

**UNPUBLISHED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
BIG STONE GAP DIVISION**

<b>BAHMAN PAYMAN, M.D.,</b>	)	
	)	
Plaintiff,	)	Case No. 2:01CV00128
	)	
v.	)	<b>OPINION</b>
	)	
<b>GHULLAM JOYO, M.D.,</b>	)	By: James P. Jones
	)	United States District Judge
Defendant.	)	

*Michael A. Bragg, Bragg & Associates, PLC, Abingdon, Virginia, for Plaintiff;  
Wm. W. Eskridge, Penn, Stuart & Eskridge, Abingdon, Virginia, for Defendant.*

In his Second Amended Complaint in this case,<sup>1</sup> the plaintiff, Bahman Payman, a physician, contends that the defendant, Ghullam Joyo, another physician, defamed him by statements made in the operating room of Lee County Community Hospital on November 1, 1999, and later at a medical staff meeting on November 22, 1999. He seeks damages based on the common law of defamation and Virginia's insulting words

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<sup>1</sup> Jurisdiction of this court exists pursuant to diversity of citizenship and amount in controversy. *See* 28 U.S.C.A. § 1332(a) (West 1993 & Supp. 2002).

statute.<sup>2</sup> The defendant has moved for judgment on the pleadings<sup>3</sup> on the ground that the action is barred by the applicable statute of limitations.

The motion will be granted. The causes of action asserted clearly accrued more than one year before this action was filed on October 31, 2001, and thus are barred by Virginia's applicable statute of limitations.<sup>4</sup> The plaintiff suggests no reason why the statute ought not to be applied in this case.<sup>5</sup>

For these reasons, the motion for judgment on the pleadings will be granted and final judgment entered for the defendant. A separate judgment consistent with this opinion is being entered herewith.

DATED: August 8, 2002

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United States District Judge

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<sup>2</sup> Va. Code Ann. § 8.01-45 (Michie 2000).

<sup>3</sup> See Fed. R. Civ. P. 12(c).

<sup>4</sup> See Va. Code Ann. § 8.01-247.1 (Michie 2000).

<sup>5</sup> The scheduling order in this case requires a brief in opposition to be filed to any motion within fourteen days. (Scheduling Order ¶ 4.) No such brief in opposition has been filed by the plaintiff to the current motion for judgment on the pleadings, although the time has long expired. The scheduling order further provides that unless good cause is shown, if a brief opposing the motion is not timely filed, it will be considered that the motion is unopposed. (*Id.*)