

Chandiramani v One Fair Wage, Inc.

2025 NY Slip Op 34656(U)

December 8, 2025

Supreme Court, New York County

Docket Number: Index No. 154248/2025

Judge: Paul A. Goetz

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. PAUL A. GOETZ PART 47

Justice

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RAKESH CHANDIRAMANI, GVI CASELLULA, LLC, VSV
WINE BAR HOLDINGS, LLC D/B/A VIN SUR VINGT WINE
BAR

Plaintiffs,

- v -

ONE FAIR WAGE, INC.,

Defendant.

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INDEX NO. 154248/2025

MOTION DATE 09/04/2025

MOTION SEQ. NO. 001

**ORDER - AMENDED (MOTION
RELATED)**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23

were read on this motion to/for DISMISSAL.

Upon the foregoing documents, it is

In this action plaintiffs allege that defendant, One Fair Wage Inc. (“One Fair Wage”), engaged in a defamatory campaign which interfered with plaintiffs’ wine bar business. Defendant moves pursuant to CPLR § 3211(g) and CPLR § 3211(a)(7), to dismiss pre-answer arguing that this suit implicates the heightened pleading standards of the New York anti-SLAPP law, and that plaintiffs have failed to state a claim under this standard. Plaintiffs allege three causes of action against defendant for: (1) Tortious Interference with Business Relationship; (2) Tortious Interference with Contract; and (3) Intentional Infliction of Emotional Distress.

BACKGROUND

Plaintiff, Rakesh Chandiramani, is the majority owner and managing member of plaintiff, GVI Casellula (“GVI”) and VSV Wine Bar Holdings, LLC d/b/a Vin Sur Vingt Wine Bar (“VSV”) (collectively “Plaintiffs”) (NYSCEF Doc No 1 ¶ 15). Plaintiffs operate French wine bars throughout New York City, the Hamptons and Washington D.C. (*id.* at ¶ 17). Defendant,

OFW, is a not-for-profit organization dedicated to raising wages and improving working conditions for American workers through public advocacy, voter engagement, worker and employer organizing, and culture shift activities (*id.* at ¶ 18).

In July of 2022 Chandiramani and GVI, entered into negotiations to purchase assets owned by Casellula, LLC, (“CL”) including the wine bar it operated under the name Casellula (*id.* at ¶ 19). As part of the December 28, 2022, Asset Purchase Agreement, CL terminated its employees, effective December 31, 2022 (*id.* at ¶¶ 24 – 25). Plaintiffs allege that the CL employees were incorrectly advised by the CL owner that they would be rehired by plaintiffs under the same terms as their employment with CL (*id.* at ¶¶ 26 – 28). However, plaintiffs allege that they informed the former CL workers that they would not be continuing a tip-sharing program that CL had employed which allowed the Front of House employees to pool and share their tips with the Back of House employees (NYSCEF Doc No 1 at ¶¶ 29 – 30).

Plaintiffs allege that in response to this announcement, the former employees teamed with OFW, to attack plaintiffs’ business practices (*id.* at ¶ 34). This included social media posts, as well as public protests outside of plaintiffs’ businesses with the purported intent to encourage potential customers to boycott the businesses (*id.* at ¶¶ 35 – 40). Plaintiffs allege that in response to these protests, their business suffered severe losses, eventually requiring Casellula to be closed.

DISCUSSION

I. Anti-SLAPP / Failure to State a Cause of Action

CPLR § 3211(g) states:

A motion to dismiss based on [CPLR § 3211(a)(7)], in which the moving party has demonstrated that the action, claim, cross claim or counterclaim subject to the motion is an action involving public petition and participation as defined in [Civil Rights Law § 76-a],

shall be granted unless the party responding to the motion demonstrates that the cause of action has a substantial basis in law or is supported by a substantial argument for an extension, modification or reversal of existing law. The court shall grant preference in the hearing of such motion.

Defendants “moving for dismissal [under CPLR 3211(g)] 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” (*VIP Pet Grooming Studio, Inc. v Sproule*, 224 AD3d 78, 83 [2d Dept 2024]). “The actual burden of proof as to the action's meritoriousness is thereupon shifted in the context of anti-SLAPP immediately to the plaintiff” (*id.*).

Further Civil Rights Law § 76-a states:

In an action involving public petition and participation, damages may only be recovered if the plaintiff, in addition to all other necessary elements, shall have established by clear and convincing evidence that any communication which gives rise to the action was made with knowledge of its falsity or with reckless disregard of whether it was false, where the truth or falsity of such communication is material to the cause of action at issue.

Whether the heightened pleading standard applies is dependent on whether the claim “is an action involving public petition and participation as defined in [Civil Rights Law § 76-a]” (CPLR § 3212[g]). Civil Rights Law § 76-a defines “an action involving public petition and participation” as “any communication in a place open to the public or a public forum in connection with an issue of public interest.” It goes on to state “‘Public interest’ shall be construed broadly, and shall mean any subject other than a purely private matter” (Civil Rights Law § 76-a[d]). “In order to fulfill the anti-SLAPP law's stated purpose of protecting public petition and participation, the 2020 amendments provide that ‘public interest’ shall be broadly construed to embrace matters of political, social, or other concern to the community” (*Reeves*

218 NYS3d at 27 [internal quotation marks omitted]). In order for the burden to shift to plaintiffs, defendant need to only show that the disputed statements were made to the public or in a public forum and were concerning an issue of public interest (*id.*).

Once it is established that the action is within the scope of the anti-SLAPP law, the substantial basis standard applies. “[T]he ‘substantial basis’ standard applicable under CPLR 3211(g) is more exacting than the liberal pleading standard applicable to ordinary CPLR 3211(a)(7) motions” (*Reeves v Associated Newspapers, Ltd.*, 218 NYS3d 19, 30 [1st Dept 2024]). When reviewing a “motion to dismiss for failure to state a cause of action pursuant to CPLR 3211(a)(7), [courts] must accept the facts as alleged in the complaint as true, accord the plaintiff the benefit of every reasonable inference, and determine only whether the facts, as alleged fit within any cognizable legal theory” (*Bangladesh Bank v Rizal Commercial Banking Corp.*, 226 AD3d 60, 85-86 [1st Dept 2024] [internal quotations omitted]). “By contrast, a court reviewing the sufficiency of a pleading under CPLR 3211(g) must look beyond the face of the pleadings to determine whether the claim alleged is supported by substantial evidence” (*Reeves*, 218 NYS3d at 30).

Here, plaintiffs argue that this action is not subject to the heightened anti-SLAPP protections because it involves a purely private matter. In support of this argument, plaintiffs cite *Sharp v Bar Fluid LLC*, where the court held that a “private business and/or employment dispute between parties who were involved in running a private enterprise” did not constitute a matter of public concern (2023 WL 7004625 [SC NY Co 2023]). However, this was overturned on appeal and the First Department determined that the dispute was a matter of public concern (*see Sharp v Bar Fluid LLC*, 237 AD3d 628 [1st Dept 2025]). Here, defendant is a non-profit dedicated to promoting workers’ rights within the restaurant industry and the social media posts and protests

were intended to shine light on what it deemed as harmful employment practices by the plaintiffs. Plaintiffs operate a public facing business and the practices which such business employ are within the realm of public concern to trigger the anti-SLAPP protections (*see Golan v Daily News, L.P.*, 77 Misc 3d 258 [SC NY Co 2022], *affd*, 214 AD3d 558 [1st Dept 2023]; *see also Aristocrat Plastic Surgery, P.C. v Silva*, 206 AD3d 26 [1st Dept 2022] [reviews of a business are matters of public concern]).

Therefore, the business and employment practices of plaintiffs are well within the scope of public concern and accordingly, the anti-SLAPP statute and heightened pleading standard apply. Additionally, plaintiffs needs to “establish[] by clear and convincing evidence that [the] communication which gives rise to th[is] action was made with knowledge of its falsity or with reckless disregard of whether it was false” (Civil Rights Law § 76-a).

Tortious Interference with Prospective Business Advantage

To state a cause of action for tortious interference with prospective business advantage, a plaintiff must plead that, “(a) the plaintiff had business relations with a third party; (b) the defendant interfered with those business relations; (c) the defendant acted with the sole purpose of harming the plaintiff or by using unlawful means; and (d) there was resulting injury to the business relationship” (*N. State Autobahn, Inc. v Progressive Ins. Group Co.*, 102 AD3d 5, 21 [2d Dept 2012]).

“[T]he plaintiff must allege a specific business relationship with an identified third party with which the defendants interfered” (*Influx Capital, LLC v Pershin*, 186 AD3d 1622, 1624 [2d Dept 2020]). A complaint which amounts “to mere general allegations of lost sales from unidentified lost customers” is insufficient to support a cause of action for tortious interference

with prospective business advantage (*Vigoda v DCA Productions Plus Inc.*, 293 AD2d 265, 266 [1st Dept 2002]).

Plaintiffs rely on a Google review from a user identified as “Darel Hero” leaving a one out of five-star review and states “I just came by and saw all this employees and wanted to support them! Be aware where you go and what...” (NYSCEF Doc No 8). However, plaintiffs have not identified the person in control of the account “Darel Hero”, to determine if they were a likely patron of their business and did not patronize plaintiffs’ business due to defendant’s actions. This review cannot support a claim for tortious interference with prospective business advantage especially considering the heightened pleading standards under the anti-SLAPP protections, where plaintiffs must show a substantial basis in fact and law to avoid dismissal.

Further, while plaintiffs also submit, an affidavit of plaintiff Rakesh Chandiramani, where he avers that the business lost significant revenue following defendant’s protest, and social media posts, this affidavit does not identify individual business relationships with which defendant allegedly interfered. Nor does it provide the support required to sustain an action under anti-SLAPP that plaintiffs’ business would not have suffered loss “but for” defendant’s actions (*see Gettinger Assoc., L.P. v Abraham Kamber Co. LLC*, 83 AD3d 412 [1st Dept 2011]). Accordingly, the tortious interference with prospective business advantage will be dismissed.

Tortious Interference with Contract

The elements of tortious interference with contract are, “(1) the existence of a contract between the plaintiff and a third party, (2) the defendant's knowledge of the contract, (3) the defendant's intentional inducement of the third party to breach or otherwise render performance impossible, and (4) damages to the plaintiff” (*Anesthesia Assoc. of Mount Kisco, LLP v N. Westchester Hosp. Ctr.*, 59 AD3d 473, 476 [2d Dept 2009]).

Plaintiffs allege that defendants interfered with the Asset Purchase Agreement, specifically the transfer of the “goodwill” of the former business to plaintiffs (NYSCEF Doc No 13 at ¶ 2.3). When the “goodwill” of a business is transferred from one owner to another, the former owner is in essence agreeing not to actively solicit his former business’ customers (*Bessemer Tr. Co., N.A. v Branin*, 16 NY3d 549 [2011] [explaining the common law definition of the transfer of a business’s “goodwill”]¹). Here, there is no allegation that the former owner, Keyser, solicited its former customers, and therefore plaintiffs have not alleged a breach of contract. Accordingly, a tortious interference with contract claim has not been pled and the cause of action will be dismissed.²

Intentional Infliction of Emotional Distress

To establish a claim for Intentional Infliction of Emotional Distress (“IIED”), the following four elements must be alleged: (1) extreme and outrageous conduct; (2) intent to cause, or disregard of a substantial probability of causing, severe emotional distress; (3) a causal connection between the conduct and injury; and (4) severe emotional distress (*Howell v New York Post Co., Inc.*, 81 NY2d 115, 121 [1993]). To maintain an action for IIED a party “must allege conduct that is so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community” (*164 Mulberry St. Corp. v Columbia Univ.*, 4 AD3d 49, 56 [1st Dept 2004])

¹ The Court of Appeals held in *Bessemer* that there is no hard and fast rule in determining whether good will has been improperly solicited noting that “[A] buyer assumes certain risks when he purchases an existing business and attempts to transfer the loyalties or ‘good will’ of that business as his own. For example, the customers of the acquired business, ‘as a consequence of the change in ownership,’ may choose to take their patronage elsewhere” and absent active inducement by the former owner the covenant has not been breached (*id.* at 557).

² Plaintiffs appear to allege that because of defendant’s activity, the public’s good will toward the wine bar was lost, as customers did not want to support a business which it perceived to be employing unfair labor practices. However, neither defendant, nor the general public are parties to the Asset Purchase Agreement. Plaintiffs fail to allege, and fail to show a substantial basis in fact and law, for an allegation that Keyser somehow participated in this loss of goodwill to a degree that represents a breach of contract.

Plaintiffs argue that defendant's campaign against them has caused numerous people to attack him on social media. Plaintiffs allege that following defendant's protest, an Instagram account with the username "hkbitchnyc" posted hateful comments on pictures on his Instagram account, including comments on photos of his children (NYSCEF Doc No 19 ¶ 18). For example, on a photo of his daughter, the user posted "Look at me!! I survive off of the money of the people my daddy fired!" (*id.*).

Plaintiffs provide no evidence linking this account to plaintiffs. Regardless, such conduct fails to rise to the level of outrageousness or extremity needed to support an IIED claim. Accordingly, the IIED cause of action will be dismissed.

Leave to Amend

In their opposition, plaintiffs request that if this court is going to dismiss their causes of action, that they be granted leave to amend their complaint and replead the dismissed causes of action. However, plaintiffs have failed to cross-move for this relief, nor have they provided "any information regarding the nature of [their] proposed amendments, let alone submit a proposed amended [complaint] clearly showing the changes or additions to be made to the pleading" (*Pressley v City of New York*, 233 AD3d 932, 939 [2d Dept 2024]). Accordingly, the plaintiffs' application to amend the complaint will be denied.

Attorney's Fees

Civil Rights Law § 70-a(1)(a) states "costs and attorney's fees shall be recovered upon a demonstration, ... that the action involving public petition and participation was commenced or continued without a substantial basis in fact and law and could not be supported by a substantial argument for the extension, modification or reversal of existing law." Having found that plaintiffs' action involves a public petition, and that the plaintiffs have failed to establish that

their claims have a substantial basis in fact or law, defendant is entitled to reasonable attorney’s fees associated with defending this action.

Accordingly it is,

ORDERED that defendant’s motion is granted and the complaint is dismissed; and it is further


ORDERED that the Clerk is directed to enter judgment in favor of defendant and as against plaintiffs with costs and disbursements to defendant; and it is further

ORDERED that plaintiffs’ application to amend the complaint is denied; and it is further

ORDERED that pursuant to Civil Rights Law § 70-a(1)(a) defendant is entitled to its reasonable attorney’s fees associated with this action; and it is further

ORDERED that defendant shall submit an affirmation in support of its request for reasonable attorneys’ fees within 20 days of entry of this order via NYSCEF and via e-mail to SFC-Part47-Clerk@nycourts.gov ; and it is further

ORDERED that any opposition to the request shall be submitted within 10 days thereafter.


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12/8/2025
DATE

PAUL A. GOETZ, J.S.C.

CHECK ONE:

- CASE DISPOSED
- GRANTED DENIED

- NON-FINAL DISPOSITION
- GRANTED IN PART OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT REFERENCE