

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SONJA L. BRAY,	§
	§
Plaintiff Below-	§ No. 541, 1999
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
L.D. CAULK DENTSPLY	§ in and for New Castle County
INTERNATIONAL,	§ C.A. No. 99C-07-014, -015,
	§ and -016
Defendant Below-	§
Appellee.	§

Submitted: January 24, 2000

Decided: March 8, 2000

Before **VEASEY**, Chief Justice, **WALSH**, and **BERGER**, Justices.

ORDER

This 8th day of March 2000, it appears to the Court that:

(1) The appellant, Sonja L. Bray, filed this appeal from a Superior Court decision dated October 22, 1999. Bray had filed three complaints against the defendant-appellee, L.D. Caulk Dentsply International (“Caulk”), alleging libel, defamation, and breach of contract. Bray, a former Caulk employee, alleged that Caulk had maintained incorrect criminal history information in Bray’s personnel file. The Superior Court granted summary judgment to Caulk on all three claims. Caulk has filed a motion to affirm the

Superior Court's judgment on the ground that it is manifest on the face of Bray's opening brief that the appeal is without merit under the criteria set forth in Supreme Court Rule 25(a).¹

(2) This Court reviews *de novo* a trial court's decision granting summary judgment.² We have reviewed the trial court record as well as Bray's opening brief and Caulk's motion to affirm. Even viewing the facts in the light most favorable to Bray, it is clear from this record that there was no genuine issue of material fact and that Caulk was entitled to judgment as a matter of law on all three claims.³

(3) To sustain a claim for defamation, Bray was required to show that Caulk had made a false and defamatory statement of fact about her in an unprivileged publication to a third party. Libel has been defined as "written defamation."⁴ It is undisputed on this record that the allegedly defamatory

¹On January 24, 2000, Bray filed a document entitled, "Appellant's Reply Brief and Motion to Strike the Appellee's Motion to Affirm," which apparently is a response to Caulk's motion. A response to a motion to affirm is not permitted unless requested by the Court. *See* Supr. Ct. R. 25(a). Accordingly, because the Court did not request a response, Bray's document is hereby stricken pursuant to Supreme Court Rule 34.

²*Abb Flakt, Inc. v. National Union Fire Ins. Co. of Pittsburgh, PA.*, Del. Supr., 731 A.2d 811, 816 (1999).

³*Id.*

⁴*Spence v. Funk*, Del. Supr., 396 A.2d 967, 970 (1978).

information contained in Bray's personnel file was never published to a third party. Accordingly, the Superior Court did not err in granting summary judgment to Caulk on Bray's claims for libel and defamation.

(4) Furthermore, the Superior Court did not err in granting summary judgment to Caulk on Bray's claim for breach of contract. Bray contended that Caulk breached its contract with her when it deviated from procedures set forth in Caulk's employee handbook. The law is well settled, however, that an employee handbook, which does not set forth terms, conditions, or duration of employment, does not constitute a contract between an employer and employee.⁵

(5) Accordingly, we conclude that this matter should be affirmed for the reasons stated in the Superior Court's well-reasoned decision dated October 22, 1999.

NOW, THEREFORE, IT IS ORDERED that Caulk's motion to affirm is GRANTED. The judgment of the Superior Court is hereby AFFIRMED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

⁵See *Heideck v. Kent Gen. Hosp.*, Del. Supr., 446 A.2d 1095, 1097 (1982).