

DOCKET NO. LLI-CV21-5014019-S : SUPERIOR COURT
JON A. GOODWIN : JUDICIAL DISTRICT
 : OF LITCHFIELD
V. : AT TORRINGTON
 :
RAYMOND J. MILOT, ET AL. : JANUARY 3, 2022

**DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS
AND MOTION FOR REASONABLE ATTORNEY'S FEES AND COSTS**

Defendant, Robert Khalil, MD, hereby submits this memorandum of law in support of his motion to dismiss in this matter. Dismissal of Counts Fourteen through Seventeen is required pursuant to Connecticut General Statutes § 52-196a.

BACKGROUND AND FACTS

This litigation stems from one or more Department of Children and Families investigation(s) into plaintiff Jon Goodwin. See Complaint in General. Mr. Goodwin has sued Dr. Khalil and six other parties as a result, including, unfortunately three minor children. Id. To better understand the dynamics of this litigation, defendant submits the following. Dr. Khalil is a board-certified adult and pediatric psychiatrist. See Affidavit of Dr. Khalil attached hereto as Exhibit A¹. [REDACTED]

[REDACTED] Id. [REDACTED] is the son of Christine Jowdy and Raymond Milot. Id. Ms. Jowdy and Mr. Milot were once married, were divorced in June of 2019, and shared custody of their three minor children, [REDACTED] Id. at Count 18, ¶39 and 40. Plaintiff Mr. Goodwin began residing with Ms. Jowdy in October of 2019. Id. at Count 18, ¶ 40.

¹ Attached is the unsigned affidavit of Dr. Khalil. A signed affidavit will be submitted shortly.

[REDACTED]

[REDACTED]

Dr. Khalil is a mandated reporter pursuant to Connecticut General Statutes § 17a-101. Id.
and see Connecticut General Statutes 17a-101(b). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subsequently, in October of 2021 Mr. Goodwin filed this 34-Count Complaint, against Dr. Khalil, co-defendant Joanne M. Iurato, a licensed clinical social worker and psychotherapist, Karen Hardy Massaro, Supervisory Assistant Public Defendant, and the Milots. In Count Fourteen, plaintiff alleges that Dr. Khalil's statement to DCF and the repetition of that same statement to the parents of Noah at a later date constituted slander per se. In Count Fifteen, plaintiff alleges that the same constituted false light invasion of privacy. In Counts Sixteen and Seventeen, plaintiff alleges that Dr. Khalil's actions constituted intentional and negligent infliction of emotional distress, respectively. The remaining portions of the complaint are not directed at Dr. Khalil.

LEGAL ARGUMENT

A. The action against Dr. Khalil must be dismissed at this juncture as it is an illegal SLAPP suit and plaintiff cannot show probable cause that he will prevail on his Complaint.

SLAPP is an acronym for "Strategic Lawsuits Against Public Participation," and is a form of vexatious litigation "to punish and intimidate citizens who petition state agencies and have the ultimate effect of 'chilling' any such action." Field v. Kearns, 43 Conn.App. 265, 276,

682 A.2d 148, cert. denied, 239 Conn. 942, 684 A.2d 711 (1996). In an effort to thwart such forms of vexatious litigation, and to enable courts to dismiss frivolous and vexatious actions, legislatures have enacted anti-SLAPP statutes. Connecticut has enacted such a statute in the form of Connecticut General Statutes §52-196a.

Section 52-196a(b) provides defendants with an expedited process with special procedures where the action is based on the “opposing party's exercise of its right of free speech, right to petition the government, or right of association under the Constitution of the United States or the Constitution of the state in connection with a matter of public concern . . .” The statute, effective January 1, 2018, requires an expedited and limited evidentiary determination by the court on the special motion to dismiss. See Connecticut General Statutes § 52-196a(e)(1).

Section 52-196a(e)(3) states in pertinent part that:

“[t]he court shall grant a special motion to dismiss if the moving party makes an initial showing, by a preponderance of the evidence, that the opposing party's complaint, counterclaim or cross claim is based on the moving party's exercise of its right of free speech, right to petition the government, or right of association under the Constitution of the United States or the Constitution of the state in connection with a matter of public concern, unless the party that brought the complaint, counterclaim or cross claim sets forth with particularity the circumstances giving rise to the complaint, counterclaim or cross claim and demonstrates to the court that there is probable cause, considering all valid defenses, that the party will prevail on the merits of the complaint, counterclaim or cross claim.

Section 52-196a(a)(3)(B) defines “[r]ight to petition the government” as a “communication that is reasonably likely to encourage consideration or review of a matter of public concern by a legislative, executive, administrative, judicial or other governmental body . . .” The statute also defines a “[m]atter of public concern” to include “an issue related (A) to health or safety” or “(B) . . . [to] community well-being . . .” §52-196a(a)(1) (emphasis added). Importantly, the statute

provides for the award of moving party costs and reasonable attorney's fees, if the movant prevails on the special motion to dismiss. See Connecticut General Statutes § 52-196a(f)(1).

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[REDACTED]

²This section states in pertinent part: “The following persons shall be mandated reporters: (1) Any physician or surgeon licensed under the provisions of chapter 370” It goes on to prescribe 39 other categories of persons identified as mandated reporters.

[REDACTED]

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[REDACTED]

CONCLUSION

For the aforementioned reasons, Dr. Khalil respectfully requests that this Court dismiss Counts Fourteen through Seventeen as against Dr. Khalil. Defendant further moves this court for an award of reasonable attorney's fees and costs pursuant to Connecticut General Statutes § 52-196a(f)(1). Defendant will submit materials related to fees and costs at the appropriate time.

DEFENDANT,
ROBERT KHALIL, MD

By: /s/ Vimala B. Ruszkowski
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CERTIFICATION

I hereby certify that a copy of the foregoing document was or will immediately be mailed or delivered electronically or non-electronically on this the 3rd date of January, 2022 to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties of record who receive or will immediately be receiving electronic delivery.

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Vimala B. Ruszkowski
Commissioner of the Superior Court

EXHIBIT A

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AFFIDAVIT OF ROBERT KHALIL, MD

The undersigned, Robert Khalil, MD, hereby deposes:

1. I am over 18 years of age.
2. I understand the obligation of an oath and this affidavit is made on personal knowledge.

3. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

¹ [REDACTED]
[REDACTED]

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[REDACTED]

[REDACTED]

Robert Khalil, MD.

Subscribed to and sworn to before me this day of , 2022.

Notary Public/Commissioner of the Superior Court