Case Number: 23STCV12953 Hearing Date: November 21, 2024 Dept: 48

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

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| AMANDA GHOST, et al.,<br>Plaintiffs,<br>vs.<br><br>REBEL WILSON,<br><br>Defendant. | ) | CASE NO.: 23STCV12953<br><br>[TENTATIVE] ORDER DENYING DEFENDANT'S SPECIAL MOTION TO STRIKE (ANTI-SLAPP MOTION); DENYING AS MOOT PLAINTIFFS' MOTION FOR LEAVE TO TAKE LIMITED DISCOVERY<br><br>Dept. 48<br>8:30 a.m.<br>November 21, 2024 |

On July 12, 2024, Plaintiffs Amanda Ghost, Gregor Cameron, and Vince Holden filed this action against Defendant Rebel Wilson. On July 29, 2024, Plaintiffs filed a first amended complaint ("FAC").

On October 21, 2024, Wilson filed a special motion to strike under Code of Civil Procedure section 425.16 ("anti-SLAPP motion").

On October 29, 2024, Plaintiffs filed a motion for leave to take limited discovery in order to oppose the anti-SLAPP motion.

ANTI-SLAPP MOTION

"A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or California Constitution in connection with a public issue shall be subject to a special motion to strike unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim." (Code Civ. Proc., § 425.16, subd. (b)(1).)

"A court's consideration of an anti-SLAPP motion involves a two-step process. 'First, the court decides whether the defendant has made a threshold showing that the challenged cause of action is one arising from protected activity. The moving defendant's burden is to demonstrate that the act or acts of which the plaintiff complains were taken "in furtherance

of the [defendant]'s right of petition or free speech under the United States or California Constitution in connection with a public issue," as defined in the statute. [Citation.] If the court finds such a showing has been made, it then determines whether the plaintiff has demonstrated a probability of prevailing on the claim.' [Citation.] In the second step, the plaintiff must only bring forward sufficient evidence to make out a viable prima facie case at trial, a burden that 'is not particularly high.' [Citation.]" (O&C Creditors Group, LLC v. Stephens & Stephens XII, LLC (2019) 42 Cal.App.5th 546, 565-566.)

A. Plaintiffs' Request For Judicial Notice Is Granted in Part.

Plaintiffs' request for judicial notice of Exhibits 12, 14, 16, 21-27 is granted. In doing so, the Court takes judicial notice of only their existence, not the truth of their contents.

B. The Evidentiary Objections Are Overruled.

Plaintiffs' 65 pages of Objection Nos. 1-49 are overruled.

Wilson's 99 pages of Objection Nos. 1-121 are overruled.

C. Plaintiffs Allege Nine Statements.

Plaintiffs' sole cause of action for defamation is based on nine statements published in two manners.

On July 10, 2024, Wilson published a video on her Instagram page. (FAC ¶¶ 35, 43.) This video expressed or implied that (1) Plaintiffs sexually harassed a lead actress involved in the Film; (2) Plaintiffs embezzled funds from the Film's financing for personal gain; and (3) Plaintiffs acted with inappropriate behavior towards the lead actress of the Film. (FAC ¶ 43.)

On June 14, 2024, Wilson's counsel sent a demand letter to Plaintiffs' counsel demanding a compromise of Wilson's claims and arguing that Wilson is entitled to writing credit on the Film and a record label. (FAC ¶ 10.) Plaintiffs allege that Wilson also provided the demand letter to the media, causing its statements to be republished. (FAC ¶¶ 11, 38-40, 44.) The demand letter communicated that (1) Ghost and Cameron embezzled 900,000 Australian Dollars from the Film; (2) Ghost and Cameron have a pattern and practice of embezzlement, including on other projects; (3) Ghost and Cameron sexually harassed a lead actress of the Film; (4) Ghost and Cameron maintained coercive control on a lead actress of the Film and forced her to engage in depraved sexual demands; (5) a lead actress of the Film is being held captive by Ghost and Cameron and is being taken across state lines; (6) Cameron used physical aggression to bully Wilson and wrongfully imprisoned her. (FAC ¶¶ 40, 44.)

D. Wilson Has Not Shown That the Video Was a Protected

Activity.

"[A]ny written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest" and "any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest" are protected under the anti-SLAPP statute. (Code Civ. Proc., § 425.16, subds. (e)(3), (e)(4).)

Wilson argues that she and Plaintiffs "are public figures and persons 'in the public eye' by virtue of their extensive experience in the entertainment industry, which is the focus of Wilson's speech and alleged speech." (Motion at p. 5.) "While courts have held the public's interest in the life and work of entertainers and other celebrities can create an issue of public interest for purposes of section 425.16, subdivision (e) [citation], it is the subject of the defendant's speech or conduct that determines whether an issue of public interest has been implicated for purposes of anti-SLAPP protection. [Citation.] The defendant's celebrity status, on its own, is not sufficient to render anything the defendant says or does subject to anti-SLAPP protection." (Bernstein v. LaBeouf (2019) 43 Cal.App.5th 15, 23 (Bernstein).)

Wilson also argues that "[t]he unfortunately endemic issue of inappropriate behavior, including sexual harassment, on movie sets is a matter of profound and continuing public interest," "[e]mbezzlement from film budgets is a matter of public interest, and is frequently the subject of civil and criminal lawsuits, and reporting in the press," and "[t]ax fraud is a matter of public interest." (Motion at pp. 5-6.)

These assertions of public interest due to the identity of the parties and a broad public interest are insufficient to show that they are protected activity. "[I]n order to satisfy the public issue/issue of public interest requirement of section 425.16, subdivision (e)(3) and (4) of the anti-SLAPP statute, in cases where the issue is not of interest to the public at large, but rather to a limited, but definable portion of the public (a private group, organization, or community), the constitutionally protected activity must, at a minimum, occur in the context of an ongoing controversy, dispute or discussion, such that it warrants protection by a statute that embodies the public policy of encouraging participation in matters of public significance." (Du Charme v. International Brotherhood of Electrical Workers (2003) 110 Cal.App.4th 107, 119 (Du Charme).)

"[T]he statute requires that there be some attributes of the issue which make it one of public, rather than merely private, interest. A few guiding principles may be derived from decisional authorities. First,

'public interest' does not equate with mere curiosity. Second, a matter of public interest should be something of concern to a substantial number of people. Thus, a matter of concern to the speaker and a relatively small, specific audience is not a matter of public interest. Third, there should be some degree of closeness between the challenged statements and the asserted public interest; the assertion of a broad and amorphous public interest is not sufficient. Fourth, the focus of the speaker's conduct should be the public interest rather than a mere effort 'to gather ammunition for another round of [private] controversy. . . .' Finally, 'those charged with defamation cannot, by their own conduct, create their own defense by making the claimant a public figure.' A person cannot turn otherwise private information into a matter of public interest simply by communicating it to a large number of people." (Weinberg v. Feisel (2003) 110 Cal.App.4th 1122, 1132-1133 (Weinber), citations omitted.)

The "public interests" of "inappropriate behavior, including sexual harassment, on movie sets," "embezzlement from film budgets," and "tax fraud" (Motion at pp. 5-6) are broad and amorphous public interests that are not closely related to the challenged statements. In the video, Wilson spoke about the Film, her directing debut, "the joy of the movie being selected," and her business partners preventing the movie from premiering. (FAC ¶ 35.) She asserted that they stopped the premiere because she "discovered bad behavior by these business partners," identifying Plaintiffs by name. (FAC ¶ 35.) Wilson states that she reported "their bad behavior when I found out not minor things, big things, you know, inappropriate behavior towards the lead actress of the film, embezzling funds from the film's budget." (FAC ¶ 35.) She also asserts that Ghost "has a history of doing this kind of thing, mainly to music artists but also to people in the film business. So, the thing is, these people are forced to sign NDAs or, you know, otherwise threatened or bullied to not speak out." (FAC ¶ 35.)

These statements are not made in the context of an ongoing controversy, dispute, or discussion about "inappropriate behavior, including sexual harassment, on movie sets," "embezzlement from film budgets," and "tax fraud." They were not made during Wilson's participation in matters of public interest. (See Du Charme, supra, 110 Cal.App.4th at p. 119.) Instead, they were made in the context of Wilson's private business dispute with Plaintiffs surrounding the production and premiere of the Film. (See, e.g., ¶¶ 7-10.) Additionally, "[t]he United States Supreme Court also has rejected the claim that assertions of criminal conduct automatically fall within the public interest. [Citation.] As

we have noted, there are no charges pending against plaintiff, and defendant has not taken action intended to result in a criminal investigation or prosecution. The fact that defendant's statements accuse plaintiff of criminal conduct make them defamatory on their face. [Citation.] It does not automatically make them a matter of public interest." (Weinberg, supra, 110 Cal.App.4th at p. 1135.)

Wilson argues that the challenged statements could affect large numbers of people beyond the direct participants because many people worked on the Film and could be affected by its success or failure. (Motion at p. 6.) She argues that "[t]he number of people who worked on the film ['a cast of over 140 and a production crew of hundreds more'], and coverage of it as Wilson's directorial debut, show that the film and its success are matters of public interest." (Ibid.). Wilson relies on Tamkin v. CBS Broadcasting, Inc. (2011) 193 Cal.App.4th 133 to show that the creation of a television episode can be an issue of public interest. There, the alleged acts were based on using the plaintiffs' names in drafts of the scripts and disseminating those scripts and casting synopses. (Tamkin, supra, 193 Cal.App.4th at p. 143.) The acts were in furtherance of the right to free speech because "[t]he creation of a television show is an exercise of free speech," and "defendants' acts helped to advance or assist in the creation, casting, and broadcasting of an episode of a popular television show." (Ibid.) Wilson's video was not part of the creation of the Film and did not advance its production.

The Court finds that the video is not protected activity under the anti-SLAPP statute.

E. Wilson Has Not Shown That Transmitting the Demand Letter Was a Protected Activity.

"[A]ny written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law" is protected under the anti-SLAPP statute. (Code Civ. Proc., § 425.16, subd. (e)(2).)

"Under the plain language of section 425.16, subdivisions (e)(1) and (e)(2), as well as the case law interpreting those provisions, all communicative acts performed by attorneys as part of their representation of a client in a judicial proceeding or other petitioning context are per se protected as petitioning activity by the anti-SLAPP statute." (Cabral v. Martins (2009) 177 Cal.App.4th 471, 479-480.) "An attorney's communication with opposing counsel on behalf of a client regarding pending litigation directly implicates the right to petition and thus is

subject to a special motion to strike." (GeneThera, Inc. v. Troy & Gould Professional Corp. (2009) 171 Cal.App.4th 901, 908.)

In connection with the Film, Wilson fought for writing credit, credit with the writers of the music for the Film, and a record label with an external music group. (FAC ¶ 7.) Wilson's demand letter to Plaintiffs demanded a compromise of her claims, writing credit, and a record label. (FAC ¶ 10.)

Wilson argues that "the Demand Letter relates to prelitigation communications from lawyers, but allegedly was disseminated by Wilson to the press after the original Complaint was filed," and she "not only seriously considered claims against Plaintiffs, but she ultimately brought those claims in a Cross-Complaint filed in this action." (Motion at p. 6.)

Wilson's October 1, 2024 cross-complaint generally alleges breaches of contract and fiduciary duty (failure to provide writing credit and record deal), a single event of false imprisonment, misrepresentations about the Film partnership, and emotional distress from bullying and harassing Wilson for reporting misconduct.

"[A] statement is 'in connection with' litigation under section 425.16, subdivision (e)(2) if it relates to the substantive issues in the litigation and is directed to persons having some interest in the litigation." (Neville v. Chudacoff (2008) 160 Cal.App.4th 1255, 1266.) The anti-SLAPP statute is "construed broadly, to protect the right of litigants to 'the utmost freedom of access to the courts without the fear of being harassed subsequently by derivative tort actions.'" (Healy v. Tuscany Hills Landscape & Recreation Corp. (2006) 137 Cal.App.4th 1, 5.)

The demand letter does not fit this description. The creation of the demand letter (directed at Plaintiffs) and the service of it on Plaintiffs is protected activity. But that is not the basis for Plaintiffs' claims. Instead, Plaintiffs allege that Wilson (or someone acting on her behalf and at her direction) transmitted the demand letter to the media for republication. (FAC ¶¶ 11, 39-40, 44.) The republication of Wilson's own demand letter does not subject Wilson to a risk of subsequent tort litigation based on the underlying contemplated litigation (the claims in her later-filed cross-complaint). Wilson's alleged statements republication by the media (through transmission of the demand letter) were not directed to persons having some interest in the litigation. The republication of the demand letter's contents to the media was not made in connection with litigation. It is no different than providing the same statements in a different format (not a demand letter) to unrelated parties who have no interest or involvement in the contemplated litigation.

The Court finds that republishing the statements in the demand letter through transmission to the media is not protected activity under the anti-SLAPP statute.

F. Conclusion

Because the Court finds that the statements are not protected activities subject to an anti-SLAPP motion, the Court does not proceed to the second prong of the analysis for Plaintiffs' likelihood of prevailing on the merits.

The anti-SLAPP motion is DENIED.

MOTION FOR LEAVE TO TAKE LIMITED DISCOVERY

Plaintiffs seek leave to conduct a brief, limited-scope deposition of Wilson to enable them to fully respond to the anti-SLAPP motion.

The Court denies the anti-SLAPP motion, so the motion for limited discovery is therefore denied as moot.

Moving party to give notice.

Parties who intend to submit on this tentative must send an email to the Court at SMCDEPT48@lacourt.org indicating intention to submit. If all parties in the case submit on the tentative ruling, no appearances before the Court are required unless a companion hearing (for example, a Case Management Conference) is also on calendar.

Dated this 21st day of November 2024

Hon. Thomas D. Long
Judge of the Superior Court