

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Leidig v. BuzzFeed, Inc.

No. 19-851, United States Court of Appeals for the Second Circuit (December 19, 2019)

SUMMARY

In this unpublished Second Circuit summary order, the court affirmed summary judgment for BuzzFeed on libel claims under New York law, holding that the plaintiffs failed to present competent evidence of falsity. Applying **Celle v. Filipino Reporter Enterprises Inc.**, the court ruled that conclusory, self-serving affidavits and deposition testimony are insufficient to create a genuine issue of material fact, particularly where the plaintiffs have easy access to additional proof of the accuracy of their own published stories. The decision reinforces the First Amendment requirement that defamation plaintiffs must provide more than a "bland cryptic claim of falsity" to survive summary judgment.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Dennis Jacobs; Susan L. Carney; Michael H. Park
JURISDICTION	Federal
DECIDED	December 19, 2019
DOCKET	19-851
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from summary judgment
STANDARD OF REVIEW	De novo
PRECEDENTIAL VALUE	unpublished
PARTIES	Michael Leidig, Central European News Ltd. v. BuzzFeed, Inc.

TOPICS

- defamation
- summary judgment
- first amendment
- evidence
- standard of review

PRACTICE AREAS

- Defamation
- Media Law
- Civil Procedure

QUESTIONS PRESENTED

1. Whether the district court correctly granted summary judgment on plaintiffs' libel claims because plaintiffs failed to present sufficient evidence of falsity.

HOLDINGS

1. Plaintiffs' conclusory assertions and self-serving testimony were insufficient to establish a genuine issue of material fact as to falsity; the First Amendment requires more than a 'bland cryptic claim of falsity.'

KEY QUOTATIONS

“Plaintiffs simply fail to present any competent evidence suggesting that BuzzFeed's reporting was false.” (at 3)

“We explained in *Celle* that, '[t]o accept such a colorless denial as sufficient proof would effectively shift plaintiffs' burden of establishing falsity onto media defendants to establish truth.'” (at 4)

FACTUAL BACKGROUND

BuzzFeed published an article entitled 'The King of Bullsh*t News' on April 24, 2015, describing stories sold by CEN as exaggerated or fabricated. Plaintiffs, the founder of CEN and the agency itself, sued for libel, focusing on eight specific statements in the article. The district court granted summary judgment to BuzzFeed, finding no genuine issue of material fact as to falsity.

PROCEDURAL HISTORY

Plaintiffs filed a libel action against BuzzFeed in the U.S. District Court for the Southern District of New York. The district court granted BuzzFeed's motion for summary judgment. Plaintiffs appealed.

DISPOSITION

affirmed

CASES CITED

- *Celle v. Filipino Reporter Enterprises Inc.*, 209 F.3d 163 (2d Cir. 2000)
- *Chau v. Lewis*, 771 F.3d 118, 126 n.4 (2d Cir. 2014)
- *Jones v. Cty. of Suffolk*, 936 F.3d 108, 114 (2d Cir. 2019)
- *Meloff v. N.Y. Life Ins. Co.*, 240 F.3d 138, 145 (2d Cir. 2001)
- *Leidig v. BuzzFeed, Inc.*, *Leidig v. BuzzFeed, Inc.*, 371 F. Supp. 3d 134 (S.D.N.Y. 2019)