

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

Matovcik v. Times Beacon Record Newspapers

46 A.D.3d 636 (2d Dep't 2007) · Decided December 11, 2007

SUMMARY

The New York Appellate Division, Second Department, reversed the dismissal of a teacher’s libel action against a newspaper and related defendants. The court held that the amended complaint adequately alleged false and defamatory statements imputing professional misconduct, and that the defendants’ documentary evidence did not conclusively establish the truth of the publications or resolve disputed factual issues.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Appellate Division of the Supreme Court of the State of New York, Second Department                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Santucci, J.P.; Krausman, J.; Florio, J.; Lifson, J.                                                                                                                                                                                                                                           |
| JURISDICTION          | New York                                                                                                                                                                                                                                                                                       |
| DECIDED               | December 11, 2007                                                                                                                                                                                                                                                                              |
| DISPOSITION           | reversed                                                                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Plaintiff appealed from the portion of an order granting defendants' motion to dismiss the amended libel complaint under CPLR 3211(a)(1) and (7).                                                                                                                                              |
| STANDARD OF REVIEW    | On a CPLR 3211(a)(7) motion, the complaint is construed in the light most favorable to the plaintiff and factual allegations are accepted as true. On a CPLR 3211(a)(1) motion, documentary evidence must resolve all factual issues as a matter of law and conclusively dispose of the claim. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                 |
| PARTIES               | Matovcik v. Times Beacon Record Newspapers, other defendants                                                                                                                                                                                                                                   |

TOPICS

- defamation
- motions to dismiss
- civil procedure
- appellate procedure
- standard of review

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the amended complaint adequately pleaded a legally cognizable libel claim under CPLR 3211(a)(7).
2. Whether defendants' documentary evidence conclusively established the truth defense and required dismissal under CPLR 3211(a)(1).

## HOLDINGS

1. The amended complaint stated a legally cognizable libel claim because the article and editorial accused the plaintiff of misconduct in the course of his employment and the plaintiff alleged that the defamatory statements were false.
2. Dismissal under CPLR 3211(a)(1) was improper because defendants' documentary evidence did not conclusively establish the truth of the article's and editorial's material assertions or resolve all factual issues as a matter of law.

## KEY QUOTATIONS

*“The essence of the tort of libel is the publication of a statement about an individual that is both false and defamatory” (637)*

*“Where, as here, the defendants move pursuant to CPLR 3211 (a) (1) to dismiss an action asserting the existence of a defense founded upon documentary evidence, the documentary evidence must be such that it resolves all factual issues as a matter of law, and conclusively disposes of the plaintiff’s claim” (638)*

*“Truth is an absolute defense to a libel action, regardless of the harm done by the statements” (638)*

## FACTUAL BACKGROUND

A newspaper article reported that Matovcik, a former head of the Miller Place High School English Department, required students to pay \$5 for workbooks, collected money that taxpayers had already paid, and used the funds for a departmental slush fund. A related editorial characterized the conduct as potentially constituting a scheme to defraud and called for a criminal investigation. Matovcik alleged that the statements were false, including allegations concerning the school district's knowledge of the fee-collection practice and his use of the funds.

## PROCEDURAL HISTORY

The plaintiff commenced a libel action based on a newspaper article and related editorial alleging that he misappropriated student workbook fees. The Supreme Court, Suffolk County, granted defendants' motion to dismiss the amended complaint under CPLR 3211(a)(1) and (7). The Appellate Division reversed the order insofar as appealed from and denied that branch of defendants' motion.

## DISPOSITION

reversed

#### CASES CITED

- Brian v. Richardson, 87 N.Y.2d 46, 50-51 (1995)
- Rinaldi v. Holt, Rinehart & Winston, 42 N.Y.2d 369, 379, 383 (1977), cert. denied, 434 U.S. 969 (1977)
- Kotowski v. Hadley, 38 A.D.3d 499, 500 (2007)
- Gjonlekaj v. Sot, 308 A.D.2d 471, 473-474 (2003)
- Wasserman v. Haller, 216 A.D.2d 289 (1995)
- Gruen v. County of Suffolk, 187 A.D.2d 560, 562 (1992)
- Guggenheimer v. Ginzburg, 43 N.Y.2d 268, 275 (1977)
- Fleming v. Kamden Props., LLC, 41 A.D.3d 781 (2007)
- Martin v. New York Hosp. Med. Ctr. of Queens, 34 A.D.3d 650 (2006)
- M. Fund, Inc. v. Carter, 31 A.D.3d 620, 621 (2006)
- Kamalian v. Reader's Digest Ass'n, Inc., 29 A.D.3d 527, 528 (2006)
- Love v. Morrow & Co., 193 A.D.2d 586, 587-588 (1993)
- Kehm v. Murtha, 286 A.D.2d 421 (2001)
- Carter v. Visconti, 233 A.D.2d 473, 474 (1996)
- Gatz v. Otis Ford, 262 A.D.2d 280, 281 (1999)