

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

McGillvary v. Grande

C.A. No. 22-1342 (JLH) (D. Del. Dec. 16, 2025) · No. C.A. No. 22-1342 (JLH); 1:22-cv-01342 · Decided December 16, 2025

SUMMARY

The United States District Court for the District of Delaware granted Defendant Todd Grande’s motion to dismiss Caleb L. McGillvary’s amended complaint. The court held that the complaint failed to state claims for defamation, invasion of privacy, intentional infliction of emotional distress, Lanham Act violations, and RICO violations. The court denied as moot the motion to quash service and set a deadline for any motion seeking leave to amend.

CASE DETAILS

COURT	United States District Court for the District of Delaware
WRITING FOR THE COURT	Jennifer L. Hall
JURISDICTION	United States District Court for the District of Delaware
DECIDED	December 16, 2025
DOCKET	C.A. No. 22-1342 (JLH); 1:22-cv-01342
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed an amended complaint asserting Delaware tort claims and federal Lanham Act and RICO claims based on Defendant's YouTube video about Plaintiff. Defendant moved to dismiss under Federal Rule of Civil Procedure 12(b)(6) and moved to quash attempted service.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, disregards legal conclusions, and determines whether the complaint contains sufficient factual matter to state a claim that is plausible on its face. Because Plaintiff proceeded in forma pauperis, the court also applied the screening requirement of 28 U.S.C. § 1915(e)(2).
PRECEDENTIAL VALUE	unpublished

TOPICS

motions to dismiss

defamation

invasion of privacy

intentional infliction of emotional distress

civil procedure

PRACTICE AREAS

civil procedure

defamation

invasion of privacy

intentional infliction of emotional distress

intellectual property

QUESTIONS PRESENTED

1. Whether the amended complaint plausibly stated a Delaware defamation claim based on Defendant's YouTube video.
2. Whether the amended complaint plausibly stated a Delaware invasion-of-privacy claim based on publication of allegedly private information.
3. Whether the amended complaint plausibly stated a Delaware intentional-infliction-of-emotional-distress claim.
4. Whether the amended complaint plausibly stated a Lanham Act claim based on an alleged likelihood that viewers would believe Plaintiff approved or was affiliated with the video.
5. Whether the amended complaint plausibly stated a RICO claim by alleging an enterprise, a pattern of racketeering activity, and resulting injury.

HOLDINGS

1. The amended complaint failed to state a defamation claim because most statements in the video were opinions or characterizations incapable of defamatory meaning, the alleged statements were not plausibly shown to injure Plaintiff's reputation, and Plaintiff failed to plausibly allege actual malice as a limited-purpose public figure.
2. The amended complaint failed to state a claim for invasion of privacy because Plaintiff's history and characteristics were matters of legitimate public concern, and information discussed in open court proceedings would not have remained private.
3. The amended complaint failed to plausibly allege the extreme and outrageous conduct required for an intentional-infliction-of-emotional-distress claim.
4. The amended complaint failed to state a Lanham Act claim because it did not plausibly allege that viewers were likely to believe Plaintiff approved or was affiliated with the creation or posting of the video.
5. The amended complaint failed to state a RICO claim because it did not plausibly allege, at minimum, a RICO enterprise in fact and racketeering activity.
6. The motion to quash attempted service of the amended complaint was denied as moot after dismissal of the amended complaint.

KEY QUOTATIONS

“To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” (Section II)

“For one thing, most of the statements in the video are opinions and characterizations, not assertions of fact, and are therefore incapable of defamatory meaning under Delaware law.” (Section III.A)

“In view of those events, Plaintiff’s history and characteristics were of legitimate public concern.” (Section III.B)

“The amended complaint fails to plausibly plead, at a minimum, the existence of a RICO enterprise in fact and racketeering activity.” (Section III.D)

FACTUAL BACKGROUND

Plaintiff became publicly known in 2013 as the “Kai the Hatchet-Wielding Hitchhiker” after intervening in an assault, and he later was convicted of first-degree murder in New Jersey. In 2021, Defendant uploaded and later republished a YouTube video commenting on Plaintiff’s history and personality, with a disclaimer that Defendant was not diagnosing anyone. Plaintiff alleged that publication of the video constituted defamation, invasion of privacy, intentional infliction of emotional distress, Lanham Act violations, and RICO violations.

PROCEDURAL HISTORY

Plaintiff filed this action in 2022, and the amended complaint became the operative pleading. The court granted Defendant’s motion to dismiss the amended complaint for failure to state a claim, denied the motion to quash attempted service as moot, and set a deadline for any motion seeking leave to amend.

DISPOSITION

dismissed

CASES CITED

- McGillvary v. Hartley, No. 24-81, 2025 WL 2791081 (M.D. Ga. Sept. 30, 2025)
- McGillvary v. Scutari, No. 23-22605, 2024 WL 5202487 (D.N.J. Dec. 23, 2024)
- McGillvary v. Netflix, Inc., No. 23-1195, 2024 WL 3588043 (C.D. Cal. July 30, 2024)
- McGillvary v. Vonkurnatowski, No. 22-8587, 2024 WL 6847412 (C.D. Cal. Apr. 10, 2024)
- In re Burlington Coat Factory Sec. Litig., 114 F.3d 1410, 1426 (3d Cir. 1997)
- Ashcroft v. Iqbal, 556 U.S. 662, 678–79 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 556–58, 570 (2007)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- State v. McGillvary, No. A-4519-18, 2021 WL 3378024, at *1 (N.J. Super. Ct. App. Div. Aug. 4, 2021)
- Smiley v. Daimler Chrysler, 538 F. Supp. 2d 711, 715–16 (D. Del.)
- Henry v. Delaware Law School of Widener University, Inc., 1998 WL 15897, at *10 (Del. Ch. Jan. 12, 1998)
- Riley v. Moyed, 529 A.2d 248, 251 (Del. 1987)

- McCafferty v. Newsweek Media Grp., Ltd., 955 F.3d 352, 359 (3d Cir. 2020)
- Barker v. Huang, 610 A.2d 1341, 1349–50 (Del. 1992)
- Spence v. Cherian, 135 A.3d 1282, 1288–89 (Del. Super. Ct. 2016)
- Two Pesos, Inc. v. Taco Cabana, Inc., 505 U.S. 763, 767–68 (1992)
- Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 496 (1985)
- City of Cambridge Ret. Sys. v. Altisource Asset Mgmt. Corp., 908 F.3d 872, 879, 69 V.I. 1034 (3d Cir. 2018)
- Jablonski v. Pan Am. World Airways, Inc., 863 F.2d 289, 292 (3d Cir. 1988)

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