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**Hearing Date:** 11/14/2024

**Department:** 56

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

 KEVIN HART, an individual; and  
K. HART

CASE NO.: 23STCV31516

ENTERPRISES, INC., a California  
corporation,

[TENTATIVE] ORDER RE:

Plaintiffs,

SPECIAL MOTION TO STRIKE  
PLAINTIFFS' FIRST AMENDED

vs.

COMPLAINT PURSUANT TO  
[C.C.P. §](#)

MIESHA SHAKES, an individual;  
LATASHA

425.16

TRANSRINA KEBE, an individual;  
KEBE

Date: November 14, 2024

STUDIOS, LLC, a Georgia limited  
liability

Time: 8:30 a.m.

company; and DOES 1 through  
20, inclusive,

Dept. 56

Defendants.

MOVING PARTY: Defendant Miesha Shakes (“Shakes”)

RESPONDING PARTY: Plaintiffs Kevin Hart (“Hart”) and K. Hart Enterprises, Inc. (“KHE”) (collectively, “Plaintiffs”)

The Court has considered the moving, opposition and reply papers.

## **BACKGROUND**

On January 2, 2024, Plaintiffs filed the operative First Amended Complaint (the “FAC”) alleging five causes of action for: (1) Civil Extortion, (2) Breach of Contract, (3) Intentional Interference with Contractual Relations, (4) Invasion of Privacy (Public Disclosure of Private Facts), and (5) Defamation. The second cause of action for breach of contract is asserted only against Shakes, and the third cause of action for intentional interference with contractual relations is asserted only against Latasha Transrina Kebe (“Kebe”), Kebe Studios, LLC (“Kebe Studios”) and Yelen Entertainment LLC (“Yelen”).

Hart is a well-known comedian and actor. Shakes worked as Hart’s personal assistant for a number of years. This case arises out of Shakes’ participation in a broadcast interview (the “Interview”) about her experience working for him. The Interview, which was conducted by Kebe and broadcast by Yelen, discusses alleged scandals involving Hart, including the 2017 release of a sex tape with a woman other than his wife, and lawsuits arising out of that incident.

On March 4, 2024, Yelen and Kebe filed an Anti-SLAPP motion to strike the first, third, fourth and fifth causes of action alleged against them in the FAC pursuant to Code Civ. Proc. § 425.16 (“Kebe Anti-SLAPP Motion”). In its Order dated April 25, 2024, the Court granted the Kebe Anti-SLAPP Motion as to (1) Hart and KHE’s first cause of action for civil extortion, (2) KHE’s fourth cause of action for invasion of privacy, and (3) KHE’s fifth cause of action for defamation, and denied it as to (1) the FAC’s second cause of action for intentional interference with contract; (2) Hart’s fourth cause of action for invasion of privacy; and (3)

contract; (2) Hart's fourth cause of action for invasion of privacy; and (3) Hart's fifth cause of action for defamation.

On May 30, 2024, Shakes concurrently filed a motion for leave to file an amended answer and a motion for leave to file an anti-SLAPP motion. The Court granted both motions on July 2, 2024. On the same day, Shakes filed an Amended Answer to the FAC as well as the instant Special Motion to Strike Plaintiffs' First Amended Complaint Pursuant to C.C.P. § 425.16 (the "Motion"). Plaintiffs filed an opposition to the Motion on October 31, 2024, and Shakes filed a reply to the opposition on November 6, 2024.

## **JUDICIAL NOTICE**

Shakes request judicial notice of certain court records/documents in the present action as well as in a case filed in the Superior Court of California – Los Angeles entitled *Sabbag v. Hart, et al.*, Case No. 20STCV16533 (the "Sabbag case"). The Court grants the request as to court documents that are already part of the record of this case. As to records pertaining to the Sabbag case, the Court takes judicial notice of the records' existence but not of the truth of assertions within. (Evid. Code, § 452(c), (d); *Herrera v. Deutsche Bank National Trust Co.* (2011) 196 Cal.App.4th 1366, 1375.)

Plaintiffs' request for judicial notice of certain documents filed in the present action and therefore already part of the record of this case is similarly granted. Evid. Code section 452, however, does not provide a basis for judicial notice of the three web pages corresponding to Exhibits 3, 4 and 5 of Plaintiffs' request. Accordingly, the Court denies judicial notice of the webpages.

## **DISCUSSION**

### **Standard**

Code of Civil Procedure section 425.16 sets forth the procedure governing anti-SLAPP motions. In pertinent part, the statute states, "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 the 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(b)(1).) The purpose of the statute is to identify and dispose of lawsuits brought to chill the valid exercise of a litigant's constitutional right of petition or free speech. (Code Civ. Proc. § 425.16(a); *Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, 1055-1056.)

Courts employ a two-step process to evaluate anti-SLAPP motions. (*Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 61.) To invoke the protections of the statute, the defendant must first show that the challenged lawsuit arises from protected activity, such as an act in furtherance of the right of petition or free speech. (*Ibid.*) From this fact, courts "presume the purpose of the action was to chill the defendant's exercise of First Amendment rights. It is then up to the plaintiff to rebut the presumption by showing a reasonable probability of success on the merits." (*Ibid.*) In determining whether the plaintiff has carried this burden, the trial court considers "the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based." (Code Civ. Proc. § 425.16(b)(2); *Soukup v. Law Offices*

*of Herbert Hafif* (2006) 39 Cal.4th 260, 291.)

### The Motion

Similar to the Kebe Anti-SLAPP Motion, Shakes brings this Motion seeking to strike the first, second, fourth and fifth causes of action on the ground that each of those causes of action arises from activity protected by Section 425.16 and Plaintiffs cannot establish a probability of prevailing on those causes of action.

Although brought by different parties, since the bases for the present Motion are similar to the already ruled-upon Kebe Anti-SLAPP Motion,

the Court will not repeat the points already discussed in the Court's prior ruling in the Kebe Anti-SLAPP Motion. As in the Kebe Anti-SLAPP Motion, it is undisputed that Plaintiffs' claims arise from protected activity under CCP § 425.16, and thus the first prong is met.

On the second prong regarding reasonable probability of prevailing on Plaintiffs' claims, the Court finds, as in its April 24, 2024 Order, that Plaintiffs have shown minimal merit as to Hart's invasion of privacy claim and defamation claim, but not as to KHE's corresponding claims.

Plaintiffs present a new argument pertaining to the Court's April 24, 2024 ruling on the civil extortion cause of action, citing *Tran v. Nguyen* (2023) 97 Cal. App.5th 523. Plaintiffs' objection, however, is unavailing and does not change the Court's finding that Plaintiffs have not met their burden of showing a reasonable probability of success on the merits. Parenthetically, the Court notes that the *Tran* case does not hold that civil extortion is a cause of action, but rather opines that a cause of action for "rescission based on menace" could exist where a plaintiff is seeking the return of money paid. (*Id.*, at 529.) Accordingly, the civil extortion claim fails as a matter of law.

### Second Cause of Action for Breach of Contract

The Court will proceed to address the second cause of action for breach of contract, which is asserted only against Shakes. To prevail on a cause of action for breach of contract, Plaintiffs must prove (1) the existence of a valid contract, (2) Plaintiffs' performance of the contract or excuse for nonperformance, (3) defendant's breach and (4) the resulting damage to the Plaintiffs. (*Richman v. Hartley* (2014) 224 Cal.App. 4th 1182, 1186.)

Here, Shakes does not deny that she executed the Non-Disclosure Agreement ("NDA"), and even acknowledged the NDA's existence during the Interview. Instead, she now disputes that Hart performed his obligations under the NDA, alleging that Hart failed to provide the full consideration, including three years' worth of health insurance

coverage promised to Shakes under the NDA. (Declaration of Shakes, ¶¶ 5-6.) In opposition, Hart's declaration confirms that he "paid, and Shakes accepted, all such amounts." (Declaration of Hart, ¶ 6.) Given the conflicting factual statements, Shakes' contention that Hart did not perform creates a disputed issue of fact. In deciding anti-SLAPP motions, courts employ a "summary-judgment-like" procedure, "accepting as true the evidence favorable to the plaintiff and evaluating the defendant's evidence only to determine whether the defendant has defeated the plaintiff's evidence as a matter of law." (*Gerbosi v. Gaims, Weil, West & Epstein, LLP* (2011) 193 Cal.App.4th 435, 444.) In other words, the Court does not assess credibility, and the plaintiff is not required to meet the preponderance of the evidence standard. The Court accepts as true the evidence favorable to the plaintiff, who need only establish that his or her claim has "minimal merit" to avoid being stricken as a SLAPP. (*Soukup, supra*, 39 Cal.4th at p. 291.)

Plaintiffs alleged that Shakes had breached the NDA by disclosing information and/or making allegations that would necessarily entail disclosure of information defined as Confidential Information under the NDA, including statements regarding personnel and employment matters at Hart-affiliated companies, and statements regarding Hart's interactions with his family members. (FAC, ¶ 44.) Paragraph 54 of the FAC also alleges: "Some of the matters Shakes purported to disclose would necessarily have been based on her purported knowledge of private facts, including but not limited to statements regarding personal relationships affecting the employment status of personnel at Hart-affiliated companies, and interactions among Hart and his family members." (FAC, ¶ 54.) As such, Plaintiffs have sufficiently identified statements by Shakes that constitute a breach of the NDA, under which "Confidential Information" is defined to include any "Private and confidential information which is not generally known to the public or readily ascertainable by proper means by others" regarding Hart and his family members and associates. (Hart Decl., Exh. A, ¶ 1.1.1.) The NDA further provided that "Shakes shall not directly or indirectly disclose, exploit or disseminate Confidential Information to any [...] journalists, tabloids, television or radio programs, websites, or internet social media." (Hart Decl., Exh. A, ¶ 1.2.)

Thus, the Court finds that Plaintiffs have shown minimal merit as to the second cause of action for breach of contract. Accordingly, Shakes' Motion as to this cause of action is DENIED.

## **RULING**

Based on the foregoing, the Motion is GRANTED as to: (1) Hart and KHE's first cause of action for civil extortion; (2) KHE's fourth cause of action for invasion of privacy; and (3) KHE's fifth cause of action for defamation.

The motion is DENIED as to: (1) the FAC's second cause of action for breach of contract; (2) Hart's fourth cause of action for invasion of privacy; and (3) Hart's fifth cause of action for defamation.

Moving party is ordered to give notice of this ruling.

Parties who intend to submit on this tentative must send an email to the Court at [SMC\\_DEPT56@lacourt.org](mailto:SMC_DEPT56@lacourt.org) as directed by the instructions provided on the court website at [www.lacourt.org](http://www.lacourt.org). If the department does not receive an email and there are no appearances at the hearing, the motion will be placed off calendar.

Dated this 14th day of November 2024

Hon. Holly J. Fujie  
Judge of the Superior Court