

SUPREME COURT
FILED

APR 13 2022

Court of Appeal, Second Appellate District, Division Eight - No. B307783
Jorge Navarrete Clerk

S273075

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

BRUCE H. SINGMAN, Plaintiff and Appellant,

v.

IMDB.COM, INC., Defendant and Respondent.

The petition for review is denied.

CANTIL-SAKAUYE

Chief Justice

Filed 12/20/2021

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

BRUCE H. SINGMAN,

B307783

Plaintiff and Appellant,

Los Angeles County

Super. Ct. No. 20SMCV00748

v.

IMDB.COM, INC.,

Defendant and Respondent.

**APPEAL from an order of the Superior Court of
Los Angeles County, Elaine W. Mandel, Judge. Affirmed.**

Bruce H. Singman, in pro. per., for Plaintiff and Appellant.

**Hueston Hennigan, Moez M. Kaba, Joseph A. Reiter and
Eunice Leong for Defendant and Respondent.**

*PM
neo/297*

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

West District, Santa Monica Courthouse, Department P

20SMCV00748

BRUCE H. SINGMAN vs IMDB.COM INC.

September 16, 2020

8:30 AM

Judge: Honorable Elaine W. Mandel

Judicial Assistant: L. Pastel

Courtroom Assistant: C. Meeks

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Bruce H. Singman

For Defendant(s): Moez M. Kaba via CourtConnect

NATURE OF PROCEEDINGS: Hearing on Demurrer - with Motion to Strike (CCP 430.10)
(Defendants)

Matter is called for hearing.

The court issues its tentative ruling as follows:

Tentative Ruling

Bruce H. Singman v. IMDB.com, Inc. Case No. 20SMCV00748

Hearing Date September 16, 2020

Defendant's Motion to Strike (Anti-SLAPP motion) and Demurrer

Plaintiff produced a feature film in 2002, which he alleges was stolen and wrongfully distributed by third party York. Defendant IMDB lists the film's release date as 2002 and York as distributor. Plaintiff argues the film was not released until 2020, moves for declaratory relief requiring IMDB to change the release date and seeks \$500,000,000 in damages. Defendant bring an anti-SLAPP motion and demurrer.

Anti-SLAPP Motion

Courts resolving an anti-SLAPP motion under Cal. Civ. Code §425.16 follow a two-step process. *Jarrow Formulas, Inc. v. LaMarche* (2003) 31 Cal.4th 728, 733. In prong one the court determines whether the conduct underlying the claims arises from defendant's constitutional rights of free speech. *Baral v. Schnitt* (2016) 1 Cal. 5th 376, 395. Under the second prong, plaintiff has the burden to prove a legally sufficient claim and to prove with admissible evidence a probability plaintiff will prevail. E.g. *Navellier v. Sletten* (2002) 29 Cal.4th 82, 88. To fulfill prong two, plaintiff cannot rely on allegations but must produce evidence admissible at trial. *HMS Capital, Inc. v. Lawyers Title Co.* (2004) 118 Cal.App.4th 204, 212.

The anti-SLAPP statute protects statements "made in a place open to the public or a public forum." Cal. Code of Civ. Proc. §425.16(e)(3)-(4). Under California law, web sites that are free

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of charge and on which the public can post opinions are public forums. *Ampex Corp. v. Cargle* (2005) 128 Cal.App.4th 1569, 1576. Under *Kronemyer v. Internet Movie Database, Inc.* (2007) 140 Cal.App.4th 941, 947, 950, IMDB.com was found to be a public forum, and the information about a film constitutes "an act in furtherance of the right of free speech protected under the anti-SLAPP statute."

Plaintiff's complaint derives from IMDB.com's listing of allegedly inaccurate information about the film. Under *Kronemyer*, the website is a public forum, and posts constitute free speech protected by the anti-SLAPP statute. Plaintiff argues *Kronemyer* does not apply because the information is "false and misleading" but provides no authority for the proposition that statements made in a public forum are not protected if they are "false and misleading." Under *Kronemyer* and related cases, the first prong is fulfilled. The burden shifts to plaintiff to show a reasonable probability of prevailing.

A declaratory relief claim must be based on a valid underlying cause of action or substantive right. *City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 80. Plaintiff seeks an order requiring defendant to change information on its website but does not set forth a cause of action that would allow issuance of such an order. Plaintiff does not provide evidence to show the elements of defamation could be met, nor does the complaint. Even if plaintiff successfully alleged defamation, defendant provides unrefuted evidence the information posted is accurate. Plaintiff fails to show a reasonable likelihood of prevailing. GRANTED.

Demurrer

As the anti-SLAPP motion is granted, the demurrer is MOOT.

BECAUSE OF THE ONGOING COVID-19 PANDEMIC, PARTIES AND COUNSEL ARE ENCOURAGED TO APPEAR VIA LA COURT CONNECT.

*** END OF TENTATIVE RULING ***

After hearing oral argument, the court takes the matter under submission.

LATER, OUT OF THE PRESENCE OF COUNSEL/PARTIES, THE COURT ISSUES ITS FINAL RULING:

THE COURT HEARD ORAL ARGUMENT, PLAINTIFF SINGMAN IN PRO SE AND COUNSEL KAVA FOR DEFENDANT. THE COURT TOOK THE MATTER UNDER SUBMISSION AND NOW RULES AS FOLLOWS:

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Kronemyer is directly on point. The content of the web site is protected speech; this satisfied prong 1. The burden then shifts to plaintiff to prove – with evidence admissible at trial – a reasonable probability he will prevail. Plaintiff fails to do so. He submits no evidence, via declaration or otherwise. The sole cause of action alleged, for declaratory relief, is not supported by any evidence. Plaintiff submitted no evidence that any of the content on the web site is incorrect or inaccurate. At the hearing, plaintiff raised the possibility of an intentional or negligent infliction of emotional distress claim. However, he pled neither in his complaint, nor did he submit any evidence regarding either potential claim.

The tentative, with the addition of the paragraph above, is the final order of the court. Clerk to give notice. All future dates will be vacated. Defendant to submit a judgment for the court's signature.

*** END OF FINAL RULING ***

On the Court's own motion, the Case Management Conference scheduled for 11/30/2020 is advanced to this date and vacated .

Defendant to submit a judgment.

Clerk to give notice.

Certificate of Mailing is attached.