
THIRD JUDICIAL DISTRICT COURT

SALT LAKE COUNTY, STATE OF UTAH

WEST JORDAN DEPARTMENT

JEFFREY D. GASTON,

Plaintiff,

vs.

JASON HALL, an individual; NATALIE HALL, an individual; GEORGE SCHLIESSER, an individual; WOODCRAFT MILL & CABINET INC., a Utah corporation; and BLUFFDALE CITY, a municipality of the State of Utah,

Defendants.

**RULING AND ORDER ON
THIRD-PARTY DEFENDANTS'
SPECIAL MOTION FOR
EXPEDITED RELIEF**

Case No. 230905528

Judge Chelsea Koch

This matter is before the Court on Third-Party Defendants' Connie Pavlakis ("Pavlakis") and Connie Robbins ("Robbins")(collectively the "TPC Defendants") Special Motion for Expedited Relief under the Uniform Public Expression Protection Act ("UPEPA"). Gaston brought the motion under Utah Code Section 78B-25-103. Having reviewed the record, including all briefing submitted by the parties, and the arguments of counsel, the Court now issues the following Ruling and Order on the motion.

In ruling on a motion under Section 78B-25-103, the Court shall consider the pleadings, the motion, any reply or response to the motion, and any evidence that could be considered in ruling on a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56. Utah Code § 78B-25-106. Facts and all reasonable inferences should be reviewed in the light most favorable to the nonmoving party, here, the Hall parties.

As indicated in this Court's prior ruling, UPEPA is an "anti-slapp" act which seeks to prevent frivolous lawsuits designed to punish or curtail political speech and activities. TPC Defendants argue that UPEPA applies to the Hall Parties' First, Second and Third Claims for Relief in the Third Party Complaint, as the conduct alleged constitutes protected speech related to a matter of public concern. The TPC Defendants also allege that the Hall Parties are unable to establish a prima facie case for each of their claims.

In relevant part, the Act:

applies to a cause of action asserted in a civil action against a person based on the person's

- (a) communication in a legislative, executive, judicial, administrative, or other governmental proceeding;
- (b) communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or
- (c) exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the United States Constitution or Utah Constitution, on a matter of public concern.

Utah Code § 78B-25-102(2).

It does not apply to a cause of action asserted against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity. Utah Code § 78B-25-102(3). Further:

In ruling on a motion under Section 78B-25-103, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:

- (a) the moving party establishes under Subsection 78B-25-102(2) that the Act applies;
- (b) the responding party fails to establish under Subsection 78B-25-102(3) that this chapter does not apply; and
- (c) either:
 - (i) the responding party fails to establish a prima facie case as to each essential element of the cause of action; or
 - (ii) the moving party establishes that:
 - (A) the responding party failed to state a cause of action upon which relief can be granted; or

(B) there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the cause of action or part of the cause of action.

Utah Code § 78B-25-107(1).

The Utah Supreme Court recently adopted the United States Supreme Court’s definition of when speech deals with matters of public concern, explaining that it is “when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public.” *Mackey v. Krause*, 2025 UT 37, ¶¶ 49-50, 575 P.3d 1162, 1173–74, citing *Snyder v. Phelps*, 562 U.S. 443, 453, 131 S.Ct. 1207, 179 L.Ed.2d 172 (2011) (cleaned up). The Utah Supreme Court instructs that in determining whether speech is of public or private concern one must “examine the content, form, and context of that speech, as revealed by the whole record.” *Id.*

Here, construing UPEPA broadly as required, the Court finds that all of the conduct complained of in the Third-Party Complaint, including the purported defamatory statements, viewed in context, are related to a matter of public concern. The allegations involve a letter sent to the Bluffdale City Council complaining of a city employee receiving unwarranted pay increases based on favoritism, allegations of coordinated protests during City Council meetings, putting up signs in opposition to Mayor Hall asking that she resign, booth placement assignments at a Bluffdale City event, statements to police regarding observations at city event leading to criminal charges, and actions taken in an attempt to obtain Mayor Hall’s resignation. An individual’s concerns about misconduct occurring in a public office, or complaints or observations regarding City events involving public officials, can be fairly considered as relating to any matter of political, social, or other concern to the community, or a subject of general

interest and of value and concern to the public. The Hall Parties argue that UPEPA cannot apply to the letter written by Ms. Pavlakis, as she was the Bluffdale City events coordinator when she wrote the letter. While section 102(3)(a) of the statute does not apply to a cause of action “against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity,” this Court cannot find that Ms. Pavlakis’ conduct was carried out while acting or purporting to act in her official capacity.” Here, Ms. Pavlakis wrote an *anonymous* letter accusing Ms. Hall of engaging in an affair, not a letter written while acting in her official capacity. As such, UPEPA applies to the claims challenged.¹

Having found that UPEPA applies, the Court next looks to whether the Hall Parties have either failed to establish a prima facie case as to each essential element of the causes of action, or whether the TPC defendants have established that the Hall Parties failed to state a cause of action upon which relief can be granted, or there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law of the cause of action or part of the cause of action. U.C.A. 78B-25-103.

1. Intentional Infliction of Emotional Distress

To state a claim for IIED, a plaintiff must allege (1) the defendant’s conduct is outrageous and intolerable in that it offends against the generally accepted standards of decency and morality; (2) the defendant intends to cause, or acts in reckless disregard of the likelihood of causing, emotional distress; (3) the plaintiff suffers severe emotional distress; and (iv) the defendant’s conduct proximately causes the plaintiff’s emotional distress. *Hatch v Davis*, 2004 UT App. 378, ¶40, 102 P.3d 774. While allegedly false, derogatory statements alone do not give

¹ The Hall Parties argue that the conduct alleged in the Third-Party Complaint is not subject to UPEPA because it is not protected by the First Amendment given that they allege defamation and allegations related to reckless or knowing dissemination of false statements. In *Mackey v. Krause*, the claims asserted by Mackey were defamation, IIED, and others. 2025 UT 37, 575 P.3d 1162. Despite the nature of the claims, the Supreme Court found that UPEPA applied.

rise to a claim of intentional infliction of emotional distress, the Court finds that these statements, in combination with the allegations that TPC defendants “knowingly made false statements to police accusing an innocent person of crimes” which resulted in that person being charged is sufficient to satisfy the outrageous and intolerable requirements of an IIED claim where the Hall Parties have alleged severe emotional distress. While some of the facts are contested, reviewing all facts and inferences in favor of the Hall Parties, this Court finds that they have made the required prima facie showing.

2. Negligent Infliction of Emotional Distress

A claim for NIED requires showing ““(1) the defendant owed a traditional duty of reasonable care to the plaintiff and (2) the relationship, activity, or undertaking is of the type that warrants a special, limited duty to refrain from causing severe emotional distress.” *A.W. v. Marelli*, 2024 UT App 8, ¶ 20. Our courts have adopted a “zone of danger” theory of recovery which allows recovery “only for those who are victims of another’s breach of duty.” *Rosser v. Elite Craft Homes, LLC*, 2026 UT App 66, ¶ 34, — P.3d —. In the Hall Parties’ Second Cause of action in its Third-Party Complaint, they fail to allege any duty owed by the TPC Defendants to the Hall Parties, nor any facts that would allow this Court to complete the five-factor test to determine whether a traditional duty of care exists. Moreover, in its response to the UPEPA motion, the Hall Parties state only, “The Hall Parties have alleged that Third-Party Defendants had reason to believe that their conduct—as described in detail above—created an unreasonable risk of distress and a foreseeable illness/bodily harm (e.g. anxiety, loss of sleep, and other monetary damages).” The Hall Parties say nothing about a duty or why the TPC Defendants owed a traditional duty of care and the relationship that would warrant a special, limited duty to refrain from causing severe emotional distress. Additionally, they fail to adequately state facts

supporting the requirement that the TPC Defendants should have realized that the distress, if it were caused, might result in illness or bodily harm. For these reasons, the Hall Parties failed to make a prima facie showing of NIED, and that claim is dismissed with prejudice.

3. Defamation

The elements of defamation include (1) publication of false statements of fact concerning the plaintiff; (2) fault; (3) damages, (4) actual malice if directed at a public figure; and (5) privilege. The Hall parties allege that the TPC Defendants “knowingly lied to police, media and the public, representing that Mr. Hall sent threat letters and assaulted Mr. Gaston; they published false “smear letters” alleging that Ms. Hall was engaging in deeply immoral conduct and receiving preferential pay, knowing that these claims were false.” Reply at 13. The Halls alleged that they suffered damages in the form of “severe reputations damage” and have been force to pay hundred of thousands in legal fees. Reply at 13. Here, the Halls plead sufficient facts that they were named in the materials and that the materials were published given the letters, statements to the public, and statements to police. Next, the Halls plead sufficient facts from which a trier of fact could conclude that the allegations were false. TPC at ¶¶96-104, 193-96, 209, 223, 225. Third, the Hall parties have adequately plead sufficient evidence from which a trier of fact could find that the TPC Defendants did not act with reasonable care when ascertaining the truth or falsity of the statements. TPC ¶¶40-42, 45, 225. Damages were adequately plead as the Halls presented evidence that they incurred hundreds of thousands in attorneys fees. With regard to privilege, the Halls alleged that the statements were not privileged as they were not related to legal advice, medical treatment or any other recognized protected category. TPC ¶ 262. This, statement is enough to allow the party to proceed with discovery or to establish a fact based on what seems to been true on first examination. With regard to the “actual

malice” requirement, the Court finds that the Hall Parties have established a prima facie case that the TPC Defendants made their statements with reckless disregard of whether they were false or not. Here, when the totality of the alleged facts are considered, the Hall parties have alleged enough, at least for the purposes of the prima facie standard, that there was “obvious doubt created by the facts.” *Matthews v. McCown*. 2025 UT 34, ¶169, 575 P.3d 1114. The Halls Parties have adequately plead defamation.

Attorney’s Fees


Section 78B-25-103 provides that the court shall award costs, reasonable attorney fees and reasonable litigation expenses related to the motion to the moving party if the it prevails. The TPC Defendants have prevailed only with regard to the IIED claim. The Court will entertain further briefing regarding attorney fees once the TPC Defendants file a motion.

CONCLUSION

For the reasons stated above, the Third-Party Defendants’ Special Motion for Expedited Relief is GRANTED in part and DENIED in part.

DATED this 8th day of May, 2026.

BY THE COURT:

A. Chelsea Koch


Judge Chelsea Koch
DISTRICT COURT JUDGE