

**Ouaaz v Crumiller P.C.**

2025 NY Slip Op 31024(U)

March 21, 2025

Supreme Court, Kings County

Docket Number: Index No. 500726/2024

Judge: Carolyn E. Wade

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS: HON. CAROLYN E. WADE, JSC

SAADI OUAAZ,	
	Plaintiff,
-against-	
CRUMILLER P.C.,	
	Defendant.

Index No. 500726/2024

**DECISION AND ORDER**

**Mot. Seq. 001**

Recitation, as required by CPLR §2219(a), of the electronic papers considered in the review of: NYSCEF Doc Nos. 5-11, 13, and 15.

Upon the foregoing papers, and after oral argument, Defendant CRUMILLER, P.C. (“Defendant” or “Crumiller”) moves for an Order granting dismissal of Plaintiff SAADI OUAAZ’s (“Plaintiff” or “Ouaaz”) Complaint. Defendant Crumiller’s motion to dismiss is decided as follows:

**PROCEDURAL HISTORY**

On January 14, 2022, Ouaaz sent Crumiller’s client, Tron, a letter demanding that Tron cease and desist from making statements about Ouaaz’s alleged rape. In the letter, Ouaaz included a screenshot of a Facebook post with his photograph next to a “wanted” sketch. On January 24, 2022, Crumiller published a copy of Ouaaz’s letter on its website (Crumiller Aff. ¶ 4).<sup>1</sup>

On November 17, 2023, Crumiller filed the Summons and Complaint for Tron’s Adult Survivors Act action (*Tron v Ouaaz*, 533846/2023, at Dkt. No. 1) and posted a press release on its website. On January 8, 2024, Ouaaz filed his Answer to Tron’s action with counterclaims against Tron (*id.* at Dkt. No. 3), and filed the instant defamation action against Crumiller (*Ouaaz v Crumiller P.C.*, 500726/2024, at Dkt. No. 1).

<sup>1</sup> On or about December 21, 2023, Crumiller P.C. removed Ouaaz’s letter from its website (Crumiller Aff. ¶ 6).

## LEGAL STANDARD

Pursuant to New York Civil Practice Law and Rules (“CPLR”) 3211 (a)(7), “[a] party may move for judgment dismissing one or more causes of action asserted against him on the ground that . . . the pleading fails to state a cause of action” (CPLR 3211). On such a motion, the court “must accept as true the facts as alleged in the complaint and submissions in opposition to the motion, accord [the non-movant] the benefit of every possible favorable inference and determine only whether the facts as alleged fit within any cognizable legal theory” (*Whitebox Concentrated Convertible Arb. Partners, L.P. v Superior Well Servs., Inc.*, 20 NY3d 59, 63 [2012] [internal quotation omitted]; *accord Pavich v Pavich*, 189 AD3d 548, 549 [1st Dept 2020]). However, “bare legal conclusions as well as factual claims flatly contradicted by the record are not entitled to any such consideration” (*Strunk v NY State Bd. of Elections*, 126 AD3d 777, 778 [2d Dept 2015] citing *Riback v Margulis*, 43 AD3d 1023, 1023 [2d Dept 2007]; *Ashcroft v Iqbal*, 556 US 662, 663 [2009]).

Pursuant to CPLR 3211(g), a motion to dismiss in a case involving public petition and participation (i.e., a Strategic Lawsuit Against Public Participation, (“SLAPP”)) “in which the moving party has demonstrated that the action . . . subject to the motion is an action involving public petition and participation . . . shall be granted unless the party responding to the motion demonstrates that the cause of action has a substantial basis in law . . .” In other words, CPLR 3211(g) flipped the burden of proof on the ultimate dispositive merits; “it provided that the party moving for dismissal need not establish a dispositive procedural or substantive defense on the merits of the action, as otherwise required under other provisions of CPLR 3211, but rather, need only establish that the true *nature* of the action is one within the scope of anti-SLAPP. The actual burden of proof as to the action’s meritoriousness is thereupon shifted in the context of anti-SLAPP

immediately to the plaintiff, which is unique” (*VIP Pet Grooming Studio, Inc. v Sproule*, 224 AD3d 78, 83 [2d Dept 2024]).

## ANALYSIS

### I. Ouaz’s Complaint Is Dismissed Under CPLR 3211 (a)(7)

Ouaz’s allegations in his complaint are “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements” which “do not suffice” under the *Iqbal* standard (*Iqbal*, 556 US at 678). Furthermore, the alleged defamatory statements are absolutely privileged and therefore not actionable. It is well-settled that statements made in a judicial or quasi-judicial proceeding enjoy immunity from defamation, if that statement is “pertinent to the litigation” (*Icahn v Raynor*, 2011 NY Slip Op 51416, \*6 [Sup Ct, NY County 2011] citing *Finkelstein v Bodek*, 131 AD2d 337, 338 [1st Dept 1987]) (*see also Martirano v Frost*, 25 NY2d 505, 507 [1969]). The test for whether a statement is considered “pertinent” is whether it “may possibly bear on the issues in litigation now or at some future time” even if only by “the barest rationality, divorced from any palpable or pragmatic degree of probability” (*55th Mgt. Corp. v Goldman*, 1 Misc 3d 239, 241-242 [Sup Ct, NY County 2003]) (citing *Seltzer v Fields*, 20 AD2d 60, 62 [1st Dept 1963], *affd* 14 NY2d 624 [1964]). Additionally, “a civil action cannot be maintained against any person . . . for the publication of a fair and true report of any judicial proceeding” (New York Civil Rights Law [“NYCRL”] § 74).

In the instant action, all of Ouaz’s allegations relate to the November 17, 2023 lawsuit filed by Tron, Crumiller’s client, and are therefore covered by the absolute privilege. Any article or post on Crumiller’s website regarding the lawsuit would be “pertinent” as it constitutes a summary of the lawsuit itself. Therefore, these allegations are dismissed pursuant to the absolute litigation privilege.

## II. Ouaz's Complaint Is Also Dismissed Pursuant to CPLR 3211[g] Because the Court Finds that It Is a "SLAPP Suit"; Defendant Is Entitled to Attorney's Fees

In November 2020, the New York Legislature enacted S52A to "extend the protection of New York's current law regarding Strategic Lawsuits Against Public Participation ('SLAPP suits')" (2020 NY Senate-Assembly Bill S52A, A5991A). The amendment was enacted with the explicit purpose of "protect[ing] citizens' exercise of the rights of free speech and petition about matters of public interest" (*id.*). By broadening the definition of an "action involving public petition and participation," the amendment to Civil Rights Law Section 76-a purposefully widened the ambit of the law so as to include all matters of "public interest" including survivors of sexual abuse who speak up about their abuse (*See* New York State Legislature; "Senate and Assembly Majorities Advance Anti-SLAPP Legislation to Protect Free Speech," <https://nyassembly.gov/Press/files/20200722a.php> [July 22, 2020]).

The statute applies broadly to, *inter alia*, any communication in a public forum in connection with an issue of public interest (NYCRL § 76-a[1][a]). The statute defines public interest as any subject other than a "purely private matter" (76-a[1][d]; *Aristocrat Plastic Surgery, P.C. v Silva*, 206 AD3d 26, 29 [1st Dept 2022]).

Where the defamation suit is "without basis," attorney's fees should be awarded to the defendant (NYCRL § 70-a[1][a]). Compensatory damages are also available against the plaintiff if the action was "commenced or continued for the purpose of harassing, intimidating, punishing or otherwise maliciously inhibiting the free exercise of speech, petition or association rights" (70-a[1][b]) and punitive damages are available if that was its "sole" purpose (70-a[1][c]).

Here, Tron's publicly filed lawsuit and Crumiller's published press release thereof concerning Ouaz's alleged sexual assault of Tron was, by definition, "communications in a public forum" (NYCRL § 76-a[1][a]). It is equally clear that a publicly filed complaint and press release

about an alleged sexual assault constitute a “matter of public interest” (NYCRL 76-a[1][d])(*see also VIP Pet Grooming Studio, Inc. v Sproule*, 224 AD3d 78, 83 [2d Dept 2024]). “The 2020 amendments to the Civil Rights Law expanded the pool of parties that may raise anti-SLAPP defenses, counterclaims, and cross-claims in their actions, now including journalists, consumer advocates, survivors of sexual abuse, and others.” (*id.* at 84). Tron’s publicly filed lawsuit and Crumiller’s related press release were “clearly intended as a warning to other women” and fell under amended anti-SLAPP law “because they were posted in a public forum and were made in connection with an issue of public interest []” (*Great Wall Med. P.C. v Levine*, 74 Misc 3d 1224[A], 2022 NY Slip Op 50219[U], \*1 [Sup Ct, NY County 2022]). As such, Ouaz has failed to demonstrate that his defamation action has “a substantial basis in law” (CPLR 3211[g]).

As a result of the foregoing, the Court finds that the sole purpose of Ouaz’s action against Crumiller P.C. – the law firm that represents his former alleged sexual assault victim – was to “harass[], intimidate[e], punish[] or otherwise maliciously inhibit[] the free exercise of speech” of Crumiller and its client, Tron (NY Civil Rights Law §70-a). Therefore, Ouaz’s complaint is dismissed, and Crumiller is awarded attorney’s fees pursuant to §70-a[1][a].

### III. Ouaz’s Claim Regarding the “Wanted” Sketch Is Dismissed as Untimely

Ouaz’s allegation regarding the “wanted” sketch (Complaint ¶ 5) must also be dismissed because his Complaint was not filed within the one-year statute of limitations.

New York imposes a one-year statute of limitations on defamation claims (CPLR § 215[3]). Under the “single publication” rule, the statute of limitations ordinarily begins to run at the time of the “first publication”—that is, “the earliest date on which the work was placed on sale or became generally available to the public” (*Van Buskirk v N.Y. Times Co.*, 325 F3d 87, 89 [2d Cir 2003], citing *Tomasino v William Morrow & Co.*, 174 AD 2d 734 [2d Dept 1991]).

Here, Crumiller published Ouaz's cease and desist letter on January 24, 2022 (Crumiller Aff. ¶ 4).<sup>2</sup> Ouaz did not file his complaint until January 8, 2024 (*see* Dkt. No. 1). Given that Ouaz's complaint was filed well after the one-year statute of limitations, the allegation regarding the "wanted" sketch is dismissed.

**IV. Ouaz's Claim for Attorney's Fees and Punitive Damages Are Not Legally Cognizable**

Ouaz alleges as his second cause of action that he is entitled to recover punitive damages. However, "[a]bsent any underlying substantive causes of action to which [it] may attach, plaintiff's request[ ] for . . . punitive damages must be dismissed" (*see Rocanova v Equitable Life Assur. Socy. of U.S.*, 83 NY2d 603, 616-617 [1994]; *Fishman v Kids in Common, Inc.*, 2021 NY Slip Op. 30991, \*7 [Sup Ct, NY County 2021], citing *Offor v Mercy Med. Ctr.*, 171 AD3d 502, 504 [1st Dept 2019]).

Ouaz alleges as his third cause of action alleges that he is entitled to recover costs and attorneys' fees. However, "it is axiomatic that New York does not recognize a request for attorneys' fees as an independent, separately-styled cause of action." (*Faver v 12 E. 97th St. Owners, Inc.*, 2014 NY Slip Op 33357[U], \*7 [Sup Ct, NY County 2014]). Additionally, "[a]ttorneys' fees are not usually compensable in the absence of specific statutory authority, or contractual obligation or incident to recovery for certain torts involving malice" (*Flaks, Zaslow & Co. v Bank Computer Network Corp.*, 66 AD2d 363, 365 [1st Dept 1979], *appeal dismissed* 47 NY2d 951 [1979]). Since Ouaz fails to establish that he is entitled to attorney's fees based on any of the foregoing grounds, this claim must be dismissed as well (*see Chiavarelli v Williams*, 281 AD2d 255, 256 [1st Dept 2001]).

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<sup>2</sup> Plaintiff incorrectly claims that defendant published the statements contained in the cease-and-desist letter on November 17, 2023 (¶ 5), when in fact they had been published on January 24, 2022 (Crumiller Aff. ¶ 4).

Accordingly, it is

**ORDERED** that defendant Crumiller, P.C.'s motion to dismiss plaintiff Saadi Ouaaz's complaint is **GRANTED**, it is further

**ORDERED** that within thirty (30) days of entry of this order, Crumiller shall submit an attorney's affirmation identifying: (i) the number of hours expended on its motion; (ii) its attorneys' hourly rate and information in support of the hourly rate; and (iii) its costs related to this motion.

This constitutes the Decision and Order of the Court.

Dated: March 21<sup>st</sup>, 2025  
Brooklyn, NY



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HON. CAROLYN E. WADE, J.S.C.

**HON. CAROLYN E. WADE  
JUSTICE OF THE SUPREME COURT**