Vermont Superior Court
Filed 04/30/26
Rutland Unit

VERMONT SUPERIOR COURT
Rutland Unit
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CIVIL DIVISION
Case No. 26-CV-01455

Michael Gaylord v. Coughlin, Inc.

ENTRY REGARDING MOTION

Title: Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted (Motion: 2)
Filer: Coughlin, Inc.
Filed Date: April 10, 2026

The motion is DENIED.

Plaintiff, representing himself, has filed a complaint against a corporation he understood to be his former employer, Coughlin Inc. He alleges that approximately 9 months after he was hired, another employee found publicly available information on the internet about his prior criminal history, including convictions for domestic assault and restricting access to community services. The employee also found a mug shot of him on the internet. She circulated it to the assistant general manager, immediately after which his authority was undermined, he lost control of his department, was excluded from decision-making, and subject to diminished professional respect.

He claims that Defendant's agents disseminated the image to employees for no legitimate business purpose and that the conduct was negligent and reckless and carried out with disregard for his privacy and workplace reputation and caused emotional distress and humiliation as well as damage to professional reputation. He was fired less than two months after the material appeared.

Defendant has filed a Motion to Dismiss pursuant to V.R.C.P. 12 (b)(6), arguing that Plaintiff was an at-will employee and thus has no claim for wrongful termination; and that the facts do not show invasion of privacy as all the material was publicly available. Defendant also argues that the facts are not strong enough to support a claim for intentional infliction of emotional distress.[1]

Plaintiff responds that he is not alleging a "stand-alone wrongful termination claim" and argues that management involvement in the acts alleged is sufficient to support his claim for emotional and reputational harm and that at-will employment doctrines do not shield an employer from liability for the distress resulting from its various acts. Although his original

[1] Defendant also asserts that it is the incorrect legal entity. It represents that Charles T. Coughlin, the owner of Defendant, also owns another corporation which is the one that employed Plaintiff.. Plaintiff suggests correctly that this can be cured by amendment.

complaint has only one count which he labels as "Excessive Publication/Abuse of Conditional Privilege," in his Opposition memo he seems to claim both invasion of privacy and intentional infliction of emotional distress.

Dismissal of a claim pursuant to Rule 12(b)(6) may occur only when it is beyond a doubt that there exist no facts or circumstances that would entitle the plaintiff to relief." *Dernier v. Mortgage Network, Inc.*, 2013 VT 96, ¶ 23. The general pleading standard on a motion to dismiss is exceedingly low, *Bock v. Gold*, 2008 VT 81, ¶ 4, as "[t]he purpose of a motion to dismiss is to test the law of the claim, not the facts which support it. *Powers v. Office of Child Support*, 173 Vt. 390, 395 (2002). "Motions to dismiss for failure to state a claim are disfavored and are rarely granted. *Colby v. Umbrella, Inc.*, 2008 VT 20, ¶ 5."We assume that all factual allegations pleaded in the complaint are true and accept as true all reasonable inferences that may be derived from plaintiffs pleadings." *Dernier,* 2013 VT 96, ¶ 23.

Invasion of Privacy

Under *Lemnah v. American Breeders Service, Inc.,* 144 Vt. 568, 574 (1984), the tort of invasion of privacy requires that the defendant disseminated information "to the public at large or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge. It does not mean the communication of information to a single person or to a small group of people." In *Lemnah*, the Supreme Court cited favorably a decision in which the court found that the sharing of private information to "four or five of defendant's managerial employees" was "insufficient to constitute publicity" for purposes of the tort of invasion of privacy. *Id.* at 575 (citing *Beard v. Akzona, Inc.*, 517 F. Supp. 128, 133 (E.D. Tenn. 1981).

Intentional Infliction of Emotional Distress

Defendant cites cases in which judges have determined that allegations of certain actions or minor slights were insufficient to make a prima facie case of intentional infliction of emotional distress. The facts alleged by Plaintiff, however, allege a sustained campaign of use of embarrassing information from his past, apparently unrelated to his job, to denigrate and humiliate him and undermine his employment status. With those allegations, a sufficient claim for intentional infliction of emotional distress has been alleged. Therefore, the motion is denied.

The court will set a scheduling conference to make a pretrial plan and set deadlines for court events in a pretrial order.

Electronically signed April 30, 2026 pursuant to V.R.E.F. 9 (d).

Mary Miles Teachout
Superior Judge (Ret.), Specially Assigned