court found that Appellant's statement that Sheets' "current work location on his registration comes back to Watson Horse Farms in Newark, Ohio," was not substantially true. According to the court, an ordinary reader would understand Appellant's statement to mean that publicly available information indicated that Sheets worked at the business Appellant specifically identified, Watson Horse Farms, to the exclusion of any other business which might occupy or operate out of the same address.

{¶13} The trial court also found that nothing in the record indicated that Appellant attempted to verify the truth of her statement. Although Appellant contacted Bill Watson to "inform him" of Sheets' conviction, she did not ask him whether Sheets worked at Watson Horse Farms. Accordingly, the trial court denied Appellant's motion as to the defamation

claim, finding that the Watsons established a prima facie case for defamation and finding that Appellant failed to establish that the Watsons could not state a claim upon which relief could be granted or that no genuine issue of material fact existed.

{¶14} Appellant appeals the April 20, 2026, judgment entry of the Licking County Court of Common Pleas and assigns the following as error:

{¶15} “I. The trial court misapplied R.C. 2747.03(C)(3) by relying on pleadings rather than requiring evidence establishing each element of defamation as to appellant.”

{¶16} “II. The trial court erred in rejecting the substantial truth defense by conflating the statement’s literal meaning with potential reader inferences.”

{¶17} “III. Plaintiffs-appellees failed to plead special damages as required for defamation per quod.”

{¶18} “IV. The trial court failed to address whether Plaintiffs-appellees established the fault element.”

*Ohio’s UPEPA, Final Appealable Order, and Standard of Review*

{¶19} Ohio’s Uniform Public Expression Protection Act (“UPEPA”)<sup>2</sup> is codified in Chapter 2747 of the Ohio Revised Code. It permits a party to file a “motion for expedited relief to dismiss [a] civil action or claim” within sixty days of being served with a complaint or counterclaim. R.C. 2747.02.

{¶20} R.C. 2747.05(C) provides that, “if the court denies a motion for expedited relief under section 2747.04 of the Revised Code, the denial is a final order under section 2505.02

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<sup>2</sup> UPEPA is a law designed to protect people from lawsuits intended to silence them for exercising their First Amendment freedom of speech rights and to protect from strategic lawsuits against public participation (SLAPP suits). As of July 2026, 17 states have enacted UPEPA. [www.rcfp.org/anti-slapp-guide/latest-developments/](http://www.rcfp.org/anti-slapp-guide/latest-developments/) (accessed Sep. 13, 2026).

of the Revised Code and the moving party has an interlocutory right of appeal under that section.”

{¶21} The appropriate standard of review for statutory appeals under the UPEPA is de novo. *Anderson v. Anderson*, 36 N.W.3d 811, 817 (Minn.App. 2026); *Valve Corp. v. Bucher Law, PLLC*, 34 Wash.App.2d 727, 735 (2025); *Andes Roofing, LLC v. Rusnak*, 726 S.W.3d 13, 17 (Ky.App. 2025); *RCA Trade Ctr., Inc. v. Keong Hu*, 2026 Haw.App. LEXIS 335 at \*17 (June 23, 2026).

## I.

{¶22} In her first assignment of error, Appellant makes two arguments: (1) the trial court failed to adhere to R.C. 2747.04(C)(3) by failing to impose the appropriate burden upon the Watsons and (2) the trial court erred in concluding that the Watsons made a prime facie case for defamation. We disagree.

{¶23} In reviewing the trial court’s denial of Appellant’s UPEPA motion for expedited review, we apply the three-step analysis set forth in R.C. 2747.04(C). First, Appellant bears the burden of establishing that the UPEPA applies to the cause of action. Second, once Appellant satisfies that burden, the burden shifts to the Watsons to establish that a statutory exception applies under R.C. 2747.01(C) applies. Third, if the Watsons fail to establish that an exception applies, the trial court must dismiss the action if either (1) the Watsons fail to establish a prima facie case as to each essential element of their cause of action; or (2) Appellant establishes that the Watsons failed to state a cause of action upon which relief can be granted, or that there is no genuine issue of materiel fact and Appellant is entitled to judgment as a matter of law.

{¶24} The trial court found that the UPEPA applies in this matter, and neither party challenges that determination on appeal. Likewise, neither party challenges the trial court's determination that no exceptions apply. Thus, the burden shifted to the Watsons to establish a prima facie case as to each element of their cause of action.

*Burden / Evidence Required*

{¶25} Appellant contends that the trial court erred by accepting the Watsons' "pleadings" as sufficient to satisfy their burden. Appellant argues that the Watsons were required to present "additional evidence" and the trial court failed to require them to present evidence establishing falsity, fault, causation, and damages.

{¶26} R.C. 2747.04(B) provides that, in ruling on the motion for expedited relief pursuant to the UPEPA, the court "shall consider the pleadings, the motion, any response to the motion, and any evidence that could be considered in ruling on a motion for summary judgment under Rule 56 of the Rules of Civil Procedure."

{¶27} An examination of the trial court's judgment entry does not support Appellant's contention that the trial court relied solely on pleadings in reaching its decision. The trial court correctly cited the law set forth in R.C. Chapter 2747, correctly stated the Watsons bore the burden of establishing a prima facie case as to all elements of their defamation claim, and cited evidence presented by the Watsons at the preliminary-injunction hearing in support of its determination that they satisfied that burden. The trial court applied the correct standard. It considered not only whether the Watsons had sufficiently pleaded their cause of actions, but also whether they established a prima facie case as to each of the elements of their claims.

{¶28} Appellant next contends that the trial court erred in relying on "findings and assumptions" from the preliminary injunction hearing. She asserts that the trial court could

not use the standard applicable to a preliminary injunction to determine whether the Watsons satisfied their burden under the UPEPA. However, there is nothing in the trial court's judgment entry indicating that the trial court applied the preliminary injunction standard (likelihood of success on the merits) in ruling on the UPEPA motion.

{¶29} Nor did the trial court rely on “findings and assumptions” from the preliminary injunction hearing. Rather, the trial court relied on *evidence* introduced at the preliminary injunction hearing to support its decision. R.C. 2747.04(B) permits a court ruling on a motion for expedited relief to consider evidence that could be considered in ruling on a motion for summary judgment under Civil Rule 56, which expressly includes “transcripts of evidence” among the materials a court may consider. Civ.R. 56(C). The transcript of the preliminary injunction hearing constitutes a transcript of evidence. Moreover, in their written response to the motion for expedited relief, the Watsons specifically cited portions of that transcript in support of their position and to meet their burden.

{¶30} Additionally, Appellant failed to provide this Court with a transcript of the oral hearing the trial court conducted on the UPEPA motion. Accordingly, we must “presume regularity in the proceedings.” *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199 (1980).

#### *Prima Facie Case*

{¶31} Appellant also argues that the trial court erred in concluding that the Watsons established a prima facie case for defamation.

{¶32} The Watsons premise their defamation cause of action on the assertion that Appellant published false and defamatory statements about them. To establish a prima facie case for defamation, the Watsons must show: (1) a false and defamatory statement of fact; (2) about the plaintiff; (3) published without privilege to a third party; (4) with fault of at least

negligence on the part of the defendant; and (5) which was either defamatory per se or caused special harm to the plaintiff. *Spitzer v. Knapp*, 2019-Ohio-2701, ¶ 50 (5th Dist.).

{¶33} We first note that Appellant’s arguments concerning damages and fault are duplicative of those raised in Assignments of Error III and IV. Because we fully address Appellant’s arguments regarding whether the Watsons presented prima facie evidence of damages and fault in those assignments of error, we need not conduct a duplicative analysis here.

{¶34} Although the Watsons bear the burden of establishing a prima facie case of defamation, the trial court, and this Court on appellate review, must evaluate the entire context of the statement in a light most favorable to the Watsons. *Law Office of John Randolph, PLLC v. EWU Media, LLC*, 37 Wash.App.2d 77, 103 (2026). The UPEPA “contains nothing from which we could conclude that the Legislature intended to disturb the regular inferences that we afford to the nonmoving party on a motion to dismiss or a motion for summary judgment.” *MacKey v. Krause*, 2025 UT 37, ¶ 55. Accordingly, a court presented with a UPEPA special motion should “review the facts and all reasonable inferences in the light most favorable to the nonmoving party.” *Id.*, quoting *Christensen & Jensen, P.C. v. Barrett & Daines*, 2008 UT 64, ¶ 19; see also *Johnston v. Saunders*, 2026 Me. Super. LEXIS 148 at \*8; *Lianna Nguyen v. Hunt*, 2026 Ky.App. Unpub. LEXIS 430, \*31-45 (Jul. 17, 2026).

{¶35} To establish a prima facie case, a plaintiff “must present some competent evidence on every element needed to make out a cause of action.” *MacKey* at ¶ 58. Prima facie evidence is not conclusive; rather the term denotes evidence that “will support, but does not require, a verdict in favor of the party offering the evidence.” *Lance v. Boldman*, 2018-Ohio-44, ¶ 40 (9th Dist.); *Krischbaum v. Dillon*, 58 Ohio St.3d 58, 64 (1991). The Sixth Circuit has

described a prima facie case as a “low threshold.” *CAN Ins. Co. v. Hyundai Merchant Marine Co., Ltd.*, 747 F.3d 339, 353 (6th Cir. 2014); *Downtime Rebuild v. Trinity Logistics, Inc.*, 2019-Ohio-1869, ¶ 21 (1st Dist.). “Prima facie proof is a low standard,” requiring only “some evidence on every element of proof necessary to obtain the desired remedy.” *Rouleau v. Maine School Solutions, LLC*, 2026 U.S. Dist. LEXIS 174950 at \*5 (D.Me. Jul. 30, 2026), quoting *Camden Nat’l Bank v. Weintraub*, 2016 ME 101, ¶ 11.

{¶36} How a responding party satisfies its burden to establish a prima facie case in a UPEPA proceeding “will vary from case to case, depending on the nature of the complaint and the thrust of the motion.” *Baral v. Schnitt*, 1 Cal. 5th 376, 377 (2016). The responding party should be afforded “a certain degree of leeway” in carrying this burden “due to the early stage at which the motion is brought and heard and the limited opportunity to conduct discovery.” *Integrated Healthcare Holdings, Inc. v. Fitzgibbons*, 140 Cal.App.4th 515, 530 (2006); Unif. Pub. Expression Prot. Act § 7, cmt. 4 (Unif. Law Comm’n 2020). Foreign courts interpreting the UPEPA have found that a plaintiff’s prima facie burden is “akin to that of a party opposing a motion for summary judgment.” *Kyle v. Carmon*, 71 Cal.App.4th 901, 908; Uniform UPEPA at § 7, cmt. 4. Thus, to satisfy its burden, a plaintiff need only produce evidence that, if believed, would establish each element of the challenged cause of action. Uniform UPEPA at § 7, cmt. 4. At this stage, the court may not weigh the evidence. *Id.*; *Sweetwater Union High School Dist. v. Gilbane Bldg. Co.*, 6 Cal. 5th 931, 940 (2019).

{¶37} Here, there is no dispute that the statements were published on Facebook, or that the published statements referred to Watson Horse Farms, which Appellant expressly identified by name. In Assignments III and IV, we conclude that the trial court did not commit

error in finding that the Watsons presented a prima facie case of fault and damages. Thus, the remaining question is whether the Watsons set forth a prima facie case of falsity.

{¶38} Appellant contends the Watsons cannot establish a prima facie case of falsity because her statement is not false, as Sheets' work address and the address for Watson Horse Farms are the same. Whether a statement is a false statement is determined under "an objective, reasonable reader standard." *McKimm v. Ohio Elections Comm'n.*, 2000-Ohio-118, 89 Ohio St.3d 139, 143. "The law charges the author of an allegedly defamatory statement with the meaning that the reasonable reader attaches to the statement." *Id.* at 145. Otherwise, "publishers of false statements of fact could routinely escape liability for their harmful and false assertions simply by advancing a harmless, subjective interpretation of those statements." *Id.*

{¶39} In this case, we find no error in the trial court's determination that the Watsons made a prima facie case of falsity. Appellant commented that Sheets' "current work location on his registration comes back to Watson Horse Farms in Newark, Ohio," in direct response to Tiemeier's Facebook post stating that Sheets, a Tier III sexual offender, was attempting to gain employment at horse farms in the area to gain access to new victims. Appellant did not state that Sheets' work address was 7868 Licking Springs Road Northeast, which is the same address as Watson Horse Farms, or that his work address was affiliated with Watson Horse Farms. Rather, she stated that his publicly available work address was that of Watson Horse Farms itself, thereby explicitly identifying that business specifically and implicitly excluding other business entities that might operate at the same address. To be sure, this is a distinction with a difference.

{¶40} Aria and Bill Watson both testified that multiple businesses operate out of the 7868 Licking Springs Road address. They further testified that Sheets never worked at Watson Horse Farms and never even set foot in the horse barn.

{¶41} Viewing the evidence and all reasonable inferences in the light most favorable to the Watsons, we find that they presented prima facie evidence for an ordinary reader, applying the objective and reasonable-reader standard, to conclude that Appellant's statement was false. The trial court therefore did not err by drawing reasonable inferences in the Watsons' favor and concluding that they established a prima facie case of falsity. *MacKey v. Krause*, 2025 UT 37. The trier of fact may ultimately reach a different conclusion. However, at this stage and for purposes of a UPEPA motion, the trial court correctly concluded that the Watsons met their burden at this stage of the proceedings.

{¶42} Appellant further argues that the only statements containing a "defamatory sting" were statements made by the other defendants, not Appellant herself. Thus, she contends, the trial court erred by treating the other defendants' statements as part of the Watsons' prima facie evidence. However, "a court must consider the allegedly defamatory statement in the totality of the circumstances, including 'reading an alleged defamatory statement in the context of the entire publication to determine whether a reasonable reader would deem the statement defamatory.'" *Hoffman v. Gunawan*, 2025-Ohio-5697, ¶ 18 (9th Dist.), quoting *Fisher v. Ahmed*, 2020-Ohio-1196, ¶ 50 (9th Dist.).

{¶43} We find the trial court did not impermissibly hold Appellant responsible for the statements made by the other defendants or treat those statements as part of the Watsons' prima facie case. Rather, the trial court properly considered the context of the entire

publication (the Facebook post) and separately considered whether the Watsons presented prima facie evidence that Appellant's own statement was false.

{¶44} Accordingly, we conclude that the Watsons established a prima facie case as to each element of defamation. The trial court utilized the appropriate UPEPA framework and properly allocated the burden of proof in reaching that conclusion. Appellant's first assignment of error is overruled.

## II.

{¶45} In Appellant's second assignment of error, she argues that the trial court erred in rejecting the substantial truth defense. We disagree.

{¶46} Although a plaintiff must prove falsity as an element of a defamation claim and, thus, the Watsons bear the burden of presenting a prima facie evidence of falsity, a defendant may "completely defend" a defamation action "by showing that the gist, or imputation of the [defamatory] statement is substantially true and, hence, the statement is not false." *Ackison v. Gergley*, 2025-Ohio-1112, ¶ 23 (5th Dist.).

{¶47} Because the substantial truth doctrine is a defense, the court must view the truthfulness of the statement in favor of the non-moving party, i.e., assume the statement is false unless and until the moving party establishes its truth. *Brown v. Lawson*, 2006-Ohio-5897, ¶ 22 (1st Dist.); *Dundee v. Philpot*, 2019-Ohio-3939, ¶ 11 (1st Dist.). Generally, whether a statement is substantially true is a question of fact, including in UPEPA proceedings. *MedPro Group Inc. v. Deters*, 2026 U.S. Dist. LEXIS 167219 at \*10 (S.D. Ohio Jul. 28, 2026).

{¶48} Appellant's argument is essentially that, because Watson Horse Farms is one of the businesses that uses the 7868 Licking Springs Road Northeast, Newark, Ohio, address, the "gist" of her statement is substantially true. Appellant stated, "current work location on

his registration comes back to Watson Horse Farms in Newark, Ohio. I will always encourage others to be mindful of surroundings and the predators that are around.” Both Aria and Bill Watson testified that 12 businesses utilize that address and that Sheets is not involved with Watson Horse Farms. Construing the evidence in the Watsons’ favor, this testimony is sufficient to create a genuine issue of material fact regarding the substantial truth defense at this stage of the litigation. See *Law Office of John Randolph, PLLC v. EWU Media, LLC*, 37 Wash.App.2d 77, 103 (2026) (finding that genuine issues of material fact remained because a reasonable jury could find that the “gist” of the statement implied that the plaintiff had a history of child predation).

{¶49} Appellant also asserts that her statement could be interpreted as stating that the registry listed a work address that appeared in public search results or was associated with Watson Horse Farms. The problem with this argument is that these are not the words Appellant used. Her statement did not refer to “public search results” or state that Sheets’ address was merely “associated with” Watson Horse Farms. This is precisely what the Supreme Court of Ohio cautioned against when it explained that the “reasonable reader” standard prevents publishers of false statements from avoiding liability by advancing a harmless and subjective interpretation of the statements. *McKimm*, 89 Ohio St.3d at 145.

{¶50} While the ultimate trier of fact might see this differently and decide to apply the “substantial truth” defense, we decline to conclude, as a matter of law at this stage of the litigation, that Appellant’s statement is subject to different interpretations such that it is not false.

{¶51} Appellant also argues that the trial court improperly “rewrote” her statement. We likewise disagree with this interpretation. In its judgment entry, the trial court quoted

Appellant’s statement verbatim from the Facebook post. The court then properly applied the “ordinary reader” standard discussed above.

{¶52} Finally, as noted by the trial court, the inquiry pursuant to R.C. 2747.04(C)(3)(a) is whether the Watsons stated a prima facie case, not whether Appellant has a meritorious defense to the Watsons’ claim.

{¶53} Appellant’s second assignment of error is overruled.

### III.

{¶54} In her third assignment of error, Appellant contends that her motion for expedited relief should have been granted because the Watsons neither pleaded nor presented evidence of the special damages required to establish defamation per quod. Thus, Appellant argues that the Watsons failed to establish a prima facie case of defamation per quod, requiring dismissal under R.C. 2747.04(C)(3).

{¶55} In its judgment entry, the trial court found that the Watsons made a prima facie case for defamation, regardless of whether the claim is characterized as defamation per se or defamation per quod.

{¶56} A communication is defamatory per se when it is actionable based on the words spoken, without regard to the listener’s interpretation, i.e., when it is actionable on its face. *A&B-Abell Elevator Co. v Columbus/Cent. Ohio Bldg. & Contr. Trades Council*, 73 Ohio St.3d 1 (1995). A statement is defamation per se, on its face, when it reflects upon his or her character in such a manner that would cause him to be ridiculed, hated, or held in contempt, or in a manner that will injure him in his trade or profession. *Id.* Unless a privilege applies, damages and fault are generally presumed to exist if a statement is defamatory per se. *Wampler v. Higgins*, 93 Ohio St.3d 111, 127 (2001), fn. 8.

{¶57} Defamation per quod refers to a communication that is capable of being interpreted as defamatory, i.e., it must be determined by the interpretation of the listener, through innuendo, as being either innocent or damaging. *Northeast Ohio Elite Gymnastics Training Center v. Osborne*, 2009-Ohio-2612, ¶ 113 (9th Dist.). For defamation per quod, special damages must be proven. *Spitzer v. Knapp*, 2019-Ohio-2701, ¶ 51 (5th Dist.). “Special damages are those direct financial losses resulting from the plaintiff’s impaired reputation,” such as lost profits to his or her business. *Sky v. Westhuizen*, 2019-Ohio-1960, ¶ 59 (5th Dist.); *Martin v. Wegman*, 2019-Ohio-2935, ¶ 15 (1st Dist.).

{¶58} We find that the Watsons stated a prima facie case of special damages, as they testified to direct and specific economic harm resulting from the impaired reputation of Watson Horse Farms. Aria Watson testified that the farm lost business following Appellant’s posts, specifically, the farm lost two boarders. She stated that these were long-term clients who had given no indication that they intended to leave before the posts were made and who left immediately after the posts were made.

{¶59} Bill Watson similarly testified that Watson Horse Farms charges a fee for boarding horses and that boarding fees constitute part of the farm’s business income. He stated that the farm lost business following the Facebook posts and believed the losses were directly related to the posts because long-term boarders left immediately after the posts were published.

{¶60} The testimony of Bill and Aria Watson constitutes evidence that, if believed, could support a verdict in favor of the Watsons, although it does not require such a verdict and may be contradicted by other evidence. While the ultimate trier of fact may view this differently, the Watsons satisfied their UPEPA burden as to the element of damages.

{¶61} Appellant's third assignment of error is overruled.

#### IV.

{¶62} In her fourth assignment of error, Appellant contends that the trial court failed to address whether the Watsons established the fault element of their defamation claim.

{¶63} We disagree with Appellant's characterization of the trial court's decision. The trial court expressly addressed the fault element in its judgment entry, stating that "in order to establish defamation, plaintiff must establish that defendant acted with the requisite degree of fault in publishing the statement." The trial court found that the Watsons properly asserted that Appellant acted either negligently or recklessly. Further, the trial court found that the Watsons presented evidence that Appellant failed to attempt to verify the truth of the statement before publishing it. Although Appellant contacted Bill Watson to inform him of Sheets' conviction, she never asked Bill whether Sheets worked at Watson Horse Farms or otherwise attempted to verify the statement.

{¶64} Appellant contends that the trial court's finding that the Watsons presented prima facie evidence of fault - because Appellant failed to verify the truth of her statement - improperly shifted the burden of establishing fault to Appellant. We disagree.

{¶65} In Ohio, a plaintiff must prove either (1) ordinary negligence and actual injury, in which case he can receive damages for the actual harm infliction; or (2) actual malice, in which case he is entitled to presumed damages. *Sky v. Van Der Westhuizen*, 2019-Ohio-1960, ¶ 59 (5th Dist.). When "a private figure plaintiff has established a prima facie showing of defamation and the only issue remaining is fault," the plaintiff bears the burden of demonstrating that the defendant failed to act reasonably in attempting to discover the truth or falsity of the publication. *Landsdowne v. Beacon Journal Pub. Co.*, 32 Ohio St.3d 176, 179

(1987). The degree of fault must at least amount to negligence. *Bosak v. Kalmer*, 2002-Ohio-3463, ¶ 28 (7th Dist.).

{¶66} Here, the burden remained with the Watsons to make a prima facie case as to the element of fault. The trial court did not improperly shift that burden to Appellant. At the UPEPA stage, the Watsons were not required to *prove* that Appellant acted negligently, knowingly, or recklessly. Instead, they were required only to present a prima facie case – defined as evidence that, if believed, would support, but not require, a verdict in their favor and that could be contradicted by other evidence. *Roulevu v. Maine School Solutions, LLC*, 2026 U.S. Dist. LEXIS 174950 at \*6 (D.Me. Jul. 30, 2026). The Watsons’ failure to submit direct evidence of Appellant’s mental state “is not fatal to their claim under these circumstances [UPEPA expedited motion].” *Id.*

{¶67} In this case, the Watsons presented evidence that, if believed, would support, but not require, a finding that Appellant failed to act reasonably to ascertain the truth or falsity of her statement before publishing it. Aria testified that she had not heard of Appellant, who never contacted her to verify the truth or falsity of the statement. Bill testified that Appellant contacted him through Facebook Messenger and informed him that Sheets was a sexual predator but never asked whether Sheets worked for Watson Horse Farms or otherwise asked any questions about his employment. Under the appropriate UPEPA standard, the Watsons have met their UPEPA burden as to the element of fault.

{¶68} Appellant’s fourth assignment of error is overruled.

{¶69} Based on the foregoing, Appellant’s assignments of error are overruled.

{¶70} For the reasons stated in our Opinion, the judgment of the Licking County Court of Common Pleas is affirmed.

{¶71} Costs to Appellant Taniya Avena.

By: Popham, J.

Hoffman, P.J. and

Montgomery, J., concur