

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

Shawndell Askew v. Yale University and Zackery Barker

Askew · No. 3:25-cv-01146 (JCH) · Decided April 28, 2026

SUMMARY

The United States District Court for the District of Connecticut denied Zackery Barker’s motion to dismiss Count Twelve of Shawndell Askew’s amended complaint. The court held that Askew plausibly alleged a Connecticut common-law defamation claim, including sufficient notice of the alleged statements, actionable statements of fact rather than opinion, and reputational injury. The court also declined to resolve the truth defense at the pleading stage and disregarded Askew’s attempt to assert defamation per se for the first time in opposition to the motion.

CASE DETAILS

COURT	United States District Court for the District of Connecticut
WRITING FOR THE COURT	Janet C. Hall
JURISDICTION	United States District Court for the District of Connecticut
DECIDED	April 28, 2026
DOCKET	3:25-cv-01146 (JCH)
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Zackery Barker moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss Count Twelve of the amended complaint, which alleged common-law defamation. The court denied the motion.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepted well-pleaded factual allegations as true, drew reasonable inferences in the plaintiff’s favor, and determined whether the complaint stated a claim that was plausible on its face. The court did not credit legal conclusions or resolve factual disputes, including the truth of allegedly defamatory statements, unless an affirmative defense appeared on the face of the complaint.
PRECEDENTIAL VALUE	unpublished, nonprecedential
PARTIES	Shawndell Askew v. Yale University, Zackery Barker

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Count Twelve adequately provided notice of the alleged defamatory statements, including their content, timing, and recipients.
2. Whether the alleged statements were nonactionable opinions rather than actionable statements of fact.
3. Whether the alleged truth of the statements established an affirmative defense apparent on the face of the amended complaint and warranted dismissal under Rule 12(b)(6).
4. Whether Askew could assert defamation per se for the first time in opposition to the motion to dismiss.

HOLDINGS

1. The amended complaint adequately pleaded the content, approximate timing, and recipients of the alleged defamatory communications and therefore provided sufficient notice to survive Rule 12(b)(6). Verbatim quotation of every statement was not required.
2. At the pleading stage, Askew plausibly alleged that statements that she was under investigation and engaged in excessive cell-phone use and smoke breaks were statements of fact capable of defamatory meaning rather than nonactionable opinions.
3. Truth did not warrant dismissal because the alleged truth of the statements was not established on the face of the amended complaint and presented factual questions unsuitable for resolution on a pre-answer Rule 12(b)(6) motion.
4. The court would not consider Askew's attempt to assert or develop a defamation-per-se theory for the first time in opposition to the motion to dismiss because the theory was not pleaded in the amended complaint.

KEY QUOTATIONS

“The absence of verbatim recitation, therefore, does not, standing alone, render a pleading deficient if the substance of the communication is identified with sufficient clarity.” (Section IV.B)

“As a defense, truth provides protection against liability, but not against the expense and inconvenience of being sued.” (Section IV.D)

“It is not a federal court’s role to determine veracity at the motion to dismiss stage.” (Section IV.E)

FACTUAL BACKGROUND

Askew alleged that Barker repeatedly made false statements about her to coworkers and other third parties, including statements that she was incompetent, behind in her work, under investigation, lazy, ghetto, and engaged in excessive cell-phone use and smoke breaks. She alleged that Barker admitted making several

disparaging statements during a workplace mediation and later made additional statements to coworker Shelby Witherspoon, including that Askew should be fired and that he intended to loosen the wheels on her chair. Askew alleged that the statements harmed her reputation and caused emotional distress.

PROCEDURAL HISTORY

Askew filed the action on July 18, 2025, and filed an amended complaint on September 16, 2025. Barker moved to dismiss Count Twelve on October 9, 2025; Askew opposed the motion, and Barker filed a reply. The court ruled on the motion to dismiss and denied it.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- La Liberte v. Reid, 966 F.3d 79, 85 (2d Cir. 2020)
- Samuels v. Air Transp. Local 504, 992 F.2d 12, 15 (2d Cir. 1993)
- NetScout Sys., Inc. v. Gartner, Inc., 334 Conn. 396, 410, 412, 414 (2020)
- Skakel v. Grace, 5 F. Supp. 3d 199, 206-07 (D. Conn. 2014)
- Cweklinsky v. Mobil Chem. Co., 267 Conn. 210, 217, 228-29 (2004)
- Gleason v. Smolinski, 319 Conn. 394, 431 (2015)
- Lizotte v. Welker, 45 Conn. Supp. 217, 220 (Conn. Super. Ct. 1996), aff'd, 244 Conn. 156 (1998)
- Kelly v. Schmidberger, 806 F.2d 44, 46 (2d Cir. 1986)
- Abrahams v. Young & Rubicam, 979 F. Supp. 122, 128 (D. Conn. 1997)
- Stevens v. Helming, 163 Conn. App. 241, 247 n.3, 135 A.3d 728, 732 n.3 (2016)
- Imbruce v. Buhl, No. 3:15-CV-00554 (JAM), 2016 WL 2733097, at *8 (D. Conn. May 10, 2016)
- Tax Data Sols., LLC v. O'Brien, No. NNHCV106016263, 2013 WL 951151, at *10 (Conn. Super. Ct. Feb. 6, 2013)
- Goodrich v. Waterbury Republican-Am., Inc., 188 Conn. 107, 111-12 (1982)
- Jase v. City of New Britain, No. HHBCV054007098, 2008 WL 5481284, at *5 (Conn. Super. Ct. Dec. 4, 2008)
- Doe No. 1 v. Knights of Columbus, 930 F. Supp. 2d 337, 350 (D. Conn. 2013)
- Leal, Inc. v. Twin City Fire Ins. Co., 573 F. Supp. 3d 648, 660-61 (D. Conn. 2021)
- Rosado v. Potter, No. 3:04CV00758(PCD), 2007 WL 30864, at *8 (D. Conn. Jan. 4, 2007), aff'd, 295 F. App'x 423 (2d Cir. 2008)
- Jackson v. Fed. Exp., 766 F.3d 189, 196 (2d Cir. 2014)
- Miley v. Hous. Auth. of City of Bridgeport, 926 F. Supp. 2d 420, 432 (D. Conn. 2013)
- Schulz v. Medtronic, Inc., No. 3:21-CV-00414 (MPS), 2022 WL 503960, at *2 (D. Conn. Feb. 18, 2022)

- Wright v. Ernst & Young LLP, 152 F.3d 169, 178 (2d Cir. 1998)

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