

**COURT OF COMMON PLEAS
ADAMS COUNTY, OHIO**

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ADAMS COUNTY
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SHAWN D. COOLEY, et al.,

Plaintiffs,

v.

**JOSEPH EDGAR FOREMAN.,
A/K/A AFROMAN, et al,**

Defendants.

Case No.: CVH 20230069

Judge Jerry McBride

**DEFENDANTS' REPLY TO
PLAINTIFF'S MEMORANDUM**

REPLY BRIEF

Now comes Defendants, Joseph Edgar Foreman and Hungry Hustler Records, by and through their counsel, respectfully submits this reply to Plaintiff's Memorandum in Opposition to Defendants' Amended Joint Motion to Dismiss and Motion to Strike Plaintiffs' Amended and Supplemental Complaint.

FACTUAL AND PROCEDURAL BACKGROUND

The plaintiffs in this case are seven employees of the Adams County Sheriff's Office that executed a raid on Defendant Joseph Edgar Foreman's house in August 2022. (Complaint at 3).

On May 13, 2023, the Plaintiffs filed a Complaint alleging five civil claims: (1) Violations of Ohio Rev. Code Chapt. 2741—Unauthorized Use of Individual's Persona; (2) (Invasion of Privacy by Misappropriation—Restatement (Second) of Torts, § 652C (1977)); (3) (Invasion of Privacy—False Light Publicity—Restatement (Torts), Second § 652E (1977)); (4) (Invasion of Privacy—Unreasonable Publicity Given to Private Lives—Restatement (Second) Torts, § 652D (1977)); and (5) (Injunctive Relief). This complaint was served with a summons on March 14, 2023.

The complaint alleged that Joseph Edgar Foreman “created, performed, posted, and publicized” depictions of the Plaintiffs’ “personas” for commercial purposes. (Complaint at 11). Plaintiffs claim that their damages include all profits derived from and attributable to Defendants’ use of their “personas”. *Id.*

On April 11, 2023, Defendants Joseph Edgar Foreman and Hungry Hustler Records filed a Joint Motion to Dismiss and Motion to Strike Plaintiff’s Complaint. On May 10, 2023, the Plaintiff’s filed an Amended Complaint. This complaint added one claim of defamation to the previous five civil claims. The Defendants filed an amended motion to dismiss. On June 7, 2023, Plaintiffs filed a Memorandum in Opposition to Defendants’ Amended Joint Motion to Dismiss and Motion to Strike Plaintiffs’ Amended and Supplemental Complaint. The Defendants now offer this reply.

ARGUMENT

I. Plaintiffs’ admission that some of Defendants’ statements are opinion and that not “all of Defendants [sic] statements and posts are actionable” for a false light publicity claim shows just how vague and amorphous this claim for relief really is.

In their memorandum, the Plaintiffs admit that at least some of the Defendants’ statements could be classified as opinion. Specifically, the memorandum reads as follows:

No doubt some of Defendants’ posted statements qualify as “opinion.” Plaintiffs do not alleged that *all* of Defendants [sic] statements are actionable. But many clearly are.

Plaintiff’s Memorandum at 5. Now the rest of this page points to some instances which the Plaintiffs allege are tortious, but the Complaint specifically incorporates all of the allegations in paragraphs 1 through 47 of the Complaint in their claim for “false light publicity”. *See* Amended and Supplemental Complaint at 15, ¶48. This, seemingly, should be taken to mean that the Plaintiffs are alleging all statements in the Complaint should be classified as tortious, false light publicity, in fashion analogous to throwing spaghetti noodles at the wall to see what sticks.

The truth is that none of the statements alleged to be tortious could be taken to be false statements. They all do, however, classify as opinions, satire, jokes, or artistic expressions covered under the First Amendment. And, despite the Plaintiffs' assertion to the contrary, Mr. Foreman does believe that he is missing money. With each filing in this case, it becomes more and more apparent that there are no actionable claims in the Plaintiffs' complaint. The Defendants respectfully reiterate their request to the Court that Count III of the Complaint be dismissed.

II. Injunctive Relief

As stated previously, injunctive relief is not a cause of action, and thus, Plaintiffs' fail to state a claim upon which relief can be granted. This claim should be dismissed.

CONCLUSION

As stated in Defendants' Amended Motion to Dismiss, Plaintiffs' amended complaint containing six counts of alleged tortious action fails to state any claims upon which relief may be granted. Furthermore, these six claims are insufficient and redundant. For these reasons, the Court should dismiss this case under Ohio Civ.R. 12(b)(6). In the alternative, the Court should strike any and all pleadings that are insufficient or redundant under Ohio Civ.R. 12(F).

Respectfully submitted,

RIVERS LAW FIRM, P.A.

Date: June 15, 2023

By: /s/ Bruce Rivers
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendants' Reply to Plaintiffs'

Memorandum was served on June 15, 2023, by electronic mail upon the following:

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Respectfully submitted,

RIVERS LAW FIRM, P.A.

Date: June 15, 2023

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