

**Doe v Combs**

2025 NY Slip Op 33764(U)

September 30, 2025

Supreme Court, New York County

Docket Number: Index No. 159914/2024

Judge: Leslie A. Stroth

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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. LESLIE A. STROTH PART 12M

Justice

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JOHN DOE,

Plaintiff,

- v -

SEAN COMBS, DADDY'S HOUSE RECORDINGS INC, CE
OPCO, LLC D/B/A COMBS GLOBAL F/K/A COMBS
ENTERPRISES LLC, BAD BOY ENTERTAINMENT
HOLDINGS, INC, BAD BOY PRODUCTIONS HOLDINGS,
INC, BAD BOY BOOKS HOLDINGS, INC, BAD BOY
RECORDS LLC, BAD BOY ENTERTAINMENT LLC, BAD
BOY PRODUCTIONS LLC, ORGANIZATIONAL DOES 1-10,
INDIVIDUAL DOES 1-10

Defendant.

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INDEX NO. 159914/2024
MOTION DATE 07/22/2025
MOTION SEQ. NO. 005

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 005) 52, 53, 59, 65, 69
were read on this motion to/for DISMISSAL

FACTUAL BACKGROUND

Plaintiff alleges that they he was an aspiring artist who was sexually assaulted by
Defendant Combs at age 17. Plaintiff alleges inter alia that they were drugged, lost
consciousness, and then when Plaintiff regained consciousness that he was being sexually
assaulted by Defendant Combs at a party in a Manhattan penthouse.

Plaintiff alleges that the conduct of Defendants constitutes violations of the New York
Victims of Gender Motivated Violence Protection Law found at New York City Administrative
Code § 10-1101 et seq. ("GMVA")

In Motion Sequence 005, Defendants move to dismiss the complaint pursuant to CPLR
3211(a)(7), arguing that Plaintiff's GMVA claim cannot be sustained as the alleged conduct
cannot be motivated by gender as Plaintiff and Defendant Combs are of the same sex, that

Plaintiff fails to adequately plead injury and that the Company Defendants cannot be held liable based on Plaintiff's complaint.

### LEGAL STANDARD

Pursuant to CPLR 3211 (a)(7), a party may move to dismiss a claim on the ground that the pleading fails to state a cause of action. Upon such a motion, the Court must accept the facts alleged as true and determine simply whether plaintiff's facts fit within any cognizable legal theory. (See CPLR 3026; *Morone v Morone*, 50 NY2d 481 (1980)). The complaint shall be liberally construed, and the allegations are to be given the benefit of every possible favorable inference. (See *Leon v Martinez*, 84 NY2d 83, 87 (1994)).

### DISCUSSION

*The GMVA is Applicable to Causes of Action where the Alleged Assault is between individuals of the Same Gender*

"It is an axiom of statutory construction that the legislative intent is to be ascertained from the language used, and that where the words of a statute are clear and unambiguous, they should be literally construed." (*People v Munoz*, 207 AD2d 418, 419 [2d Dept 1994]). "Absent ambiguity the courts may not resort to rules of construction to [alter] the scope and application of a statute" because no such rule "gives the court discretion to declare the intent of the law when the words are unequivocal." (*Kuzmich v 50 Murray St. Acquisition LLC*, 34 NY3d 84, 91 [2019] quoting *Bender v. Jamaica Hosp.*, 40 NY2d 560, 562 [1976]).

Nothing in the GMVA limits its protections to opposite-sex violence or to particular relationship categories. The cause of action is available to "*any person*" injured by a qualifying, gender-motivated crime of violence. (Administrative Code of City of NY § 10-1104(a)) (emphasis added).

The motivation element turns on whether the crime was committed “*because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim's gender.*” (Administrative Code § 10-1103) (emphasis added). Those provisions focus on motive, not the sex/gender combination of perpetrator and victim. As such, the statute, on its face, does not foreclose relief solely on the grounds that the plaintiff and defendant share the same gender identity. Reading an opposite-sex limitation into the statute would impermissibly add words the City Council did not enact in the legislation. Accordingly, the court finds that the GMVA is gender-neutral and does not, on its face deny relief to plaintiffs solely because they are of the same gender as defendants.

This textual reading aligns with the remedial purpose of the GMVA. The Council enacted the law in response to the invalidation of the civil remedy of the federal Violence Against Women Act (“VAWA”), 42 USC § 13981, specifically to afford a broad civil cause of action for survivors of gender-based violence within New York City. Legislative findings emphasized the epidemic of violence against women but crafted a gender-neutral statute that protects “any person” subjected to gender-motivated crimes.

In *Breest v. Haggis* the First Department clarified the animus requirement of the GMVA. (180 AD3d 83, 94 [1st Dept 2019]). First, animus under the GMVA must be due to “malice or ill will.” (Id.). Second, the court in *Breest* held that “rape and sexual assault are, by definition, actions taken against the victim without the victim's consent. Without consent, sexual acts such as those alleged in the complaint are a violation of the victim's bodily autonomy and an expression of the perpetrator's contempt for that autonomy. Coerced sexual activity is dehumanizing and fear-inducing. *Malice or ill will based on gender is apparent from the alleged commission of the act itself. Animus inheres where consent is absent.*” (Id.) (emphasis added).

The Court in *Breest*, therefore, upheld the gender neutral framing of the GMVA to find that violations of a victim's bodily autonomy is inherently malicious and ill-willed, and therefore is to be read as invoking animus such that liability under the GMVA may attach. The Court in *Breest* made no distinction as to acts alleged to be between victims of the same gender. The holding in *Breest* explicitly states that any substantiated allegation of sexual assault or rape is demonstrable evidence of animus.

Accordingly, the Court finds that the GMVA is facially gender-neutral and does not, in its text, structure, or purpose, limit relief to opposite-sex assaults. Where a plaintiff alleges a crime of violence committed without consent and pleads that the act was at least partly motivated by the victim's gender, the GMVA cause of action is viable regardless of whether the parties share the same gender identity.

*Plaintiff Sufficiently Alleges a Cause of Action under the GMVA*

Plaintiff has adequately pleaded a cause of action under the GMVA. To survive dismissal, Plaintiff must allege facts showing: (1) that the underlying conduct would constitute a felony or misdemeanor under state law; (2) that the act was committed because of Plaintiff's gender and due, at least in part, to gender-based animus; and (3) that Plaintiff sustained injury as a result (Admin. Code §§ 10-1103, 10-1104).

Both the Complaint and the Amended Complaint satisfies each element. Plaintiff alleges that he was drugged and rendered unconscious, and while in that state was sexually assaulted by being forcibly penetrated by Defendants. Those allegations, if true, constitute sexual assault in violation of Penal Law § 130, both felonies "against the person." As discussed *supra*, such allegations are sufficient for the gender-motivated animus required under the GMVA.

Moreover, in *Doe v Doe*, 83 Misc 3d 1282(A) [Sup Ct 2024], the court rejected an argument that a plaintiff must allege more than non-consensual sexual conduct to plead animus, expressly applying *Breest* to sustain the GMVA cause of action. These authorities make clear that where, as here, a plaintiff alleges forcible, non-consensual penetration, the statutory requirement of gender-based animus is satisfied.

Defendants' attempt to characterize the allegations as conclusory or "barebones" ignores the specificity pled. Plaintiff has alleged the date and place of the incident (October 6, 2017, in Harlem and at a hotel), the means of incapacitation (a spiked drink), the sequence of events (sexual assault involving specifically penetration by John Doe and then by Pierce while semi-conscious), and corroborating facts (a post-assault Venmo transfer with the notation "massage therapy"). Such allegations provide far more detail than the "conclusory averments" found insufficient in cases like *Vanscoy v Namic USA Corp.*, 234 AD2d 680, 681 [3d Dept 1996]. They are precisely the sort of specific factual allegations which, under CPLR 3013, give notice of the transactions and occurrences intended to be proved.

Accordingly, Plaintiff has pleaded sufficient facts to establish a cognizable cause of action under the GMVA at this stage, as the first complaint alleges that Plaintiff was sexually assaulted by Defendant, and the first Amended Complaint alleges the same with further detail and incorporates the specific details of a sexual assault. Either are sufficient to allege a cause of action under the GMVA and as such, Defendants' motions to dismiss are denied.

*Plaintiff Establishes Injury*

Defendant also contends that Plaintiff has not sufficiently pled injury, and further, that the alleged conduct does not qualify as a "crime of violence" because it does not involve a

“serious risk of physical injury.” This argument fails both as a matter of statutory interpretation and on the facts alleged.

Where the predicate conduct is rape or sexual assault, a felony against the person, no additional showing of “serious risk” is required. Plaintiff’s allegations clearly describe felonies of sexual assault against the person and therefore fall squarely within the statute’s scope.

Even if the “serious risk” requirement applied, Plaintiff has sufficiently alleged both physical and emotional injury. He pleads that he was physically harmed by the sexual assault and continues to suffer emotional trauma, which are sufficient to plead injury under the GMVA.

Defendant’s reliance on older federal district court decisions that demanded “extra” proof of gender-based animus or heightened allegations of injury is misplaced. The First Department’s decision in *Breest* is controlling, and subsequent trial-level decisions in New York have applied it consistently. As the court in *Breest* emphasized, the absence of consent itself establishes gender-based animus and renders sexual assault inherently gender-motivated. Plaintiff’s allegations thus more than satisfy the statute’s requirements.

*Plaintiff Sufficiently Alleges Conduct Related to the Company Defendants*

Plaintiff’s complaint relies on the GMVA “Abettor Provision” found in Administrative Code § 10-1104 as the basis for liability as to the corporate defendants. That provision expands liability under the GMVA to a party who “directs, enables, participates in, or conspires in the commission of a crime of violence motivated by gender.” Here, the Complaint alleges *inter alia* that the Corporate Defendants “had and/or should have had knowledge of Combs using such parties and venues for this unlawful conduct, and did nothing to stop it,” that they “had and/or should have had knowledge that Combs was a danger to Plaintiff, and did nothing to stop

Combs,” and that they failed to adequately manage and supervise Combs, despite their knowledge of his alleged propensity for sexual violence. (NYSCEF Doc No. 2 ¶¶ 48-51).

At the early stage, before any discovery has commenced, dismissal would be premature. As such, given that Plaintiff has satisfied the elements of a GMVA claim as to all defendants, Defendants motion to dismiss is denied.

Accordingly; it is hereby

ORDERED that Defendants motion to dismiss is denied in its entirety.

The foregoing constitutes the decision and order of the court.

9/30/2025  
DATE

CHECK ONE:  CASE DISPOSED  DENIED

APPLICATION:  GRANTED  SETTLE ORDER

CHECK IF APPROPRIATE:  INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  OTHER

GRANTED IN PART  REFERENCE

SUBMIT ORDER  FIDUCIARY APPOINTMENT

HON. LESLIE A. STROTH J.S.C.

