

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Rubin v. Kahlon

Rubin, 2026 NY Slip Op 01021 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 152113/24; Appeal No. 5916; Case No. 2025-04593 · Decided February 24, 2026

SUMMARY

The New York Appellate Division, First Department affirmed dismissal of a defamation action based on the conclusion that an anonymous Facebook post was not reasonably understood to concern the plaintiff. The court held that the action fell within New York’s anti-SLAPP statute and awarded the defendant attorneys’ fees and costs under Civil Rights Law § 70-a, remanding for further proceedings on that award.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Renwick, P.J.; Kennedy, J.; Rodriguez, J.; Pitt-Burke, J.; O'Neill Levy, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	February 24, 2026
DOCKET	Index No. 152113/24; Appeal No. 5916; Case No. 2025-04593
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff appealed, and defendant cross-appealed, from an order granting defendant's motion to dismiss the amended complaint for failure to state a claim and denying defendant attorneys' fees under Civil Rights Law § 70-a.
STANDARD OF REVIEW	The court reviewed the sufficiency of the amended complaint under CPLR 3211(a)(7) and treated whether the allegedly defamatory statement was of and concerning plaintiff as a question of law.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Hal Rubin v. Harleen Kahlon

TOPICS

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attorney fees

civil procedure

appellate procedure

civil rights

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the allegedly defamatory Facebook post was sufficiently of and concerning plaintiff to state a defamation claim.
2. Whether the action fell within New York's anti-SLAPP statute.
3. Whether defendant was entitled to a mandatory award of attorneys' fees and costs under Civil Rights Law § 70-a(1)(a) after prevailing on a CPLR 3211(a)(7) motion.

HOLDINGS

1. The post was not of and concerning plaintiff as a matter of law because an ordinary member of the relevant Facebook group could not identify plaintiff as the subject of the anonymous post.
2. The action fell within the scope of New York's anti-SLAPP statute because the Facebook post concerned an issue of public interest.
3. Defendant was entitled to a mandatory award of attorneys' fees and costs under Civil Rights Law § 70-a(1)(a) because prevailing on a CPLR 3211(a)(7) motion was sufficient to establish entitlement.

KEY QUOTATIONS

“A member of the “Moms of the UES” without special knowledge would have no way of knowing, whether by innuendo or otherwise, that the anonymous post specifically referred to plaintiff.” ([*1])

“Furthermore, the adjudication under CPLR 3211(a)(7) in defendant's favor was sufficient to support her entitlement to a mandatory award of counsel fees pursuant to Civil Rights Law § 70-a(1)(a)” ([*1])

FACTUAL BACKGROUND

An anonymous post in a private Facebook group described an incident involving an unnamed doorman and an unnamed child at a building identified only as being near 68th Street and Second Avenue. The location contained three large buildings employing numerous doormen, and plaintiff offered no identifying evidence showing that readers understood the post to refer specifically to him. Plaintiff's employer had suspended him before the post and later terminated him based on his own conduct, without referring to the Facebook post.

PROCEDURAL HISTORY

Supreme Court, New York County, granted defendant's motion to dismiss the amended complaint under CPLR 3211(a)(7) and denied defendant's request for attorneys' fees under Civil Rights Law § 70-a. The Appellate Division affirmed the dismissal, modified the order to grant defendant attorneys' fees and costs, and remanded for further proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the award of attorneys' fees and costs to defendant; the dismissal of the amended complaint was otherwise affirmed.

CASES CITED

- Matter of Soames v 2LS Consulting Eng'g, D.P.C., 187 AD3d 490, 492 (1st Dept 2020)
- Three Amigos SJL Rest., Inc. v CBS News, Inc., 28 NY3d 82, 87 (2016)
- Carey v Carey, 74 Misc 3d 1214(A), *5 (Sup Ct, NY County 2022), affd 220 AD3d 477 (1st Dept 2023)
- Reeves v Associated Newspapers, Ltd., 232 AD3d 10, 12 (1st Dept 2024), lv dismissed 44 NY3d 990 (2025)

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