

Gravano v Take-Two Interactive
2016 NY Slip Op 32871(U)
March 11, 2016
Supreme Court, New York County
Docket Number: 151633/14
Judge: Joan M. Kenney
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requiring that pleadings shall be liberally construed and that defects shall be ignored if a substantial right of a party is not prejudiced. Thus, the burden is placed upon one who attacks a pleading for deficiencies in its allegations to show that he is prejudiced. The test of prejudice is to be given primary emphasis. Thereby, the court disregards pleading irregularities, defects, or omissions that are not such as to reasonably mislead one as to the identity of the transactions or occurrences sought to be litigated or as to the nature and elements of the alleged cause or defense. In this case, plaintiff has alleged cause(s) of action alleging a violation of a right to privacy pursuant to New York Civil Rights Law section 50 and 51.

Plaintiff has, however, also set forth causes of actions that are not recognized in the State of New York, and must be dismissed, pursuant to CPLR 3211(a)(7). There is no basis in law, or in fact, as to why this Court would apply the laws governed in the State of New Jersey and the State of California. If plaintiff claims that she was injured in those states, then she may commence actions in those states against defendants, if applicable. It is further noted that plaintiff did not address defendants arguments against dismissal of claims wherein the laws of New Jersey and California may apply. As such, the 2nd, 3rd, 4th, and 5th causes of actions, are dismissed.

Accordingly, it is

ORDERED that the within pre-answer motion to dismiss, is denied and granted, in part; and it is further

ORDERED that the 1st cause of action of the amended complaint, shall remain; and it is further

ORDERED that the Clerk of the Court shall enter judgment in favor of defendants and against plaintiff dismissing the 2nd, 3rd, 4th and 5th causes of action in the amended complaint; and it is further

ORDERED that the application for sanctions, is denied, within this Court's discretion; and it is further

ORDERED that the defendants shall answer the amended complaint within 30 days from the date of this order; and it is further

ORDERED that the parties appear for a compliance conference on June 9, 2016 at ~~10:00~~ a.m. in Room 304 located at 71 Thomas Street, NYC 10013.



 JOAN M. KENNEY
 J.S.C. 3/11/16

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