

Williams v Black Entertainment Tel. Network (BET Networks)

2015 NY Slip Op 31322(U)

May 6, 2015

Supreme Court, Queens County

Docket Number: 13800/2014

Judge: Allan B. Weiss

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Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE ALLAN B. WEISS IA Part 2
Justice

CHARLES WILLIAMS, x
Plaintiff,
-against-

Index
Number 13800/2014
Motion
Date December 9, 2014

BLACK ENTERTAINMENT TELEVISION
NETWORKS (BET NETWORKS)

Defendant.

Motion Seq. No. 3

x
The following papers numbered 1 to 8 read on this motion by
defendant Black Entertainment Television Networks to dismiss
plaintiff's complaint pursuant to CPLR 3211(a)(1) and (7) or, in
the alternative, for summary judgment dismissing the complaint
pursuant to CPLR 3212.

	<u>Papers Numbered</u>
Notice of Motion - Affidavits - Exhibits.....	1-4
Answering Affidavits - Exhibits.....	5-6
Reply Affidavits.....	7-8

Upon the foregoing papers it is ordered that this motion is
determined as follows:

Plaintiff Charles "Chaz" Williams, *pro se*, commenced this
action sounding in defamation in connection with a slide show
published on defendant's website entitled "Infamous Music
Managers." Each slide profiled a different music industry manager
who had been implicated in various types of misconduct. The
opening slide read:

Managing stars isn't easy, so the people who
are good at it take a hefty 10% for all their
hard work. As we know, with the good comes
the bad, and some managers have become rather
infamous in their role as star-makers.

The slide featuring plaintiff contained his name, a photo of him,
and a paragraph which stated:

Chaz Williams, CEO of Black Hand Entertainment and Foxy's Brown's manager, was convicted in the 1970's of robbing over 60 banks. In 2003, 50 Cent accused him of playing a role in the infamous 2000 shooting that almost killed the rap star.

The 2000 shooting mentioned in the slide refers to a nine-bullet attempt on the life of plaintiff's former client, rapper Curtis "50 Cent" Jackson (50 Cent), who survived the shooting. 50 Cent's relationship with plaintiff and his music management and production company, Black Hand Entertainment, ended sometime afterward.

On a motion to dismiss for failure to state a cause of action pursuant to CPLR 3211(a)(7), the court must afford the complaint a liberal construction, accept the facts alleged in the complaint as true, accord plaintiff the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory (see *Goldfarb v Schwartz*, 26 AD3d 462, 463 [2006]; *511 West 232nd Owners Corp. v Jennifer Realty Co.*, 98 NY2d 144, 152 [2002]). A motion to dismiss will fail if, from the four corners of the complaint, factual allegations are discerned which manifest any cause of action cognizable at law (see *id.*; *Cooper v 620 Prop. Assoc.*, 242 AD2d 359, 360 [1997]). Additionally, the dismissal of an action on documentary evidence grounds pursuant to CPLR 3211(a)(1) "is warranted only if the documentary evidence conclusively establishes a defense to the asserted claims as a matter of law" (*Leon v Martinez*, 84 NY2d 83, 88 [1999]; see *Goshen v Mutual Life Ins. Co. of New York*, 98 NY2d 314, 326 [2002]).

To state a cause of action for defamation, a plaintiff must allege that the defendant published a false statement about the plaintiff to a third party, without privilege or authorization (see *El Jamal v Weil*, 116 AD3d 732, 733 [2014]; *Knutt v Metro Intl., S.A.*, 91 AD3d 915, 915-916 [2012]; *Epifani v Johnson*, 65 AD3d 224, 233 [2009]; *Dillon v City of New York*, 261 AD2d 34, 38 [1999]). A defamatory statement is one which tends to expose a person to hatred, contempt or aversion or induce an evil or unsavory opinion of him in the minds of a substantial number of the community (see *Knutt*, 91 AD3d at 916 [internal citations and quotation marks omitted]). Whether a statement is defamatory presents a question of law to be resolved by the court in the first instance (see *Gjonlekaj v Sot*, 308 AD2d 471, 473 [2003]). In making this determination, the court must construe the words in the "context of the entire statement or publication as a whole, tested against the understanding of the average reader [or listener], and if not

reasonably susceptible of a defamatory meaning, they are not actionable and cannot be made so by a strained or artificial construction" (*G.L. v Markowitz*, 101 AD3d 821, 826 [2012][internal citations omitted]).

It is well settled that truth is an absolute defense to a defamation cause of action, regardless of the harm done by the alleged defamatory statements (see *Matovcik v Times Beacon Record Newspapers*, 46 AD3d 636, 638 [2007]; *Kamalian v Reader's Digest Assoc., Inc.*, 29 AD3d 527, 528 [2006]). A statement or publication need only be "substantially true," and minor inaccuracies are acceptable (see *Matovcik*, 46 AD3d at 638; *Love v Morrow & Co.*, 193 AD2d 586, 587 [1993]). The test of whether a statement is substantially true is "whether the libel as published would have a different effect on the mind of the reader from that which the pleaded truth would have produced" (*Matovcik*, 46 AD3d at 638, quoting *Love*, 193 AD2d at 588).

As a preliminary matter, inasmuch as the word "infamous" is subjective and "incapable of being proved true or false," it is non-actionable opinion that cannot be the subject of a defamation action (see *Russell v Davies*, 97 AD3d 649 [2012]; *Springer v Almontaser*, 75 AD3d 539 [2010]).

Next, plaintiff concedes that he does not seek recovery on his defamation claims based on defendant's statement that plaintiff was convicted of multiple bank robberies, which is undisputedly true (see *Matovcik*, 46 AD3d at 638).

With respect to its statement that 50 Cent accused plaintiff of playing a role in the shooting, defendant highlights the lyrics of 50 Cent's song "Many Men" from the album "Get Rich or Die Tryin'," which read: "Slim switched sides on me . . . why you want me to die, homie?" As plaintiff acknowledges on his business' website, "Slim" was his nickname. Defendant proffers an excerpt from a book by music journalist Ethan Brown entitled "Rise of the Hip-Hop Hustler," which discusses the lyrics: "50 claimed on the track 'Many Men' that his former mentor . . . Chaz Williams (whom he called 'Slim' on the song) . . . 'switched sides' on him and ordered the shooting." Defendant further submits an interview of 50 Cent from the rap music magazine XXL, in which he states:

After I got shot up, I call my grandmother's house. I say, 'Anybody call me there?' She said, 'No.' I said, 'Ma, you sure nobody called there for me?' She goes, 'No.' So in my head, if [Chaz] didn't know exactly what the f-k happened before it happened, then he

knew already. That's why he didn't call. And they wonder why to this day why I don't f--k with him (Vanessa Satten, *Games Haters Play*, XXL, Sept. 2006 at 126).

Defendant was entitled to rely on the reporting abilities of these journalists, in the absence of a substantial reason to question the accuracy of the articles or the bona fides of the reporter (see *Love*, 193 AD2d at 589; see also *Weiner v Doubleday & Co., Inc.*, 74 NY2d 586, 595-596 [1989]; *Gorman v Random House, Inc.*, 237 AD2d 564 [1997]).

Moreover, plaintiff supported 50 Cent's assertions that plaintiff was involved in the shooting by posting the heading, "DID 'SLIM' SWITCH SIDES ON ME?" on Black Hand Entertainment's website. Underneath was a link to the website rapgenius.com, where the full lyrics to "Many Men" were listed. Visitors to the rapgenius.com could click on individual lines of a song to access user-contributed annotations on lyric meanings. Clicking the line "Slim switched sides on me . . . why you want me to die, homie?" retrieves the explanation, "50 Cent is referring to himself being shot and suggesting that Charles 'Chaz' Williams had a part in it or knew about it and did nothing to stop it." In some interviews after the shooting, plaintiff also acknowledged that he might have been able to prevent the shooting had 50 Cent requested help.

Given that plaintiff does not outright deny that 50 Cent had accused him of involvement in the shooting, the well-reported conflict between plaintiff and 50 Cent over such alleged involvement, and plaintiff's promotion of such conflict on Black Hand Entertainment's website, it is disingenuous for plaintiff to argue that the statement "50 Cent accused him of playing a role in the infamous 2000 shooting" is false, regardless of whether the accusation itself is true. In opposing the motion, plaintiff mistakenly conflates and imputes 50 Cent's accusation upon defendant, as if defendant had adopted the content of such statement as its own, despite the slide's clear wording that defendant was repeating what someone else said. Furthermore, contrary to plaintiff's assertion, it is unnecessary for 50 Cent to have stated his charge against plaintiff to law enforcement authorities or under oath in a court proceeding in order for defendant to meet its burden on this motion. Nevertheless, by both parties' accounts it is substantially true that 50 Cent alleged that plaintiff was involved in criminal activity (see *Love*, 193 AD2d at 588; cf. *Matovcik*, 46 AD3d at 638). Thus, the documentary evidence set forth by defendant is sufficient to demonstrate, as a matter of law, that the subject statement was not defamatory (see *Goldberg v Levine*, 97 AD3d 725, 726 [2012]; *Kamalian*, 29 AD3d at

528; *Love*, 193 AD2d at 588). The court further notes that plaintiff fails to allege any fault by defendant, as the removal of the slide show from the website is not evidence of gross irresponsibility (see e.g. *Alicea v Ogden Newspapers, Inc.*, 115 AD2d 233 [1985]), and there were no other factual allegations to substantiate the conclusory words "malice" and "grossly irresponsible" in the complaint (see *Hame v Lawson*, 70 AD3d 640 [2010]).

Finally, plaintiff's attempts to assert claims for tortious interference with business and unfair business practices must fail. Neither the vague assertion of "decreased potential client confidence[] and future income" nor general claims that defendant "interfered with [his] management earning power" and "caused injury to prospective business opportunities and business relationships" suffice to allege the type of valid, specific contracts or business relationships required to set forth a tortious interference cause of action (see *J.M. Bldrs. & Assoc., Inc. v Lindner*, 67 AD3d 738, 741 [2009]; *Dome Property Mgt., Inc. v Barbaria*, 47 AD3d 870 [2008]). Similarly, plaintiff fails to state a claim for unfair business practices in the absence of any allegation that defendant misappropriated, in bad faith, any commercial advantage belonging exclusively to him (see *First Keystone Consultants, Inc. v DDR Constr. Servs.*, 74 AD3d 1135, 1138 [2010]; *LoPresti v Massachusetts Mut. Life Ins. Co.*, 30 AD3d 474, 476 [2006]).

Thus, even after applying the liberal and broad interpretation to the complaint filed by this *pro se* litigant (see *Wells Fargo Bank, N.A. v Erobo*, - AD3d -, 2015 NY Slip Op 03522 [2015]; *Planck v SUNY Bd. of Trustees*, 18 AD3d 988, 990 [2005]), the court finds no cognizable legal theory to support liability against defendant.

The court has considered the parties' remaining contentions and deems them unavailing.

Accordingly, defendant's motion to dismiss the complaint pursuant to CPLR 3211(a)(1) and (7) is granted and the complaint is dismissed.

Dated: May 6, 2015
D:52

J.S.C.