

**Abuzaid v Almayouf**

2023 NY Slip Op 30257(U)

January 24, 2023

Supreme Court, New York County

Docket Number: Index No. 654536/2019

Judge: Nancy M. Bannon

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 42

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RAWAN ABDULLAH ABUZAID,

Plaintiff,

- v -

DANAH ALMAYOUF and DOES 1-10,

Defendants.

INDEX NO. 654536/2019

MOTION DATE 06/03/2022

MOTION SEQ. NO. 006

**DECISION + ORDER ON  
MOTION**

-----X

HON. NANCY M. BANNON:

The following e-filed documents, listed by NYSCEF document number (Motion 006) 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 127, 128, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145

were read on this motion to/for PARTIAL SUMMARY JUDGMENT.

I. INTRODUCTION

In this action wherein the plaintiff, Rawan Abdullah Abuzaid, professionally known as Model Roz (hereinafter, Model Roz), seeks permanent injunctive relief and damages for alleged defamatory conduct and tortious interference with prospective economic advantage by the defendant Danah Almayouf (Almayouf). Model Roz now moves, in effect, for partial summary judgment pursuant to CPLR 3212 on her first cause of action sounding in defamation per se by libel. Almayouf opposes the motion. For the following reasons, the motion is granted in part.

II. BACKGROUND

A. Factual Background

The following facts are derived from Model Roz’s Rule 202.8-G Statement of Material Facts, Almayouf’s response thereto, and the admissible evidence submitted in connection with the instant motion.

Model Roz is a Saudi Arabian-born model and social media influencer. She began her business in 2012, moved to the United States in 2013, and now resides in California. Since her arrival in the United States, through approximately 2016, Model Roz avers that she made as much as \$5,000,000.00 in advertising campaigns with fashion, lifestyle, and beauty brands such as Victoria’s Secret, Guess, and Revlon.

Almayouf was born in Saudi Arabia and currently resides in New York. She is a self-described “social activist.” Almayouf maintains multiple social media accounts on Instagram, Twitter, Telegram, Youtube, and TikTok, which she uses express her views on topics of import to her. Specifically, Almayouf says that she uses her accounts to “shed light and/or protest the hypocrisy and double standards in the Middle East.”

Model Roz and Almayouf have never met, spoken with one another, or exchanged email communications. In fact, they have never privately interacted at all. Nor has Almayouf ever spoken to anyone alleged to be a family member or friend of Model Roz. Notwithstanding, shortly after Almayouf learned of Model Roz’s existence in late 2015 or early 2016, Almayouf spoke with her roommate and unidentified individuals online and determined for herself that Model Roz was “a hypocrite” and “a liar.” On or about April 26, 2017, Model Roz blocked Almayouf on Twitter. Almayouf tweeted Model Roz, on the same date, “Glad to be blocked by this double standard saudi celeb who fled saudi to live life freely & criticize me 4wanting this to all the saudi girls.” Almayouf then tweeted that Model Roz “only became famous coz she can’t do her thing which is instagram modeling in saudi coz her guardian will cut her to peices [sic],”

and that “She is criticizing us the activist for ruining the country’s reputation,” calling Model Roz a “double standard idiot” because “she only want to please her followers. while she knows that lots of saudi girls who follow her can’t even walk outside without a black ugly cloth covering them from head to toe.” Almayouf explains that her statement about Model Roz’s “guardian” was a reference to an authority figure, such as a husband, wife, or older brother, who, in Saudi Arabia, would not have permitted Model Roz to dress or behave as she depicted herself doing in social media.

In or about 2017 or 2018, Almayouf performed cursory online research on Model Roz. She reviewed a background report from Whitepages Premium showing “zero criminal records” for Model Roz, as well as the LinkedIn profile of Mohammad Almorqui, a Saudi man to whom Alamayouf erroneously believed Model Roz was providing prostitution services. In fact, Almorqui was Model Roz’s then-husband. Almayouf had no information to support the subjective belief she subsequently formed that Model Roz was a prostitute paid for her services by the Saudi government. Almayouf has stated that she formed her opinion based on the images Model Roz published of herself and the “lavish lifestyle” they depicted. Specifically, Almayouf believed that prostitution was the “logical” basis for Model Roz’s “lifestyle changing from ... a normal kind of middle-class to a rich person without an actual ... business or job that can make you that ... super rich.” Almayouf also insists that Model Roz’s online posts are “the way that prostitute[s] in Saudi Arabia advertise themselves.” According to Almayouf, various unidentified individuals online who “are familiar with Saudi Arabian culture” agree with her that Model Roz’s depicted behaviors “would be punishable in Saudi Arabia as an offense of prostitution.”

In early 2019, Almayouf began publishing numerous statements from her social media accounts labeling Model Roz a “whore,” a “prostitute,” and an “escort.” On January 6, 2019, Almayouf tweeted with regard to Model Roz, “I am reiterating this fact with confidence and I will repeat it a million time: the Saudi Embassy in the USA and other countries are pampering whores and they support them financially.” On January 8, 2019, Almayouf tweeted, again with regard to Model Roz,

“I swear that I have evidence that the Consulate in the U.S. is taking care of a woman whose origins are suspicious / unclear. They say she is Saudi. Those sheep are taking care of her because she is a whore. They have her living like a queen in the U.S. She is putting on a show making people think that she’s living off advertising business. If you would like to take a look at the evidence contact me...”

The following day, January 9, 2019, Almayouf tweeted in a thread about Model Roz,

“I am not making false claims. This is the truth. I will include her name as I please, especially that the Consulate supports her and kidnaps others. Any background check in the USA can reveal to you who is really paying her rent: a guy working at the Consulate. Administrative and financial corruption, that’s what it is. Additionally, she attacked female immigrants, while she works in prostitution. I will mention her name because this case deserves to get some attention.”

Also on January 9, 2019, Almayouf published about Model Roz from one of her Instagram accounts, “You expect us to be jealous of you while we know that all the riches you are enjoying are coming from prostitution? And that without that old man from the Consulate you would be nothing at all?” The “old man from the Consulate” referred to Almorqui, Model Roz’s husband. On January 28, 2019, Almayouf published another statement from her Instagram account, in response to another user’s comment that Almayouf “will never become Roz.” Almayouf wrote, “Of course, I do not wish to become an escort that the Dollars can buy. I will not be sold and bought with money.” On April 3, 2019, Almayouf again wrote from her

Instagram account in a comment about Model Roz, “I believe a person whose main occupation is being an escort for money should have no business getting involved in people’s relationships!!”

On April 5, 2019, Model Roz, through her attorneys, sent Almayouf a cease-and-desist letter. In the letter, Model Roz’ attorney stated that Almayouf’s posts on social media that Model Roz was a prostitute and made her money offering prostitution services, and that she was paid by the Saudi government for her services as a prostitute, were false and defamatory.

Almayouf did not cease making her claims, however, deeming the cease-and-desist letter “a bully attempt to take away [her] freedom of speech.” On April 8, 2019, Almayouf wrote from her Instagram account that Model Roz “does a lot of illegal things, including her escorting business.” She also wrote, in regard to another comment stating that she would never become Model Roz, “Nobody wants to be fake, making a living from prostitution!” On April 10, 2019, Almayouf responded to a Twitter comment accusing her of being jealous of Model Roz, “But really, how can anyone with half a brain think I would be jealous of another human being who depends on prostitution to make a living? Especially while being involved with the whores of the Consulate.” On April 15, 2019, Almayouf wrote from her Instagram account to Model Roz, “Go and yell at the Consulate’s sheep who renewed your passport and refused to renew those of other female citizens. Of course, that’s because of the special services you offer, trash.”

On May 30, 2019, Model Roz’s attorneys sent Almayouf a second cease-and-desist letter, identifying Almayouf’s statements accusing Model Roz of prostitution as false and threatening legal action. On June 2, 2019, Almayouf wrote back to Model Roz’s attorneys, stating, in relevant part, “I am fully asserting my right to exercise my freedom of speech, opinion, expression and press in publicly expressing my opinions about anything, and to publish those opinions along with whatever facts I have good faith basis to believe.”

Almayouf then continued making yet additional assertions that Model Roz was a prostitute on social media. On July 11, 2019, Almayouf wrote from her Instagram account to Model Roz, “I do not wish to become a whore [] for the Gulf, like you. It would not honor me to become like you, whether on Instagram, which is filled with your photoshopped pictures, and filters in addition to your failed cosmetic surgeries, or in your real life that is full of prostitution and disgusting matters.” Almayouf added, “You brought it on yourself, however, I enjoy defaming you.” The court notes that while Almayouf quibbles with the certified translation of her post submitted by Model Roz, inasmuch as it uses the word “defaming,” she submits no competing certified translation pursuant to the CPLR.

Since the inception of this action, Almayouf has continued to post on social media statements suggesting or outright asserting that Model Roz is a prostitute.

**B. Procedural Background**

Model Roz commenced this action by filing of the summons and complaint on August 9, 2019. The complaint asserts three causes of action sounding defamation per se by libel (first cause of action), defamation per se by slander (second cause of action), and tortious interference with prospective economic advantage (third cause of action). It seeks both monetary damages and a permanent prospective injunction against Almayouf, requiring her to abstain from “further libel, slander or tortious interference against Plaintiff” on social media, and to “remove or delete all disparaging and harmful statements regarding Plaintiff thereupon.”

Almayouf filed her answer on December 17, 2019. Discovery ensued, and a Note of Issue was filed on February 15, 2022. The Note of Issue was subsequently stricken, upon Model Roz’s application, by a decision and order dated July 18, 2022, and the deadline for a new Note

of Issue to be filed was set by the same order for August 20, 2022. No new Note of Issue was filed by such date.

Model Roz now moves for summary judgment on her first cause of action, sounding in defamation per se by libel, with respect to the published statements Almayouf made on social media in which she stated that Model Roz is a prostitute and an escort. While Model Roz's Notice of Motion cites to CPLR 3213 as the basis for the relief she seeks, it is apparent upon review of her submissions that this citation was a typographical error and that Model Roz moves, in effect, pursuant to CPLR 3212. Almayouf opposes the motion, contending that Model Roz fails to establish that Almayouf's statements were false that Model Roz is a public figure, requiring her to establish that Almayouf's statements were made with actual malice.

### III. LEGAL STANDARD

The proponent of a motion for summary judgment pursuant to CPLR 3212 must establish his or her prima facie entitlement to judgment as a matter of law (see Zuckerman v City of New York, 49 NY2d 557 [1980]) by submitting proof in admissible form demonstrating the absence of triable issues of fact. See Winegrad v New York Univ. Med. Ctr., 64 NY2d 851 (1985). If the movant fails to meet this burden and establish his or her claim or defense sufficiently to warrant a court's directing judgment in the movant's favor as a matter of law (see Alvarez v Prospect Hosp., 68 NY2d 320 [1986]; Zuckerman v City of New York, supra; O'Halloran v City of New York, 78 AD3d 536 [1<sup>st</sup> Dept. 2010]), the motion must be denied regardless of the sufficiency of the opposing papers. See Winegrad v New York Univ. Med. Ctr., supra; O'Halloran v City of New York, supra. Should the movant meet his or her burden, it then

becomes incumbent upon the party opposing the motion to come forward with proof in admissible form to raise a triable issue of fact. See Alvarez v Prospect Hosp., *supra*.

#### IV. DISCUSSION

In support of her motion, Model Roz submits, *inter alia*, the pleadings, a statement of material facts, her affidavit, excerpts from her deposition testimony, excerpts from Almayouf's deposition testimony, and the alleged defamatory statements Almayouf published from her social media accounts with certified translations attached thereto. Model Roz contends that her submissions suffice to establish, prima facie, that Almayouf is liable for defamation per se upon her published, written allegations that Model Roz is a prostitute or escort who is paid for sex.

“Defamation is ‘the making of a false statement which tends to expose the plaintiff to public contempt, ridicule, aversion or disgrace, or induce an evil opinion of [plaintiff] in the minds of right-thinking persons, and to deprive [plaintiff] of their friendly intercourse in society.’” 3P-733, LLC v Tawan Davis, 187 AD3d 626, 627-28 (1<sup>st</sup> Dept. 2020) (quoting Fosster v Churchill, 97 NY2d 744, 751 [1996] [internal quotation marks omitted]). “To prove a claim for defamation, a plaintiff must show: (1) a false statement, (2) published to a third party (3) without privilege or authorization, and that (4) causes harm, unless the statement is one of the types of publications actionable regardless of harm.” Stepanov v Dow Jones & Co., 120 AD3d 28, 34 (1<sup>st</sup> Dept. 2014) (citing Dillon v City of New York, 261 AD2d 34, 38 [1<sup>st</sup> Dept. 1999]). Publications actionable even in the absence of a showing of harm to the plaintiff, which constitute defamation per se, include “(1) statements charging the plaintiff with a serious crime; (2) statements that tend to injure the plaintiff in her trade, business or profession; (3) statements that impute to the plaintiff a ‘loathsome disease;’ and (4) statements that impute unchastity to a

woman.” Nolan v State, 158 AD3d 186, 195 (1<sup>st</sup> Dept. 2018) (citing Liberman v Gelstein, 80 NY2d 429, 435 [1992]; Harris v Hirsh, 228 AD2d 206, 208 [1<sup>st</sup> Dept. 1996]).

Here, there is no dispute that Almayouf’s publications were published to third parties via Almayouf’s public social media platforms without privilege or authorization. Almayouf’s repeated assertions that Model Roz is a “whore,” a “prostitute,” and an “escort” who is paid by men in the Saudi consulate for sex are patent examples of defamation per se. Almayouf’s statements directly accused Model Roz of at least one serious crime, i.e., prostitution, further insinuating a corrupt and undoubtedly illegal arrangement with the Saudi consulate to trade sex for large sums of money and a passport. Additionally, the language and tone of Almayouf’s publications, including references to Model Roz as a “whore,” clearly impute to Model Roz sexual immorality and denigrate her on the basis of her alleged sexual activities. Finally, Model Roz carries the burden of showing that Almayouf’s publications are false insofar as Model Roz has averred multiple times, under oath, that she is not a prostitute or escort, has never had sex in exchange for money, and has never been involved in any business or issues related to prostitution or escorting. Model Roz has further averred that she earns her income primarily from work she performs as a model and social media influencer, with many millions of followers, in advertising campaigns for brands in both the United States and the Middle East.

In her opposition, Almayouf contends that Model Roz should be treated as a public figure for purposes of her defamation claim. If Model Roz is a public figure, she is required to prove by clear and convincing evidence, in addition to the foregoing elements, “actual malice, that is, knowing or reckless falsehood, before recovery may be had.” Ortiz v Valdescastilla, 102 AD2d 513, 517 (1<sup>st</sup> Dept. 1984) (citing New York Times Co. v Sullivan, 376 US 254, 280 [1964]); see Perez v Violence Intervention Program, 116 AD3d 601, 601 (1<sup>st</sup> Dept. 2014).

A plaintiff may be a public figure for general or limited purposes. A plaintiff is a general-purpose public figure only if “he or she is a ‘celebrity’; his or her name a ‘household word’ whose ideas and actions the public in fact follows with great interest’ and ‘invites attention and comment.’” Gottwald v Sebert, 193 AD3d 573, 576 (1<sup>st</sup> Dept. 2021) (internal parentheticals omitted) (quoting Waldbaum v Fairchild Publs., Inc., 627 F2d 1287, 1292 [DC Cir 1980]). “Absent clear evidence of general fame or notoriety in the community, and pervasive involvement in the affairs of society, an individual should not be deemed a public personality for all aspects of his life.” Id. at 576 (quoting Gertz v Robert Welch, Inc., 418 US 323, 352 [1974]). The record before the court does not establish that Model Roz is of such known celebrity that she can be considered a general-purpose public figure. Rather, the only proof provided shows that Model Roz is an influencer whose work is limited to the fashion, beauty, and lifestyle industries. A plaintiff’s success in a specified industry, even if it makes her well-known within that industry, “is not enough to bring [her] into the realm of a general-purpose public figure.” Id. at 576-77.

On the other hand, a plaintiff may be deemed a limited-purpose public figure whenever he or she “has voluntarily injected himself [or herself] or is drawn into a particular public controversy with a view toward influencing it.” Id. at 577. “To determine whether a plaintiff is a limited-purpose public figure the ‘defendant must show the plaintiff has: (1) successfully invited public attention to his [or her] views in an effort to influence others prior to the incident that is the subject of litigation; (2) voluntarily injected himself into a public controversy related to the subject of the litigation; (3) assumed a position of prominence in the public controversy; and (4) maintained regular and continuing access to the media.’” Id. (quoting Lerman v Flynt Distrib. Co., Inc., 745 F2d 123, 136-137 [2d Cir 1984]). Almayouf claims in her memorandum

in opposition to Model Roz’s motion, without any citation to admissible evidence, that Model Roz has invited public attention to her views “regarding the issue of the social welfare of women in Saudi Arabia” and has “openly advertised herself as an advocate for the freedoms of women in Saudi Arabia.” However, as before, the record is utterly devoid of evidence for Almayouf’s assertions. Almayouf’s invocation of a single Instagram post by Model Roz in 2022, well after the defamatory statements were made, wherein Model Roz calls herself “The First Saudi Arabian Female Model,” is insufficient to establish Model Roz as a limited-purpose public figure. Moreover, even if Almayouf succeeding in establishing that Model Roz voluntarily injected herself into the area of Saudi women’s rights, that is not a public controversy related to the subject of this litigation. To be sure, no public controversy related to Model’s Roz’s sexual activities has been shown at all. Almayouf has “set forth no viable rationale that would transform the subject matter of [her publications] from mere gossip to public controversy” requiring a limited-purpose public figure analysis. Krauss v Globe Intl., 251 AD2d 191, 193 (1<sup>st</sup> Dept. 1998).

Because the evidence does not demonstrate that Model Roz is a public figure, either general or limited, Model Roz need not set forth evidence to establish malice. If she were so required, however, the court would be constrained to find that she meets her burden. Almayouf has admitted throughout this litigation that none of her statements were based on “actual evidence.” In fact, the only “research” Almayouf performed revealed that Model Roz had no criminal record. Almayouf also admitted that she knew that Almorqui, the “old man from the Consulate,” was Model Roz’s husband.

Notwithstanding, Almayouf says she formed beliefs based on subjective assumptions derived from the content of Model Roz’s photos. To this end, Almayouf submits a handful of

images of Model Roz posing in lingerie, sometimes with bottles of alcohol and once with cash in her hands. Almayouf has marked some of the images with arrows pointing to parts of Model Roz's body Almayouf apparently deems "prostitute-like," including her pursed lips and open mouth. The photos do not lend a modicum of support to Almayouf's assertions. It should hardly need to be explained that a woman's decision to post suggestive photos of her own body is not sound evidence that she is a sex worker. Nor is there any logic to Almayouf's pronouncement that the only way Model Roz could have become as wealthy as she appeared to be in the photos was through prostitution.

Almayouf's self-serving assertion in an affidavit submitted in opposition to this motion that Model Roz's photos would be appropriately considered those of a prostitute in Saudi Arabia does not otherwise render her conclusions about Model Roz's sexual activities reasonable. First, Almayouf offers no support other than her own word and vague references to other likeminded people on the internet for her proposition. Second, Almayouf and Model Roz both lived in the United States when Almayouf made her defamatory statements and were both subject to its laws. Third, Almayouf could have stated on social media that Model Roz's activities would be punished as prostitution the parties' country of origin. She did not. Instead, she said that Model Roz was a prostitute here, in the United States, working for a man in the Saudi consulate and trading sex for cash and passports. Almayouf's belated attempt to introduce cultural nuance into her statements fails.

Inexplicably, Almayouf continues to assert on social media that Model Roz is a prostitute to this day. Ironically, she labels her activities based on nothing more than stereotype as part of her "advoca[cy] for the equal and fair treatment of women." But the record is clear: Almayouf's "logical bases" for repeatedly calling Model Roz a prostitute and an escort are nothing more than

misogynistic stereotypes. Almayouf fails to create a triable issue as to the falsity of her statements and the recklessness with which she made them.

The court has considered Almayouf's remaining arguments against summary judgment and finds them unavailing.

Model Roz does not discuss in her submissions what relief she claims entitlement to under the first cause of action. According to the complaint, Model Roz seeks injunctive relief and actual, compensatory, special, and punitive damages of no less than \$5,000,000.00. Since Model Roz presents no proof on the issue of her entitlement to injunctive relief restraining future speech by Almayouf or on the issue of what non-nominal damages, if any, she should receive, the court's summary judgment is on the issue of liability only. Issues of damages and other relief shall be addressed at trial.

#### V. CONCLUSION

Accordingly, it is

ORDERED that the plaintiff's motion, in effect pursuant to CPLR 3212, for partial summary judgment on the first cause of action is granted on the issue of liability, with the issue of damages and any other relief claimed under the first cause of action to be determined at trial, and it is further

ORDERED that the plaintiff's remaining claims are severed and shall continue; and it is further

ORDERED that the Clerk shall mark the file accordingly.

This constitutes the Decision and Order of the court.

DATED: January 24, 2023

  
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NANCY M. BANNON, J.S.C.  
**HON. NANCY M. BANNON**