

**Bacon v Nygard**

2025 NY Slip Op 34951(U)

December 22, 2025

Supreme Court, New York County

Docket Number: Index No. 150400/2015

Judge: Richard G. Latin

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. RICHARD G. LATIN PART 46M

Justice

-----X

LOUIS BACON,

Plaintiff,

- v -

PETER NYGARD, NYGARD INTERNATIONAL PARTNERSHIP, NYGARD INC.,DOES 1-20,

Defendant.

-----X

INDEX NO. 150400/2015

MOTION DATE 03/27/2025

MOTION SEQ. NO. 017

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 017) 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 1667, 1668, 1669, 1670, 1671, 1672, 1673, 1674, 1675, 1676, 1683, 1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1724, 1725, 1726, 1727, 1728, 1729, 1730, 1731, 1732, 1733, 1734, 1735, 1736, 1737, 1738, 1739, 1740

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents plaintiff Louis Bacon's motion pursuant to CPLR 3212 for an order granting summary judgment against defendants Peter Nygård, Nygård International Partnership, Nygård, Inc., and Does 1-20 (NYSCEF # 1415) is determined as follows:

In this action, Mr. Bacon's complaint asserts various causes of action including defamation, defamation per se, prima facie tort, aiding/abetting, and civil conspiracy (NYSCEF

# 1). In response, defendants oppose the motion and cross move for summary judgment (NYSCEF # 1687).

### Background

Plaintiff alleges Mr. Nygard caused impairment of plaintiff's "professional, philanthropic, and personal reputations," and plaintiff seeks \$50 million in damages (NYSCEF # 1 at 19). Plaintiff further alleges he was harmed by Mr. Nygard's alleged "Smear Campaign over the internet, on radio and television broadcast programs, and in traditional print media accessible viewed by audiences residing in New York and around the world (NYSCEF # 1 ¶ 12). Plaintiff also claims Nygård and the Nygård companies have "transmitted, conspired to transmit, or aided and abetted the transmission of the following outrageous lies intended to injure Mr. Bacon" (NYSCEF # 1 ¶ 13). Such claims include:

- a. "He murdered multiple individuals who died under suspicious circumstances, and he then covered up those murders from law enforcement;
- b. He is a white supremacist and a member of the Ku Klux Klan ("KKK"), determined to exclude native Bahamians from Clifton Bay;
- c. He was charged by prosecutors and "accused of criminal conspiracy" in a "billion dollar scam" that is in "one of the biggest Wall Street insider trading cases ever," referring to the insider trading arrest of Rajat Gupta;
- d. He smuggled narcotics and fugitives;
- e. He possessed terrorist weaponry (such as illegal speakers) that pose a national security threat to the Bahamas;
- f. He committed arson of Nygard's residence; and
- g. He bribed Bahamian officials" (*id.*).

After the completion of discovery, plaintiff moved for summary judgment, arguing that defendants defamed him by making false defamatory statements, such as those listed above. (NYSCEF # 1416 at 9-12).

Defendants oppose plaintiff's motion and cross-moved for summary judgment (NYSCEF # 1687). Defendants argue that plaintiff's defamation causes of action fail because the statements regarding Mr. Bacon's affiliation with the KKK were nonactionable opinion, plaintiff's claims are

barred by NY Civil Rights Law § 74, Mr. Nygard does not actually accuse plaintiff of murder and insider trading, and defendants' statements are not statements of fact but rather are allegations (NYSCEF # 1689 at 1-19). In addition, defendants contend that plaintiff should not be awarded summary judgment because plaintiff failed to plead damages and to prove actual malice under the public figure standard (NYSCEF # 1689 at 8-13, 22-23).

### Discussion

A party moving for summary judgment must make a prima facie showing that it is entitled to judgment as a matter of law (*see Alvarez v Prospect Hosp*, 68 NY2d 320 [1986]). Once a showing has been made, the burden shifts to the parties opposing the motion to produce evidentiary proof, in admissible form, sufficient to establish the existence of material issues of fact which require a trial of the action (*see Zuckerman v City of New York*, 49 NY2d 557 [1980]). In the presence of a genuine issue of material fact, a motion for summary judgment must be denied (*see Grossman v Amalgamated Haus. Corp.*, 298 AD2d 224, 226 [1st Dept 2002]).

### **Defamation**

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 him in the minds of right-thinking persons, and to deprive him of their friendly intercourse in society” (*Stepanov v Dow Jones & Co., Inc.*, 120 AD3d 28, 34 [1st Dept 2014], quoting *Foster v Churchill*, 87 NY2d 744, 751 [1996]).

To prove a claim for defamation, a plaintiff must show: (1) a false statement that is (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 is actionable regardless of harm (*see Dillon v City of New York*, 261 AD2d 34, 38 [1st Dept 1999]).

In contrast, under defamation *per se*, a plaintiff must plead special damages unless the defamation falls into any one of four *per se* categories: (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 [1st Dept 2018]; *see also Liberman v Gelstein*, 80 NY2d 429, 435 [1992]).

### Public Figure

If the plaintiff is deemed a public figure, the plaintiff must also show that the statements were made with “actual malice” (*see Gottwald v Sebert*, 40 NY3d 240, 251 [2023]; *see also Huggins v Moore*, 94 NY2d 296, 302 [1999]). Thus, the plaintiff would be required to prove by clear and convincing evidence that each statement was made “with either knowledge that it was false or reckless disregard for the truth” (*Huggins*, 94 NY2d at 302; *see also New York Times Co. v Sullivan*, 376 US 254, 279-280 [1964]). However, this actual malice standard does not apply to private figures (*see Gottwald*, 40 NY3d at 251, citing *Wolston v Reader's Digest Ass'n, Inc.*, 443 US 157, 164 [1979]). Instead, “the States may define for themselves the appropriate standard of liability” for those individuals (*id.*, quoting *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 347 [1974]).

Certain individuals may be considered public figures for all purposes, while others “may invite publicity only with respect to a narrow area of interest” and may fairly be considered public figures only where the alleged defamation relates to the publicity they sought (*Gottwald*, 40 NY3d at 251, quoting *James v Gannett Co., Inc.*, 40 NY2d 415, 422 [1976]). One becomes such a limited-purpose public figure through some “purposeful activity,” by which the individual has “thrust” himself “into the public spotlight and sought a continuing public interest in [their] activities” (*id.* quoting *James*, 40 NY2d at 423).

The court will consider whether the evidence demonstrates that the plaintiff had taken affirmative steps to attract personal attention or had strived to achieve a measure of public acclaim (*see Maule v NYM Corp.*, 54 NY2d 880, 881 [1981]).

Defendants assert Mr. Bacon is a public figure or at the very least, a limited public figure due to “[p]laintiff’s voluntary attention-seeking, and participation in attacking the Bahamian government, and Nygard’s use of land, gives him limited public figure status” (NYSCEF # 1689 at 9). Here, plaintiff meets the standard as a limited-purpose public figure (*see Gottwald*, 40 NY3d at 252).

By 2014, when plaintiff initiated this defamation action, he was the founder and CEO of Moore Capital Management, LP and was recognized for advocating the “conservation and protection of natural resources for more than two decades through his Moore Charitable Foundation (NYSCEF # 1697). Plaintiff received the Audubon Medal by the National Audubon Society (*see id.*). Plaintiff was recognized as the leading supporter of the National Audubon Society and its State programs in Colorado, Connecticut, North Carolina, and New York; was the founding member of Audubon’s Rachel Carson Women in Conservation Award Council; led a successful campaign to preserve Clifton Point, Bahamas; protected 208 acres for the benefit and use of the Bahamian people; was involved in the creation of Clifton Heritage National Park; donated a conservation easement on Robins Island; and preserved 435 acres in Peconic Bay, Long Island (*see id.*).

As self-described in the complaint, plaintiff “is an internationally recognized environmental philanthropist and conservationist” (NYSCEF # 1 ¶ 2). Thus, plaintiff’s widespread involvement in environmental conservation and philanthropy establish plaintiff’s reputation in this field (*see Gottwald*, 40 NY3d 240, 252 [2023]; *see also Maule v NYM Corp.*, 54 NY2d 880, 882

[1981]). Based on such factors, plaintiff is appropriately considered a limited-purpose public figure, and as a result, plaintiff must prove that defendant's allegedly defamatory statements were made with actual malice (*see id.*).

Because plaintiff is a limited purpose public figure, the liability would turn on whether defendant made the statements with knowledge of their falsity, or did so in reckless disregard of the truth (*see Maule v NYM Corp.*, 54 NY2d 880, 883 [1981]; *see also Rinaldi v Holt, Rinehart & Winston, Inc.*, 42 NY2d 369, 373 [1977]).

Defendants primarily assert plaintiff's claim that defendant's statements regarding plaintiff being involved in arson, murder, KKK membership and white supremacy, and insider trading/racketeering cannot properly identify plaintiff (NYSCEF # 1689 at 10-21). Thus, defendants argue that they are also non-actionable statements of opinion (*see id.*)

### **Opinion**

Only statements of fact can be defamatory because statements of pure opinion cannot be proven untrue (*see Thomas H. v Paul B.*, 18 NY3d 580, 584 [2012]). Whether a particular statement constitutes an opinion or an objective fact is a question of law (*see Mann v Abel*, 10 NY3d 271, 276 [2008]; *see also Rinaldi*, 42 NY2d at 381). Expressions of opinion are deemed privileged and, no matter how offensive, cannot be the subject of an action for defamation (*see Mann v Abel*, 10 NY3d 271, 276 [2008]; *see also Weiner v Doubleday & Co., Inc.*, 74 NY2d 586, 593 [1989]).

To distinguish an actionable statement of fact from a protected statement of opinion, the court must examine three factors:

- (1) whether the allegedly defamatory words have a "precise meaning" that is "readily understood";
- (2) whether the statement can be proven as true or false; and
- (3) "whether either the full context of the communication in which the statement appears or the broader

social context and surrounding circumstances are such as to signal ... readers or listeners that what is being read or heard is likely to be opinion, not fact” (*id.*, quoting *Brian v Richardson*, 87 NY2d 46, 51 [1995]; *see also Mann*, 10 NY3d at 276).

In *Thomas H.*, the court explained that even when an accusation involves serious criminal conduct, the court will consider the overall context of the statement when categorizing a statement as fact or opinion (*see id.* at 585). “Courts must consider the content of the communication as a whole, as well as its tone and apparent purpose” and in particular “should look to the over-all context in which the assertions were made and determine on that basis ‘whether the reasonable reader would have believed that the challenged statements were conveying facts about the libel plaintiff’” (*Mann*, 10 NY3d at 276, quoting *Brian v Richardson*, 87 NY2d 46, 51 [1995]).

Here, defendant’s alleged statements are actionable statements of fact regarding arson, murder, KKK membership and white supremacy, and insider trading/racketeering (NYSCEF # 1). While Mr. Nygard argues such statements do not directly identify nor accuse Mr. Bacon, such statements can still be actionable. Defendant’s statements on the internet made of a dead body found on plaintiff’s property with statements of “[i]nteresting police officials failed to report the suspicious death to the media,” “Louis Bacon News - another dead body,” and “Who is Louis Moore Bacon?... A Hedge fund Godfather with a body in his Jacuzzi whose [sic] facing claims of racketeering” do provide the context that Mr. Bacon was involved in various criminal activities (NYSCEF # 1417 at 5; NYSCEF # 1689 at 13-14). In addition, plaintiff’s arson claims from statements made as “Bacon ordered an employee to find a way to burn Mr. Nygard[’]s \*\*\*\*in house down,” and that plaintiff “initiated the blaze” provide the same result and reasoning (NYSCEF 1417 at 9-10; NYSCEF # 1709 at 8-9). While such statements do not directly accuse plaintiff of any crime, when considering the full context, such statements can be readily understood

as a fact rather than an opinion to the reasonable reader (*see Mann*, 10 NY3d at 276). Accordingly, the statements are actionable and can proven to be true or false (*see id.*).

As previously stated, for a limited public person standard to apply, the individual “invite[s] publicity only with respect to a narrow area of interest” and may fairly be considered public figures only where the alleged defamation relates to the publicity they sought (*Gottwald*, 40 NY3d at 251, quoting *James*, 40 NY2d at 422). While Mr. Bacon is indeed a limited public figure, alleged defamatory statements would be limited with respect to Mr. Bacon’s involvement in the environmental space, which he advocated for the conservation and protection of natural resources in various programs (*see id.*; NYSCEF # 1697). Here, the statements alleging Mr. Bacon conducting in various criminal activity do not relate to environmental protection. Thus, the statements alleged would not fall under liability as a limited public figure (*see Gottwald*, 40 NY3d at 251). Instead, the court will view the statements considering Mr. Bacon as a private individual (*Verdi v Dinowitz*, 232 AD3d 31, 44 [1st Dept 2024]).

“The “gross irresponsibility” standard applies to a private person and requires the plaintiff to “establish, by a preponderance of the evidence, that the publisher acted in a grossly irresponsible manner without due consideration for the standards of information gathering and dissemination ordinarily followed by responsible parties” (*id.*, quoting *Chapadeau v Utica Observer-Dispatch*, 38 NY2d 196, 199 [1975]).

Here, Mr. Bacon’s summary judgment is granted on his defamation *per se* cause of action. In Mr. Nygard’s deposition, Mr. Nygard openly admitted and failed to provide evidence to defend the alleged defamatory statements (NSYCEF # 1441). Moreover, Mr. Nygard failed to provide any evidence whether the statements made by Mr. Nygard had any truth (*see id.*). In Mr. Nygard’s deposition, Mr. Nygard was asked if he had any evidence on whether Mr. Louis Bacon was a member of the KKK, personally committed financial impropriety, personally has been convicted

of any crime, engaged insider trading, personally engaged in racketeering, arson on Mr. Nygard’s property, murder linking Mr. Bacon to Dan Tuckfield’s death, and possession of illegal weapons, (*id.* at 36-64). In response, Mr. Nygard admitted he had no evidence. Thus, upon the forgoing cited papers and the reasons set forth on the record during oral argument by both parties on September 30 2025, Mr. Bacon’s motion for summary judgment on defamation *per se* is granted.

**Conclusion**

In view of the above, it is

ORDERED that plaintiff’s motion for summary judgment is granted pertaining to the defamation per se cause of action and defendant’s motion for summary judgment is denied. The motion and cross motion are denied in all other respects.

And further ORDERED that plaintiff serve a copy of order with notice of entry on defendants within 14 days of its upload onto NYSCEF.

12/22/2025  
DATE

  
RICHARD G. LATIN, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER  
REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: