

Madison Sec. Group, Inc. v Thomas

2026 NY Slip Op 32044(U)

April 20, 2026

Supreme Court, New York County

Docket Number: Index No. 156413/2025

Judge: Gerald Lebovits

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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. GERALD LEBOVITS PART 07

Justice

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INDEX NO. 156413/2025

MADISON SECURITY GROUP, INC.,

MOTION SEQ. NO. 001

Plaintiff,

- v -

**DECISION + ORDER ON
MOTION**

ADRIENNE THOMAS,

Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16

were read on this motion to DISMISS.

Cervini Law Group PLLC, New York, NY (Abbie Sebastianelli and Joseph P. Cervini, Jr., of counsel), for plaintiff.

Adrienne Thomas, New York, NY, defendant pro se.

Gerald Lebovits, J.:

Plaintiff, Madison Security Group, Inc., is a security company that has provided services to the Esplanade Gardens residential cooperative complex in Manhattan. Defendant, Adrienne Thomas, is a former board member of Esplanade Gardens, Inc., and a resident of the premises. On April 19, 2025, Thomas authored and published an article entitled "SLAVE LABOR," which criticized the board's decision to reinstate Madison as the security provider. The article accused Madison of various unethical and criminal acts, including Labor Law violations, unauthorized background checks on board members, vandalizing a shareholder's vehicle, and attempting to bribe a board member.

Madison then brought this action against Thomas, alleging that Thomas's article is defamatory and seeking damages. Thomas, proceeding pro se, moves pre-answer to dismiss under CPLR 3211 (a) (1), (3), (7), and (8). The motion is denied.

DISCUSSION

I. The Branch of Thomas's Motion Challenging Personal Jurisdiction under CPLR 3211 (a) (8)

Thomas argues that the action should be dismissed for lack of personal jurisdiction. She asserts, without elaboration, that no jurisdiction exists because “[p]laintiff has not produced sworn proof of proper service, and jurisdiction cannot be presumed.” (*See* NYSCEF No. 15 at 2.) This argument is without merit.

Madison has produced a sworn affidavit of service, which details multiple attempts at personal service and subsequent service by affixation and mail at Thomas's residence. (*See* NYSCEF No. 4.) An affidavit of service constitutes prima facie evidence of proper service. (*HSBC Bank USA, N.A. v Gifford*, 224 AD3d 447, 450 [1st Dept 2024].) The mere conclusory denial of receipt of service is insufficient to rebut the presumption that service was proper. (*Grinshpun v Borokhovich*, 100 AD3d 551, 552 [1st Dept 2012].) Thomas's argument does not contain specific facts to rebut the statements in the process server's affidavit. She has not denied residing at the service address. Nor has she contested the details contained in the process server's affidavit (*e.g.*, the process server's description of her door and its surroundings: “light blue door, 2 locks, Grey walls, light blue tile floors”). (*See* NYSCEF No. 4.)

II. The Branch of Thomas's Motion Challenging Madison's Standing under CPLR 3211 (a) (3)

Thomas also argues that Madison lacks standing to bring this action. According to her, Madison cannot demonstrate “any harm or injury” arising from her conduct—particularly because it was awarded a new contract in April 2025. Madison responds that it has sufficiently established its standing through alleging that Thomas's article caused it to suffer reputational harm and lost business opportunities. This court agrees with Madison.

Under CPLR 3211 (a) (3), a defendant must establish that the plaintiff lacks standing as a matter of law. (*Aurora Loan Servs., LLC v Taylor*, 25 NY3d 355, 360 [2015].) A plaintiff can defeat a challenge to standing at the pleading stage through submissions that at least raise a question of fact as to standing. (*DLJ Mortg. Cap. v Mahadeo*, 166 AD3d 512, 513 [1st Dept 2018].)

Here, Madison's complaint alleges that the article prompted concerns from existing and prospective clients, damaged Madison's reputation within the business community, eroded customer goodwill, and led to a measurable loss of business opportunities. (*See* NYSCEF No. 1 at ¶¶ 28-30.) These allegations, accepted as true, establish at a minimum that a question of fact exists about whether Thomas's statements injured Madison. No more is required at the pleading stage.

III. The Branch of Thomas's Motion Seeking Dismissal for Failure to State a Cause of Action under CPLR 3211 (a) (7)

Thomas contends that Madison's defamation claim must be dismissed because it does not state a cause of action against her. In particular, she argues that Madison's claims fail because her statements constitute non-actionable opinion or are substantially true. In opposition, Madison counters that the complaint states a cause of action because it identifies specific, verifiable false statements that accuse Madison of criminal and unethical conduct and are therefore actionable as defamation per se. This court agrees with Madison.

To state a claim for defamation under New York law, a plaintiff must allege (1) a false statement that tends to expose a person to public contempt, hatred, ridicule, aversion, or disgrace; (2) published without privilege or authorization to a third party; (3) amounting to fault as judged by, at a minimum, a negligence standard; and (4) either causing special harm or constituting defamation per se.¹ (*See 3P-733, LLC v Tawan Davis*, 187 AD3d 626, 628, [1st Dept 2020].)

In distinguishing between fact and opinion, courts consider "(1) whether the specific language has a precise meaning that is readily understood; (2) whether the statements are capable of being proven true or false; and (3) whether the context in which the statement appears signals to readers or listeners that the statement is likely to be opinion, not fact." (*Alianza Dominicana, Inc. v Luna*, 229 AD2d 328, 329 [1st Dept 1996].) Here, the article contains numerous statements that are readily verifiable. Thomas asserts as "fact" that Madison does not pay its guards on time, does not provide vacation or sick leave, was "involved with vandalizing a shareholder's vehicle," and "tried to bribe a board member with cash." (NYSCEF No. 3 at 2; *see also* NYSCEF No. 1 at ¶ 16 [quoting from article].) These statements do not constitute rhetorical hyperbole or loose opinion; they are concrete factual assertions that can be proven true or false. (*See Gross v New York Times Co.*, 82 NY2d 146, 153-154 [1993] [distinguishing actionable fact from non-actionable opinion].)

Accusations of serious criminal conduct, such as bribery and arson, constitute defamation per se. (*See Liberman v Gelstein*, 80 NY2d 429, 436 [1992].) Under New York law, a statement is also defamatory per se if it "tends to injure the plaintiff in her or his trade, business or profession" (*Couteller v Mamakos*, 244 AD3d 556, 557 [1st Dept 2025].) To come within this category of defamation per se, the statement must make factual assertions that would be "incompatible with the proper conduct of the business, trade, [or] profession itself," and must "be made with reference to a matter of significance and importance for that purpose," in particular. (*Liberman*, 80 NY2d at 436.) Here, the statements at issue accuse Madison of several

¹ A defamation complaint must also set forth the "particular words complained of." (CPLR 3016 [a]; *see Garza v. Nunz Realty, LLC*, 187 AD3d 467, 467 [1st Dept 2020].) Madison's complaint satisfies this requirement by quoting at length from Thomas's article. (*See* NYSCEF No. 1 at ¶ 16.)

forms of illegal and unethical conduct in the carrying-out of its business. (*See* NYSCEF No. 1 at ¶ 16.) These statements, if false (as Madison alleges), therefore constitute defamation per se. Madison is not required, therefore, to prove special damages. (*See id.* at 435.)

Thomas's argument that her statements are true does not warrant dismissal of the complaint for failure to state a cause of action. Truth is an affirmative defense. (*Silverman v Clark*, 35 AD3d 1, 11 [1st Dept 2006].) The existence of factual disputes about the veracity of Thomas's statements cannot be resolved on a motion to dismiss. (*See Sokol v Leader*, 74 AD3d 1180, 1181-1182 [2d Dept 2010].) Accepting Madison's allegations as true, as the court must at this stage, the complaint states a viable defamation claim. (*See Leon v Martinez*, 84 NY2d 83, 87-88 [1994].)

IV. The Branch of Thomas's Motion Seeking Dismissal Based on Documentary Evidence under CPLR 3211 (a) (1)

Finally, Thomas argues that Madison's claim should be dismissed under CPLR 3211 (a) (1). She contends that evidence she has submitted on this motion, including emails, board meeting minutes, a 2021 affidavit from Madison's vice president Joseph Lizardi, and internet search results, constitutes documentary evidence that utterly refutes Madison's allegations of falsity. This court disagrees.

To prevail under CPLR 3211 (a) (1), a defendant must submit documentary evidence that utterly refutes a plaintiff's allegations and conclusively establishes a defense as a matter of law. (*See Art and Fashion Group Corp. v Cyclops Prod., Inc.*, 120 AD3d 436, 438 [1st Dept 2014].) To qualify as "documentary evidence" for these purposes, the materials relied upon must be "unambiguous, authentic, and undeniable." (*Granada Condominium III Assn. v Palomino*, 78 AD3d 996, 996-997 [2d Dept 2010].)

Here, Thomas submits emails describing conversations with third parties, affidavits, letters, board minutes, and Internet search results. (*See* NYSCEF No. 9 [compiling materials].) These materials do not qualify as "documentary" for purposes of CPLR 3211 (a) (1). And even if they did, Thomas's materials do not conclusively refute Madison's defamation claim. At best, they raise factual disputes about, for example, whether Madison's employees were unionized, whether Madison paid for damage to a vehicle, or whether Madison ran background checks on board members. These are precisely the types of factual questions that cannot be resolved on a pre-answer motion to dismiss. (*See Wright v City of New York*, 223 AD3d 547, 548 [1st Dept 2024].)

Accordingly, it is

ORDERED that Thomas's motion to dismiss is denied; and it is further

ORDERED that Thomas shall submit an answer within 30 days of service on her of a copy of this order with notice of its entry; and it is further

ORDERED that the parties shall appear before this court for a telephonic preliminary conference on May 8, 2026; and it is further

ORDERED that Madison shall serve notice of entry on Thomas by email and by certified mail, return receipt requested, directed to her last-known address.


HON. GERALD LEBOVITZ
J.S.C.

4/20/2026
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER			OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			REFERENCE