

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

Daniel Alvarez v. Los Angeles County

Alvarez · No. 2:24-cv-01035-ODW (MARx) · Decided April 22, 2025

SUMMARY

The United States District Court for the Central District of California granted defendant Catie Reay’s special motion to strike under California’s anti-SLAPP statute and, alternatively, dismissed claims against her. The court struck the defamation, intentional infliction of emotional distress, and negligent infliction of emotional distress claims with leave to amend, struck the negligence claim without leave to amend, and dismissed the federal equal protection and free speech claims without leave to amend. The court concluded that Reay’s TikTok activity constituted protected speech concerning a public interest and that the allegations did not establish state action.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Central District of California                                                                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Otis D. Wright II                                                                                                                                                                                                                                                                                                                                                                                                                       |
| JURISDICTION          | United States District Court for the Central District of California                                                                                                                                                                                                                                                                                                                                                                     |
| DECIDED               | April 22, 2025                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 2:24-cv-01035-ODW (MARx)                                                                                                                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Defendant Catie Reay moved under California's anti-SLAPP statute to strike the First Amended Complaint as asserted against her, or alternatively moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the claims against her.                                                                                                                                                                                                |
| STANDARD OF REVIEW    | For the anti-SLAPP motion, the court applied California's two-step anti-SLAPP framework and, because the motion challenged legal deficiencies in the complaint, treated the probability-of-prevailing inquiry under the Federal Rule of Civil Procedure 12(b)(6) standard. Under Rule 12(b)(6), the complaint must contain sufficient factual matter to state a plausible claim for relief, accepting well-pleaded allegations as true. |
| PRECEDENTIAL VALUE    | unknown                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                         |

## PARTIES

Daniel Alvarez v. Los Angeles County, Los Angeles County Children and Family Services, Catie Reay

## TOPICS

motions to dismiss

civil procedure

free speech

equal protection

defamation

## PRACTICE AREAS

civil procedure

constitutional law

civil rights

torts

defamation

remedies

## QUESTIONS PRESENTED

1. Whether Alvarez's defamation, intentional infliction of emotional distress, negligence, and negligent infliction of emotional distress claims against Reay arose from activity protected by California's anti-SLAPP statute.
2. Whether Alvarez demonstrated a probability of prevailing on those state-law claims.
3. Whether the defamation claim was inadequately pleaded because the complaint did not allege facts establishing when the claim accrued or whether the discovery rule applied.
4. Whether the negligence claim was duplicative of the defamation claim and lacked a separate legal duty.
5. Whether Alvarez's First Amendment and Fourteenth Amendment claims against Reay failed because the complaint did not adequately allege that Reay acted under color of state law.
6. Whether Alvarez should receive leave to amend the dismissed constitutional claims and the negligence claim.

## HOLDINGS

1. Reay's TikTok statements and related conduct constituted protected speech concerning the public interest in protecting vulnerable children from sexual predators. The defamation, intentional infliction of emotional distress, negligence, and negligent infliction of emotional distress claims therefore arose from protected activity.
2. The defamation claim was inadequately pleaded because Alvarez did not allege when the alleged defamatory statements occurred, when he discovered them, or facts supporting application of the discovery rule.
3. Alvarez failed to demonstrate a probability of prevailing on his intentional infliction of emotional distress claim because he did not substantively respond to Reay's argument that the alleged conduct was not extreme and outrageous.
4. The negligence claim failed because Alvarez did not establish a duty of care separate from the duties imposed by defamation law, making the claim duplicative.
5. The negligent infliction of emotional distress claim failed because Alvarez did not respond to Reay's argument that he had not pleaded either bystander status or direct-victim status based on a breach of duty.

6. Alvarez did not adequately allege that Reay was a state actor under the joint-action test. Reay's allegedly false statements and encouragement of viewers to contact LACFS did not establish conspiracy, willful joint participation, or governmental interdependence.

#### KEY QUOTATIONS

*“Based on the allegations, Reay’s statements, on their face, concerned a public interest to protect vulnerable children from sexual predators.”* (at 8)

*“While LACFS may have later used Reay’s videos and calls from her viewers to make a decision regarding Alvarez’s ability to foster the baby, there are no facts to show that LACFS insinuated itself into Reay’s TikTok posts to transform her actions into ones fairly attributable to the state.”* (at 13)

#### FACTUAL BACKGROUND

Alvarez held a foster-parent license and posted TikTok videos depicting himself with a foster baby. Catie Reay reposted some videos, added commentary criticizing Alvarez's relationship with the child and expressing concern for the child's safety, and urged viewers to contact social services. Following an investigation, LACFS revoked Alvarez's foster-parent license and removed the child from his custody without first providing a hearing. Alvarez alleged state-law tort claims and federal constitutional claims against Reay and the governmental defendants.

#### PROCEDURAL HISTORY

Alvarez sued Los Angeles County, Los Angeles County Children and Family Services, and Catie Reay, asserting nine causes of action. Reay moved to strike or dismiss the claims against her. The court granted the motion, striking the defamation, intentional infliction of emotional distress, and negligent infliction of emotional distress claims with leave to amend; striking the negligence claim without leave to amend; and dismissing the Fourteenth Amendment equal-protection and First Amendment free-speech claims without leave to amend.

#### DISPOSITION

other

#### CASES CITED

- *Hilton v. Hallmark Cards*, 599 F.3d 894, 901-02, 905 (9th Cir. 2010)
- *Kajima Eng'g and Constr., Inc. v. City of Los Angeles*, 95 Cal. App. 4th 921, 927 (2002)
- *Mindys Cosms., Inc. v. Dakar*, 611 F.3d 590, 596 (9th Cir. 2010)
- *OneLegacy v. City of Monterey Park*, No. 2:19-cv-04911-AB (JPRx), 2019 WL 6729723, at \*2 (C.D. Cal. Aug. 21, 2019)
- *Planned Parenthood Fed'n of Am., Inc. v. Ctr. for Med. Progress*, 890 F.3d 828, 834 (9th Cir. 2018)
- *Verizon Del., Inc. v. Covad Commc'ns Co.*, 377 F.3d 1081, 1091 (9th Cir. 2004)
- *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990)
- *Porter v. Jones*, 319 F.3d 483, 494 (9th Cir. 2003)

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Equilon Enters. v. Consumer Cause, Inc., 29 Cal. 4th 53, 67 (2002)
- Navellier v. Sletten, 29 Cal. 4th 82, 88-89 (2002)
- City of Cotati v. Cashman, 29 Cal. 4th 69, 76-78 (2002)
- Gaynor v. Bulen, 19 Cal. App. 5th 864, 877 (2018)
- Stewart v. Rolling Stone LLC, 181 Cal. App. 4th 664, 679 (2010)
- Park v. Bd. of Tr. of Cal. State Univ., 2 Cal. 5th 1057, 1063 (2017)
- Nygard v. Uusi-Kerttula, 159 Cal. App. 4th 1027, 1036 (2008)
- Penrose Hill, Ltd. v. Mabray, 479 F. Supp. 3d 840, 854 (N.D. Cal. 2020)
- Rand Res., LLC v. City of Carson, 6 Cal. 5th 610, 621 (2019)
- Cross v. Cooper, 197 Cal. App. 4th 357, 375 (2011)
- Terry v. Davis Cmty. Church, 131 Cal. App. 4th 1534, 1547-51 (2005)
- The Kind & Compassionate v. City of Long Beach, 2 Cal. App. 5th 116, 130 (2016)
- Hughes v. Pair, 46 Cal. 4th 1035, 1050-51 (2009)
- Star Fabrics, Inc. v. Ross Stores, Inc., No. 2:17-cv-05877-PA (PLAx), 2017 WL 10439691, at \*3 (C.D. Cal. Nov. 20, 2017)
- Lueras v. BAC Home Loans Servicing, LLP, 221 Cal. App. 4th 49, 62 (2013)
- Harvey v. Netflix, Inc., No. 2:24-cv-04744-RGK (AJRx), 2024 WL 4536639, at \*12 (C.D. Cal. Sept. 27, 2024)
- Jacques v. Bank of Am. Corp., No. 1:12-cv-0821-LJO-SAB, 2014 WL 7272769, at \*10 (E.D. Cal. Dec. 18, 2014)
- Schering Corp. v. First Databank Inc., No. C 07-01142 WHA, 2007 WL 1068206, at \*6-7 (N.D. Cal. Apr. 10, 2007)
- Moose Lodge No. 107 v. Irvis, 407 U.S. 163, 172 (1972)
- Manhattan Cmty. Access Corp. v. Halleck, 587 U.S. 802, 804 (2019)
- Franklin v. Fox, 312 F.3d 423, 445 (9th Cir. 2002)
- Florer v. Congregation Pidyon Shevuyim, N.A., 639 F.3d 916, 926 (9th Cir. 2011)
- Schreiber Distrib. Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1401 (9th Cir. 1986)

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