

564 So.2d 621, 15 Fla. L. Weekly D1973
(Cite as: 564 So.2d 621)

District Court of Appeal of Florida,
Fourth District.

Arthur A. PERRUZZI and Frances M. Perruzzi, Ap-
pellants,

v.

Richard A. FERRETTI, Appellee.
Nos. 89-2394, 89-2940.

Aug. 1, 1990.

Husband brought action against defendant for allegedly slandering wife. The Circuit Court, Indian River County, L.B. Vocelle, J., entered judgment for defendant on the pleadings, and husband appealed. The District Court of Appeal held that: (1) husband had obligation to give trial court opportunity to consider whether to allow husband to amend claim of loss of consortium arising out of slander's effect on wife, and (2) bringing claimed right to amend to appellate court before giving trial court opportunity to consider assertion was untimely.

Affirmed.

Anstead, J., concurred specially with opinion.

Stone, J., concurred in result only.

West Headnotes

Appeal and Error 30 236(1)

30 Appeal and Error

30V Presentation and Reservation in Lower Court of Grounds of Review

30V(B) Objections and Motions, and Rulings Thereon

30k234 Necessity of Motion Presenting Objection

30k236 In Proceedings Before Trial or Hearing

30k236(1) k. In General. Most Cited

Cases

Husband had obligation to make known to trial court that he wished leave to amend action for damages to raise loss of consortium claim as result of slander's

effect on wife in order to obtain order for review, so that bringing claimed right to amend to appellate court before giving trial court opportunity to consider assertion was untimely.

*622 [Charles A. Sullivan, Sr.](#), of Sullivan, Stone, Sullivan, LaJoie & Thacker, Vero Beach, for appellants.

[Clifford M. Miller](#) of Miller & Miller, Vero Beach, for appellee.

PER CURIAM.

We affirm the trial court's judgment on the pleadings against appellant who sued appellee for saying to third persons that appellant's wife is an "English whore." The husband's action was for damages occasioned to him by the slander, not for a loss of consortium arising out of the slander's effect upon the wife.

Appellant did not seek leave of the trial court to amend his complaint to seek a loss of consortium but now complains he should have been granted leave to amend to raise such claim. We conclude it was appellant's obligation to make known to the trial court that he wished leave to amend and to obtain an order thereon for us to review. To bring this claimed right to amend to the appellate court before giving the trial court the opportunity to consider such assertion is untimely.

We dismiss the additional appeal (Case No. 89-2940) from the trial court's order which granted appellee's motion for attorney's fees pursuant to [section 57.105, Florida Statutes \(1987\)](#).

[GLICKSTEIN](#), J., concurs.

ANSTEAD, J., concurs specially with opinion.

STONE, J., concurs in result only. ANSTEAD, Judge, concurring specially.

I agree with the majority that the general rule is that a cause of action for defamation is personal to the one allegedly defamed. See [Curtis v. Evening News Ass'n.](#), 135 Mich.App. 101, 352 N.W.2d 355 (Mich.Ct.App.1984); [Fasching v. Kallinger](#), 211 N.J.Super. 26, 510 A.2d 694, 701 (N.J.Super.Ct.App.Div.1986). See also K. Keeton, Prosser and Keeton on the Law of Torts § 111, at 778

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(5th ed. 1984).

We have also declined to review orders which authorize attorney's fees but do not set the amount. [Hurtado v. Hurtado](#), 407 So.2d 627 (Fla. 4th DCA 1981); *F.V. Scutti v. Daniel E. Adache & Associates Architects, P.A.*, 480 So.2d 718 (Fla. 4th DCA 1986).

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