

TRB Acquisitions LLC v Yedid

2021 NY Slip Op 33859(U)

September 20, 2021

Supreme Court, New York County

Docket Number: Index No. 651160/2021

Judge: Jennifer G. Schechter

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JENNIFER G. SCHECTER

PART 54

Justice

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INDEX NO. 651160/2021

TRB ACQUISITIONS LLC, E.D.Y. EQUITIES LLC,

MOTION SEQ. NO. 002

Plaintiffs,

- v -

DECISION + ORDER ON MOTION

JACK YEDID,

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30

were read on this motion for DISMISSAL.

Even if defendant provided confidential or disparaging information to Reebok in violation of the parties' agreement, he cannot be liable. An absolute privilege applies because the information was pertinent to the Reebok litigation. "It is well-settled that statements made in the course of litigation are entitled to absolute privilege" (Front, Inc. v Khalil, 24 NY3d 713, 718 [2015]). "The privilege embraces anything that may possibly be pertinent or which has enough appearance of connection with the case" (Pomerance v McTiernan, 51 AD3d 526, 528 [1st Dept 2008]). That defendant allegedly made his statements with malice is irrelevant (id. ["The offending statements, although clearly reprehensible and possibly deliberately false insofar as they alleged instructions by Pomerance to discuss the matter with trial counsel, were nonetheless pertinent to the motion to quash and therefore absolutely privileged. This is true no matter how great McTiernan's personal malice toward Pomerance"]). His intent does not matter because the information was undoubtedly pertinent. The absolute privilege, moreover, "applies to causes of action other than defamation" (Hadar v Pierce, 111 AD3d 439, 440 [1st Dept 2013]), including breach of contract (Martinson v Blau, 292 AD2d 234 [1st Dept 2002]; see Arts4All, Ltd. v Hancock, 5 AD3d 106, 108 [1st Dept 2004] [privilege precludes claim for breach of non-disparagement agreement]). Additionally, the sham exception does not apply. Plaintiffs settled the Reebok litigation, which concededly was not a sham (Dkt. 27 at 24), and they lost in the arbitration. But even if the court could speculate that the terms of the Reebok settlement were influenced by defendant's information, that would not vitiate the absolute privilege. The very point of the privilege is to immunize parties from providing pertinent information in lawsuits without fear of reprisal. In other words, and for good reason, an agreement that would prohibit disclosure of information pertinent to litigation is unenforceable. Accordingly, it is ORDERED that defendant's motion to dismiss the complaint is GRANTED and the Clerk is directed to enter judgment dismissing the complaint with prejudice.

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9/20/2021
DATE

JENNIFER G. SCHECTER, J.S.C.

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Form with checkboxes for CASE DISPOSED, GRANTED, DENIED, NON-FINAL DISPOSITION, GRANTED IN PART, OTHER.