

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X	
JOI DICKERSON-NEAL,	: Index No. 952341/2023
	:
Plaintiff,	:
	:
-against-	:
	:
SEAN COMBS a/k/a "P. DIDDY," BAD BOY	:
ENTERTAINMENT d/b/a BAD BOY RECORDS,	:
COMBS ENTERPRISES, LLC,	:
	:
Defendants.	:
	:
-----X	

**MEMORANDUM OF LAW IN SUPPORT OF THE COMBS
DEFENDANTS' PARTIAL MOTION TO DISMISS THE COMPLAINT**

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This memorandum of law is respectfully submitted on behalf of Defendants Sean Combs (“Mr. Combs”), Bad Boy Entertainment Holdings, Inc. f/k/a Bad Boy Entertainment, Inc. (“BBE”), and Combs Enterprises, LLC (“CE,” and together with BBE, the “Company Defendants”) in support of their motion, pursuant to CPLR 3211(a)(1) and (a)(7), to partially dismiss the Complaint, dated November 23, 2023 [NYSCEF Doc. No. 1] (the “Motion to Dismiss”).¹

PRELIMINARY STATEMENT

Without addressing the Complaint’s numerous false, offensive, and salacious accusations, which the Combs Defendants vehemently deny, substantially all of the claims purportedly alleged by Joi Dickerson-Neal (“Plaintiff” or “Dickerson”) cannot survive this Motion to Dismiss because they were brought under statutes that did not exist at the time the alleged misconduct occurred and against corporate entities that were not formed or in existence.

On November 23, 2023, Plaintiff filed the Complaint based on purported misconduct that allegedly occurred over three decades ago in 1991.² Plaintiff erroneously maintains that all her claims are timely under the New York Adult Survivors Act (“ASA”), CPLR 214-j, which created a one-year look-back window for claims tied to alleged sexual assault, provided they were filed by November 24, 2023. Compl. ¶ 3.

The Complaint must be partially dismissed for at least two reasons:

First, while the ASA revived certain claims for which the statute of limitations has run, the ASA does not permit a plaintiff to revive claims under statutes that did not exist when the purported

¹ This Motion to Dismiss is accompanied by the Affirmation of Jonathan D. Davis in Support of Defendants’ Partial Motion to Dismiss the Complaint, dated April 26, 2024 (the “Davis Affirmation” or “Davis Aff.”). Defendant Mr. Combs and the Company Defendants are collectively referred to as the “Combs Defendants.”

² A copy of the Complaint is attached as Exhibit A to the Davis Affirmation.

misconduct allegedly occurred. The four statutes underlying Plaintiff's claims were enacted years after the 1991 conduct alleged in the Complaint, and they cannot be retroactively applied to that alleged conduct absent clear legislative intent. The New York Legislature did not express any intent or purpose for those statutes to be applied retroactively. And, generally, the ASA does not affect the fundamental presumption against the retroactive effect of a statute. Therefore, Plaintiff's Third, Fourth, Fifth, and Sixth Causes of Action must be dismissed with prejudice.³

Second, all claims alleged in the Complaint against the Company Defendants fail as a matter of law. The Company Defendants were not in existence at the time of the alleged conduct. Furthermore, even if the Company Defendants existed at that time, no allegations of wrongdoing are pled against them. Finally, no theory of vicarious liability or veil-piercing can be pleaded that imputes the alleged sexual assault by the individual defendants onto the Company Defendants.

Accordingly, the Third, Fourth, Fifth, and Sixth Causes of Action must be dismissed, with prejudice, against Mr. Combs, and the Second, Third, Fourth, Fifth, and Sixth Causes of Action must be dismissed, with prejudice, against the Company Defendants. None of these claims can be re-alleged to state a claim upon which relief can be granted. Thus, it would be futile to grant leave to amend the Complaint, even if it were sought by Dickerson.

BACKGROUND

The Complaint alleges that *over thirty years ago*, Dickerson, who was "looking to make a foothold in the music industry," agreed to go on a date with Mr. Combs for dinner at a local restaurant in Harlem where she was a server. Compl. at 3, ¶¶ 35, 40-41. Although the Complaint admits that Dickerson's "memory is incomplete," *id.* ¶ 48, it nevertheless alleges that Dickerson was "intentionally drugged" at dinner. *Id.* at 3. After agreeing to accompany Mr. Combs after their

³ The Complaint mistakenly references two claims as the "Third Cause of Action." The claims are referred to herein in the order they appear in the Complaint. Compl. at 16.

meal, Dickerson claims she was sexually assaulted and videotaped at an unfamiliar residence somewhere in New York. *Id.* at ¶¶ 53, 59.

In the more than three decades since the alleged sexual assault, Dickerson, by omission, concedes that no criminal charges were ever lodged against Mr. Combs, and there is no allegation that a video recording of the alleged assault is in the possession of anyone or was ever viewed by Dickerson. *Id. passim.*

The Complaint makes almost no factual accusations about the Company Defendants – and certainly fails to allege any purported sexual assault occurred at their places of business. It is unsurprising because *neither Company Defendant existed in 1991* when the alleged incident occurred, and the Complaint does not allege otherwise. *See* Davis Aff. Exs. B & C.

The Complaint further alleges that Mr. Combs “founded” BBE in 1992, Compl. ¶ 26, *one year* after the claimed incident allegedly occurred. Davis Aff. Ex. B. It also alleges that CE is “the parent company” of BBE. Compl. ¶ 29. But, CE was formed in 2004 – *thirteen* years after the alleged incident occurred. Davis Aff. Ex. C.

Finally, the Complaint alleges that the Company Defendants “had knowledge and were put on notice of the sexual abuse allegations made against” Mr. Combs from media coverage, which is alleged to have occurred between 2017 and 2023 – long after the alleged incident occurred. Compl. ¶¶ 21-25.

ARGUMENT

THE LEGAL STANDARD

Under CPLR 3211, a defendant may move to dismiss a claim if the pleading fails to state a cause of action, or when documentary evidence establishes a defense to the claims as a matter of law. CPLR 3211(a)(1) & (7); *see Leon v. Martinez*, 84 N.Y.2d 83, 87-88 (1994); *Foley v. D’Agostino*, 21 A.D.2d 60, 64-65 (1st Dep’t 1964). In deciding whether an action should be

dismissed, the trial court must determine if the complaint “states a cause of action, and if from its four corners factual allegations are discerned which taken together manifest any cause of action cognizable at law[.]” *Guggenheimer v. Ginzburg*, 43 N.Y.2d 268, 275 (1977); *Ark Bryant Park Corp. v. Bryant Park Restoration Corp.*, 730 N.Y.S.2d 48, 54 (1st Dep’t 2001) (citations omitted).

Although a court considering a motion under CPLR 3211(a)(7) “must presume the facts pleaded to be true and must accord them every favorable inference,” allegations “that consist of bare *legal conclusions*, or that are *inherently incredible* ... are not entitled to such consideration.” *Mamoon v. Dot Net Inc.*, 135 A.D.3d 656, 658 (1st Dep’t 2016) (emphasis added) (quoting *Leder v. Spiegel*, 31 A.D.3d 266, 267 (1st Dep’t 2006), *aff’d*, 9 N.Y.3d 836 (2007)); *see also Marino v. Vunk*, 39 A.D.3d 339 (1st Dep’t 2007).

A court may also consider documentary evidence and affidavits in connection with a motion to dismiss under CPLR 3211(a)(7) without the court treating the motion as one for summary judgment. *See, e.g., Bodden v. Kean*, 86 A.D.3d 524, 526 (2d Dep’t 2011) (confirming that dismissal is warranted if an affidavit “establishes ‘conclusively’ that the plaintiff has no cause of action”). Instances in which an affidavit can support a motion to dismiss under CPLR 3211(a)(7) are limited to when they serve a specific purpose, such as to remedy defects in the complaint *like the formation of an entity*, which can affect whether certain claims are timely. *Id.*

“While a complaint is to be liberally construed in favor of plaintiff on a CPLR 3211 motion to dismiss, the court is not required to accept factual allegations that are plainly contradicted by the documentary evidence or legal conclusions that are unsupportable based upon the undisputed facts.” *Robinson v. Robinson*, 303 A.D.2d 234, 235 (1st Dep’t 2003); *Beattie v. Brown & Wood*, 243 A.D.2d 395 (1st Dep’t 1997) (stating that presumption typically accorded to factual claims is inapplicable when such facts are flatly contradicted by the record).

Furthermore, “[i]n those circumstances where the legal conclusions and factual allegations are flatly contradicted by documentary evidence, they are not presumed to be true or accorded every favorable inference, and the criterion becomes ‘whether the proponent of the pleading *has a cause of action, not whether he has stated one.*’” *Morgenthau & Latham v. Bank of N.Y. Co., Inc.*, 305 A.D.2d 74, 78 (1st Dep’t 2003) (citations omitted) (quoting *Ark Bryant Park Corp.*, 285 A.D.2d at 150) (emphasis added).

POINT I

THE STATUTORY CLAIMS AGAINST THE COMBS DEFENDANTS CANNOT BE APPLIED RETROACTIVELY

It is a well settled presumption that a statute cannot be applied retroactively to conduct that occurred before it was enacted. Here, the sexual assault alleged by Dickerson occurred in January 1991, when each statute underlying her claims was neither enacted nor otherwise in existence. Thus, those statutes cannot form the basis for any claims against the Combs Defendants.⁴

Dickerson purports to allege claims under the following statutes:

- The Third Cause of Action alleges a claim under the New York Services for Victims of Human Trafficking Law. N.Y. Soc. Serv. Law § 483-bb(c)(ii) (McKinney 2024) (the “VHTL”).

The VHTL became effective November 1, 2007, which was approximately 16 years after the alleged sexual assault.

- The Fourth Cause of Action alleges a claim under the New York State Revenge Porn Law. N.Y. Civ. Rights Law § 52-b (McKinney 2024) (the “NYSRPL”).

⁴ Assault and battery claims each have a one-year statute of limitations. CPLR 215(3). Prior to 2019, the statute of limitations for civil claims arising out of sexual offenses was five years from the date of the incident under CPLR 213-c. Before 2019, CPLR 213-c generally applied only to actions against the actual perpetrator of the crime, that is, the five-year period would not be available in a negligence action against a perpetrator’s employer. Prior to 2019, such a claim against the employer was subject to the three-year period for negligence under CPLR 214(5). Thus, at the relevant time, and even assuming the Company Defendants were an “employer,” all of Plaintiff’s common law claims against the Company Defendants expired by 1994. Claims under the GMVPL are subject to a 7-year statute of limitations from the date of the alleged incident, and time-barred claims may be filed under the GMVPL’s revival window, through March 1, 2025. But, for the reasons stated *infra*, the statutory claims cannot be asserted.

The NYSRPL became effective September 21, 2019, which was approximately 28 years after the alleged sexual assault.

- The Fifth Cause of Action alleges a claim under the New York City Victims of Gender-Motivated Violence Protection Law. N.Y.C. Admin. Code §§ 10-1101 *et seq.* (2024) (the “GMVPL”).

The GMVPL became effective December 19, 2000, which was approximately 9 years after the alleged sexual assault.

- The Sixth Cause of Action alleges a claim under the New York City Revenge Porn Law. N.Y.C. Admin. Code § 10-180(b)(1) (2024) (the “NYCRPL”).

The NYCRPL became effective December 17, 2017, which was approximately 26 years after the alleged sexual assault.

New York courts uniformly recognize a “‘deeply rooted’ presumption against retroactivity ... based on ‘[e]lementary considerations of fairness [that] dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly[.]’” *Regina Metro. Co., LLC v. New York State Div. of Hous. & Cmty. Renewal*, 35 N.Y.3d 332, 370 (2020) (quoting *Landgraf v. USI Film Prod.*, 511 U.S. 244, 265 (1994)).⁵

“‘[I]t takes a clear expression of the legislative purpose ... to justify a retroactive application’ of a statute.” *Regina Metro*, 25 N.Y.3d at 370 (citing *Gleason v. Gleason*, 26 N.Y.2d 28, 36 (1970)). Indeed, the New York Court of Appeals has held that “statutes will not be given such [retroactive] construction unless the language expressly or by necessary implication requires it[.]” *Gottwald v. Sebert*, 40 N.Y.3d 240, 258 (2023) (quoting *Majewski v. Broadalbin-Perth Cent. School Dist.*, 91 N.Y.2d 577, 584 (1998)). Here, neither express language in the statutes nor

⁵ That standard is even more exacting when it comes to claims-revival provisions like the ASA and § 10-1105 of the GMVPL. As the Court of Appeals explained in *Regina Metro*, “the statute’s text must unequivocally convey the aim of reviving claims. For nearly a century, this Court has recognized that ‘[r]evival is an extreme exercise of legislative power. The will to work it is not deduced from words of doubtful meaning. Uncertainties are resolved against consequences so drastic.’” 35 N.Y.3d at 370 (quoting *Hopkins v. Lincoln Trust Co.*, 233 N.Y. 2113, 215 (1922)); *S.H. v. Diocese of Brooklyn*, 205 A.D.3d 180, 188 (2d Dep’t 2022) (explaining that “special laws” that revive time-barred actions are “extreme examples of legislative power and are narrowly construed”).

necessary implication mandate their retroactivity.

Louis v. Niederhoffer, No. 23-cv-6470 (LTS), 2023 WL 8777015, at *1 (S.D.N.Y. Dec. 19, 2023), is instructive. There, plaintiff brought a claim under the GMVPL for misconduct occurring in the 1970s. Recognizing the presumption against a statute's retroactivity, the court ruled that the GMVPL could not be applied retroactively. *Id.* (citing *Adams v. Jenkins*, Index No. 115745/03, 2005 WL 6584554, at *1 (Sup. Ct., N.Y. Cnty. Apr. 22, 2005)). In so ruling the court stated:

All of Ms. Louis's troubling allegations against Mr. Niederhoffer are based on events that allegedly occurred between 1974 and 1979, before the [GMVPL] was passed. Because the Court cannot apply the [GMVPL] retroactively, the Complaint fails to state a claim upon which relief can be granted. For the same reason, Ms. Louis is also denied leave to amend the Complaint. See *Tocker v. Philip Morris Cos.*, 470 F.3d 481, 491 (2d Cir. 2006) ('[L]eave to amend a complaint may be denied when amendment would be futile.').

Louis, 2023 WL 8777015, at *1 (emphasis added); see also *Bellino v. Tallarico*, No. 24-cv-0712 (LAK), Dkt. 28, at 2 (S.D.N.Y. Apr. 26, 2024) (dismissing GMVPL claim based on conduct from 1975 in part because "[a]s the [GMVPL] was not enacted until approximately 25 years after the alleged crime of violence occurred and does not even purport to be retroactive, the proposed amended complaint would fail to state a legally sufficient claim under that statute" (emphasis added) (Davis Aff. Ex.D)).

Significantly, the *Louis* court recognized that the presumption against retroactivity was undisturbed by the GMVPL's claims-revival provision, which Dickerson improperly attempts to employ here. See N.Y.C. Admin. Code § 10-1105 ("any civil claim ... that is *barred because the applicable period of limitation has expired is hereby revived* and may be commenced not earlier than six months after, and not later than two years and six months after, September 1, 2022" (emphasis added)).

The *Louis* court correctly recognized that a claims-revival provision, which revives claims

that expire due to the running of the statute of limitations, does not open the door to claims based on conduct that occurred *before* a statute was even passed. *Louis*, 2023 WL 8777015, at *1; *see also Adams*, 2005 WL 6584554, at *3 (declining to give the GMVPL retroactive effect because “the effect would be to increase liability and remove a defense previously available” and the GMVPL “does not provide for retroactive or immediate effectiveness, and is not the type of statute that would be given retroactive effect”).⁶

This analysis applies to the claims Dickerson attempts to plead under the VHTL, NYSRPL, GMVPL, and NYCRL in the Third, Fourth, Fifth, and Sixth Causes of Action. Those statutes, which were enacted in 2007, 2019, 2000, and 2017, respectively, cannot be applied to conduct that allegedly occurred in 1991.⁷ The principle addressed in the *Louis* case is not limited to the GMVPL. In applying the non-retroactivity presumption, courts routinely dismiss statutory claims where the alleged conduct took place before the statute was enacted. *See, e.g., S.J. v. Choice Hotels Int’l, Inc.*, 473 F. Supp. 3d 147, 156-57 (E.D.N.Y. 2020) (finding the VHTL not applicable to violations allegedly occurring years before enactment); *see also Gottwald*, 220 N.E.3d at 621 (finding anti-SLAPP statute not retroactive).

Nor can Dickerson save her statutory claims under the “claims-revival” provisions of the

⁶ Even if the GMVPL applied retroactively – which it does not – Dickerson’s claim still fails against the Company Defendants. Section 10-1104 of the GMVPL provides that “any person claiming to be injured by a party who commits, directs, enables, participates in, or conspires in the commission of a crime of violence motivated by gender has a cause of action against such party” The Complaint provides *no* facts supporting Dickerson’s conclusory allegation that the Company Defendants, which did not exist at the time of the alleged misconduct, “enabled Defendants’ commission of the crime of violence motivated by gender.” The Complaint also alleges nothing about *who* at the Company Defendants may have enabled any such acts, *how* the Company Defendants enabled such acts, or *when* the Company Defendants enabled such acts.

⁷ Such an expansive application of retroactive liability would be unconstitutional under the Due Process Clauses of both the U.S. Constitution and the New York State Constitution, as there is no rational basis for creating a tacit and unspecified retroactivity period that reaches back decades. *See Regina Metro*, 35 N.Y.3d at 376 (“In determining whether retroactive application of a statute is supported by a rational basis, the relationship between the length of the retroactivity period and its purpose is critical.”). This constitutional impediment further bars the retroactive application of these statutes. *Matter of Jamie J. (Michelle E.C.)*, 30 N.Y.3d 275, 282 (2017) (the “canon of constitutional avoidance” counsels courts to construe the statute, “if possible, to avoid [a] due process infirmity”).

ASA or GMVPL. As discussed above, the claims-revival and retroactive applications of a statute are different principles. On the one hand, a claims-revival provision, such as the ASA and § 10-1105 of the GMVPL, revive claims that could have been brought at the time of the alleged conduct but expired due to the running of the applicable statute of limitations. *See* CPLR 214-j (reviving claims barred “*because the applicable period of limitation has expired*” (emphasis added)); N.Y.C. Admin. Code § 10-1105 (same).

On the other hand, the retroactive application of a statute relates to whether the statute can apply to alleged conduct that occurred before the statute was enacted. Such application is presumptively impermissible, *see supra* at 6-8, and claims-revival provisions do nothing to interfere with that presumption. For these reasons, Dickerson’s statutory claims must be dismissed, with prejudice, against the Combs Defendants. And any attempted amendment of the Complaint would be futile because it could not alter the untimeliness of each cause of action.

POINT II

THE CLAIMS AGAINST THE COMPANY DEFENDANTS MUST BE DISMISSED

The Company Defendants were not in existence when the purported misconduct underlying each of the claims against them allegedly occurred. Further, even if they had existed, no act by Mr. Combs can be imputed to the Company Defendants. For these reasons, the Complaint must be dismissed with prejudice against the Company Defendants.

A. The Company Defendants Were Not in Existence at the Time of the Alleged Conduct

All of the alleged misconduct in the Complaint occurred in 1991, before either Company Defendant was formed or otherwise existed. Compl. ¶ 40; Davis Aff. Exs. B & C. Indeed, the Complaint acknowledges that BBE was not in existence until after 1991. Compl. ¶ 26. And CE

was not formed until 2004 – thirteen years after the alleged misconduct occurred. Davis Aff. Ex.

C.

“A corporation’s existence begins when its certificate of incorporation is filed by the Department of State.” *Foxen Co. v. Irish Pub, Inc.*, 824 N.Y.S.2d 754 (Sup. Ct., N.Y. Cnty. 2006) (citing Business Corporation Law § 403). There is no theory of vicarious liability, corporate veil-piercing, or other legal theory that permits holding an entity accountable for actions that pre-dated its existence. As a statute cannot apply to conduct occurring before it existed, a plaintiff cannot sue an entity for conduct that allegedly took place before it existed.

Accordingly, the Second, Third, Fourth, Fifth, and Sixth Causes of Action must be dismissed, with prejudice, against the Company Defendants.

B. The Complaint Fails to Allege Any Direct Misconduct by the Company Defendants

Dickerson’s claims against the Company Defendants also fail because they cannot be predicated on the alleged misconduct in the Complaint. As an initial matter, Dickerson has not alleged that *any* misconduct occurred at any Company Defendants’ place of business. This is unsurprising, as neither company existed at the time of the alleged misconduct. Aside from the conclusory use of the word “enabled,” there is no specific allegation of any particular act committed by either Company Defendant. Compl. ¶ 132. And insofar as the Complaint alleges that the Company Defendants “had knowledge and were put on notice of the sexual abuse allegations made against” Mr. Combs from media coverage, *id.* ¶¶ 21-25, that claim is contradicted by the allegations in the Complaint.

Not only did neither Company Defendant exist at the time of the alleged incident, but Dickerson cites only to media coverage from 2017 to 2023, which occurred long after the purported misconduct allegedly occurred. *Id.* Such allegations do not establish any connection between the

Company Defendants and the alleged misconduct, rendering Dickerson's claims unsustainable as a matter of law. *See Liu v. New York City Police Dep't*, 216 A.D.2d 67, 70 (1st Dep't 1995) (reversing denial of motion to dismiss where allegations were "vague and conclusory, and even in opposition to the motion to dismiss plaintiff fails to demonstrate any nexus between the specific evidence purportedly supporting the complaint and acts of the defendants"); *see also Pisula v. Roman Cath. Archdiocese of New York*, 201 A.D.3d 88, 103 (2d Dep't 2021) (finding that "allegations involving other survivors of sexual abuse, occurring years after the plaintiff's alleged abuse, are generally not relevant," and "[l]ater events are generally not probative to what the defendants knew or should have known ... [because] defendants cannot be imputed with knowledge about events that have not yet occurred.").

C. The Complaint Fails to Allege Vicarious Liability

Dickerson does not explicitly plead any claim under a theory of vicarious or other derivative liability. An assault and battery claim cannot be maintained against a defendant directly unless a complaint alleges *that the defendant* committed the alleged conduct. *Messina v. Matarasso*, 284 A.D.2d 32, 34 (1st Dep't 2001) (to sustain a claim for battery it must be "shown that the defendant made bodily contact with the plaintiff"); *Gould v. Rempel*, 951 N.Y.S.2d 677, 678 (2d Dep't 2012) (dismissing assault claim because "the plaintiff did not sufficiently plead that the defendant engaged in such conduct that would have caused her to become apprehensive of an imminent harmful or offensive contact"). Thus, as the Company Defendants are not alleged to have engaged in any assault or battery (or any other misconduct) against Dickerson directly, they can only be held vicariously liable (if at all) for Mr. Combs's alleged misconduct.

But even if Dickerson attempted to plead vicarious liability, the Complaint nonetheless fails to allege facts that give rise to it. An employer is not liable for torts, intentional or otherwise, committed for "personal motives unrelated to the furtherance of the employer's business." *Yildiz*

v. PJ Food Service, Inc., 918 N.Y.S.2d 572, 574 (2d Dep’t 2011); *see also, e.g., N.X. v. Cabrini Med. Ctr.*, 97 N.Y.2d 247, 251 (2002) (“an employer may be vicariously liable for the tortious acts of its employees only if those acts were committed in furtherance of the employer’s business and within the scope of employment”); *Naegele v. Archdiocese of New York*, 833 N.Y.S.2d 79, 80 (1st Dep’t 2007) (affirming dismissal of claims based on employee’s tortious conduct where it was “not in furtherance of archdiocesan business and was a clear departure from the scope of [the] employment, having been committed for wholly personal motives”); *Murray v. Watervliet City School Dist.*, 515 N.Y.S.2d 150, 152 (3d Dep’t 1987) (“[T]here is no *respondeat superior* liability for ‘torts committed for personal motives unrelated to the furtherance of the employer’s business.’”); *Stavitz v. City of New York*, 471 N.Y.S.2d 272, 284 (1st Dep’t 1984) (“[A]n employee’s actions are not within the scope of employment unless the purpose in performing such actions is to further the employer’s interest, or to carry out duties incumbent upon the employee in furthering the employer’s business.”).

Dickerson’s claims are premised on a “sexual assault.” New York authority firmly establishes that sexual misconduct is “a clear departure from the scope of employment, having been committed for wholly personal motives,” and “unrelated to the furtherance of the [employer’s] business.” *N.X.*, 97 N.Y.2d at 251-52; *see also RJC Realty Holding Corp. v. Republic Franklin Ins. Co.*, 2 N.Y.3d 158, 164 (2004) (plaintiff beauty salon/health spa not vicariously liable for the alleged sexual assault of a massage client by a masseur employed by plaintiff); *Taylor v. United Parcel Serv., Inc.*, 72 A.D.3d 573, 573 (1st Dep’t 2010) (no vicarious liability result for a sexual assault by a UPS employee when he was delivering to the plaintiff’s apartment).⁸ Indeed,

⁸ Courts in the Second Circuit likewise hold that “it is well-settled ... that employers are not liable to plaintiffs for sexual assaults under a theory of *respondeat superior* since sexual misconduct is necessarily outside the scope of employment.” *Doe v. New York City Dep’t of Educ.*, No. 21-cv-4332, 2023 WL 2574741, at *5 (E.D.N.Y. Mar. 20,

claims that “seek to impose liability on defendant for its employee’s alleged acts and assault, on the theory of vicarious liability or the doctrine of *respondeat superior*, must be dismissed because the [employee’s] inappropriate sexual conduct was beyond the scope of [her] employment duties, not committed in furtherance of defendant’s . . . business.” *Herskovitz v. Equinox Holdings, Inc.*, No. 151065/2013, 2013 WL 2642956, at *2 (Sup. Ct., N.Y. Cnty. June 3, 2013).

Thus, even assuming *arguendo* that the Complaint contained the requisite threshold allegation that Mr. Combs was an employee of either or both Company Defendants – which it does not – New York law makes clear that they cannot be held vicariously liable for acts of sexual assault allegedly committed by him because they are “a clear departure from the scope of employment” and thus cannot be attributed to the Company Defendants. *See N.X.*, 97 N.Y.2d at 251. The Complaint is devoid of facts that provide a basis to conclude that the alleged assault and battery furthered either Company Defendant’s business interest or were in performance of employment duties imposed upon Mr. Combs in furtherance of business. For these reasons, liability cannot be imputed to the Company Defendants under *respondeat superior* or any other theory of derivative liability.

**D. The Complaint Fails to Allege Any Other Theory
That Would Impute Liability Onto the Company Defendants**

Dickerson has not pleaded any facts that would support imputing the alleged personal conduct of Mr. Combs onto the Company Defendants. While Mr. Combs is alleged to be the “founder” of the Company Defendants, Compl. ¶¶ 18, 26, 30, only in exceptional cases may an entity be liable for the acts of its owner under a “reverse piercing theory.” *See, e.g., Am. Fuel Corp.*

2023) (dismissing sexual assault claims against the New York City Department of Education based on a *respondeat superior* liability); *Doe v. City of New York*, No. 18-cv-670 (ARR) (JO), 2018 WL 3824133, at *6 (E.D.N.Y. Aug. 9, 2018) (dismissing “*respondeat superior* claims” because “[t]he City cannot be held vicariously liable for the sexual assaults Hall and Martins allegedly committed against Doe, even though the detectives were then on duty”).

v. Utah Energy Dev. Co., 122 F.3d 130, 134 (2d Cir. 1997). Reverse piercing is appropriate only where: (i) a corporation is “dominated,” such that corporate formalities are not observed; and (ii) the “domination was used to commit a fraud or wrong that injured the party seeking to pierce the veil.” *Id.*; see also *Societe d’Assurance de l’Est SPRL v. Citigroup Inc.*, No. 10-cv-4754 (JGK), 2011 WL 4056306, at *5 (S.D.N.Y. Sept. 13, 2011) (“conclusory allegations of dominance and control will not suffice” (citing *EED Holdings v. Palmer Johnson Acquisition Corp.*, 228 F.R.D. 508, 511-12 (S.D.N.Y. 2005)). Dickerson has not made any attempt to allege facts required for a *prima facie* claim supporting reverse piercing over either or both Company Defendants.

For these additional reasons, the Second, Third, Fourth, Fifth, and Sixth Causes of Action must be dismissed, with prejudice, against the Company Defendants.

POINT III

LEAVE TO AMEND SHOULD BE DENIED AS FUTILE

As demonstrated above, Dickerson cannot establish a claim under any of the four statutes upon which she relies because the misconduct that she alleges occurred decades before those laws became effective or operative. Furthermore, Dickerson cannot establish any claim against the Company Defendants because, among other reasons, none of them existed when the alleged misconduct occurred. These defects are insurmountable and cannot be cured by any amendment of the Complaint.

Accordingly, this Court should deny Dickerson any motion for leave to amend the Complaint if such relief is now or later sought by her. See, e.g., *Farina v. Katsandonis, P.C.*, 197 A.D.3d 1033, 1033 (1st Dep’t 2021) (affirming denial of leave to amend as futile where complaint was barred by the statute of limitations).

CONCLUSION

For all the foregoing reasons, the Combs Defendants respectfully request that the Court grant this Motion to Dismiss in all respects, together with such other and further relief as the Court deems just and proper.

Dated: April 26, 2024
New York, New York

Respectfully submitted,

JONATHAN D. DAVIS, P.C.

By: /s/ Jonathan D. Davis

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Boy Entertainment Holdings, Inc. f/k/a Bad
Boy Entertainment, Inc., and Combs
Enterprises, LLC*

EXHIBIT A

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

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Index No.

JOI DICKERSON-NEAL,

Plaintiff,

- against -

SEAN COMBS a/k/a "P. DIDDY," BAD BOY
ENTERTAINMENT d/b/a BAD BOY RECORDS,
COMBS ENTERPRISES, LLC,

Defendants.

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SUMMONS

Plaintiff designates NEW YORK
County as the place of trial.

The basis of venue is:
LOCATION OF INCIDENTS

The Location of Incidents was:
New York, New York 10030

To the above-named Defendants:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, and to serve a copy of your answer, or, if the Complaint is not served with this summons, to serve a notice of appearance on the Plaintiffs' attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York). In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
November 23, 2023

**PHILLIPS & ASSOCIATES,
ATTORNEYS AT LAW, PLLC**



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T: (212) 248-7431
F: (212) 901-2107

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

-----X
JOI DICKERSON-NEAL,

Plaintiff,

- against -

SEAN COMBS a/k/a “P. DIDDY,” BAD BOY
ENTERTAINMENT d/b/a BAD BOY RECORDS,
COMBS ENTERPRISES, LLC,

Defendants.
-----X

Index No.:

COMPLAINT

**PLAINTIFF DEMANDS
A TRIAL BY JURY**

Plaintiff JOI DICKERSON-NEAL (“Plaintiff”), by and through her attorneys, PHILLIPS & ASSOCIATES, PLLC, hereby alleges and avers of the Defendants SEAN COMBS a/k/a “P. DIDDY,” BAD BOY ENTERTAINMENT d/b/a BAD BOY RECORDS, COMBS ENTERPRISES, LLC, (collectively “Defendants”), alleges upon information and belief as to all other matters as follows.

NATURE OF THE ACTION

1. Plaintiff brings suit against Defendants to redress the substantial and lifetime injuries she has suffered as a result of being drugged, sexually assaulted and abused, and being the victim of “revenge porn” that Sean Combs or “P. Diddy” created and distributed.
2. Plaintiff complains pursuant to the New York Common Law, N.Y. Soc. Serv. Law § 483-BB(c)(ii), (“New York Services For Victims of Human Trafficking Law”), New York State Civil Rights Law, Chapter 6, Article 5 § 52-B (“the New York State Revenge Porn Law”); N.Y.C. Admin. Code §§ 8-901 *et. seq.*, (“the NYC Gender Motivated Violence Protection Act”); and N.Y.C. Admin Code § 10-180(b)(1) (“the New York City Revenge Porn Law”)

and seeks damages to redress the injuries she has suffered as a result of being sexually harassed, abused, and a victim of revenge porn.

PRELIMINARY STATEMENT

Joi Dickerson was a college student at Syracuse University, pursuing a degree in psychology and filled with hopes for a bright future. While Ms. Dickerson did not come from a family with means, she was raised by a single mother who instilled in her high moral and ethical standards and a strong sense of civic duty. She was whip-smart, beautiful, and aware that her good reputation was an important asset to be safeguarded.

On January 3, 1991, while on school break for the holidays, Ms. Dickerson reluctantly agreed to an early dinner with Sean Combs or “P. Diddy.” They had many friends and acquaintances in common and she had appeared with Combs in a few clips of a music video. After dining at the famous Wells Restaurant in Harlem, “Home of Chicken and Waffles since 1938,” Combs pushed Ms. Wells to keep him company as he attended to a few things in the city.

Getting into Combs’ car that day was something Ms. Dickerson would come to regret forever. During their date, Combs had intentionally drugged Ms. Dickerson, resulting in her being in a physical state where she could not independently stand or walk. Driving first to a music studio where she could not get out of the car, Combs proceeded to a place he was staying to sexually assault her. As was his practice, but unbeknownst to Ms. Dickerson, Combs video recorded the sexual assault. Days later, a male friend revealed to her that he had viewed the “sex tape” along with other men. Horrified, Ms. Dickerson asked how many others saw it, to which he responded, “everyone.”

Ms. Dickerson’s life went into a tailspin. She returned to college, but soon had to be admitted into the hospital for severe depression and suicide ideation. Unable to function, she

dropped out of college. Ms. Dickerson has struggled with her mental health and career progression thereafter. The sexual assault and public exposure of it, caused her to suffer overwhelming feelings of humiliation, embarrassment, violation, and constant apprehension about who all viewed it. As Combs’ success and wealth rose quickly, she tried to block his existence out a she tried to put her life back on track. Still today, Ms. Dickerson continues to work on her emotional health, economic recovery and finishing her college degree. Seeking accountability from Combs under the law is one more step in that journey.

PROCEDURAL REQUIREMENTS

STATE AND CITY CLAIMS REVIVED BY THE ADULT SURVIVORS ACT

- 3. Plaintiff’s state law claims are timely under New York’s Adult Survivors Act (“ASA”), N.Y. C.P.L.R. § 214-j, which, beginning on November 24, 2022, created a one-year lookback window for the survivors of sexual assault that occurred when they were over the age of 18, allowing them to sue their abusers regardless of when the abuse occurred.
- 4. The ASA allows survivors to sue for any “intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against such person who was eighteen years of age or older.” N.Y. C.P.L.R. § 214-j.
- 5. Plaintiff is a woman, who is older than 18, who alleges penal law violations, including but not limited to, N.Y. Penal L. § 130.25, N.Y. Penal L. § 130.35, N.Y. Penal L. § 130.40, N.Y. Penal L. § 130.45, N.Y. Penal L. § 130.50, N.Y. Penal L. § 130.52, N.Y. Penal L. § 130.55, N.Y. Penal L. § 130.60, N.Y. Penal L. § 130.65, N.Y. Penal L. § 130.65-A, N.Y. Penal L. § 130.67, and N.Y. Penal L. § 130.70.

- 6. .
- 7. Courts have found that the ASA revives any civil claims that “arise from conduct that constitutes a sexual offense.” *Wilkie v. Vill. of Hempstead*, 2023 U.S. Dist. LEXIS 106682 (E.D.N.Y. June 20, 2023) (holding that a plaintiff could bring false arrest and false imprisonment claims under the ASA, as “those particular claims arise from conduct that constitutes a sexual offense”).
- 8. Thus, Plaintiff’s claims under the New York Common Law, the New York Services For Victims of Human Trafficking Law, the New York State Revenge Porn Law and the New York City Revenge Porn Law, have been revived under the ASA, as they arise out of conduct that constitute sexual offenses.

THE N.Y.C. VICTIMS OF GENDER MOTIVATED VIOLENCE PROTECTION ACT

- 9. The N.Y.C. Victims of Gender Motivated Violence Protection Act (“NYC Gender Motivated Violence Protection Act”) created a lookback window on March 01, 2023, which runs for two years, for survivors of gender motivated violence, allowing them to sue their abusers regardless of when the abuse occurred. N.Y.C. Admin. Code § 10-1105(a).
- 10. The NYC Gender Motivated Violence Act revives any claims against “a party who commits, directs, enables, participates in, or conspires in the commission of a crime of violence motivated by gender has a cause of action against such party in any court of competent jurisdiction.” N.Y.C. Admin. Code § 10-1104.
- 11. The Appellate Division has held that sexual assault is an act of gender-motivated violence under the law as “Coerced sexual activity is dehumanizing and fear-inducing. Malice or ill will based on gender is apparent from the alleged commission of the act itself. Animus inheres where consent is absent.” *Breest v. Haggis*, 180 A.D.3d 83, 94 (App. Div. 2019).

12. The above-described conduct of Defendant Combs, including, but not limited to, Defendant’s physical and sexual assaults of Plaintiff in New York City, constitutes a “crime of violence” and a “crime of violence motivated by gender” against Plaintiff as defined by the NYC Gender Motivated Violence Act.

PARTIES

DEFENDANT COMBS

- 13. Sean Combs a.k.a. P. Diddy or Puff Daddy or Diddy is a Grammy-awarding musician.
- 14. At all relevant times, Combs was a resident of New York state.
- 15. Prior to the release of Combs’ debut album in 1997, Combs was a prominent member of the New York hip-hop community.
- 16. From 1990-1993, Combs was known for working as a Talent Director at Uptown Records.
- 17. Combs also known for throwing parties that attracted thousands of attendees, including the who’s who of the hip-hop world.
- 18. In 1992, Combs founded Defendant Bad Boy Records.
- 19. In 2008, Combs was the first male rapper to get a star on the Hollywood Walk of Fame.
- 20. In 2022, Forbes estimated that Combs was one of the wealthiest hip-hop artists in America and that his net worth was over \$1 billion.
- 21. Upon information and belief, Combs has a history of committing physical and sexual violence against women as documented in publicly available lawsuits and extensive media coverage.

- 22. On May 08, 2017, Cindy Rueda, Combs' personal chef, filed a suit in Superior Court of the State of California for the County of Los Angeles, alleging that he sexually harassed her.
- 23. In 2019, Gina Hunyh, an ex-girlfriend of Combs, detailed in an interview how he physically abused her.
- 24. On November 16, 2023, Cassie Venture, an artist signed onto Bad Boy Records, filed a suit in the Southern District of New York alleging that Combs forced her to film herself having sexual intercourse with a sex worker.
- 25. Given the extensive media coverage of Combs' abusive treatment of women, Defendants Bad Boy Records, and Combs Enterprise LLC had knowledge and were put on notice of the sexual abuse allegations made against him.

DEFENDANT BAD BOY ENTERTAINMENT

- 26. In 1992, Combs founded Bad Boy Records, a record label which has sold over 500 million records, and where he produced Mary Blige, The Notorious B.I.G., and Usher.
- 27. Bad Boy Entertainment is a domestic limited liability company licensed to do business in New York.

DEFENDANT COMBS ENTERPRISE LLC

- 28. Combs Enterprise LLC is a domestic liability licensed to do business in New York.
- 29. Upon information and belief, Combs Enterprise LLC is the parent company of Bad Boy Entertainment.
- 30. Combs Enterprise LLC is a business conglomerate founded by P. Diddy that does business in the music, entertainment, fashion, spirits, and television industries.

PLAINTIFF

FACTUAL ALLEGATIONS

Introduction

- 31. Plaintiff grew up in New York City and was raised by a single mother.
- 32. In 1987, Plaintiff began attending Syracuse University, as she was inspired to attend after hearing stories about her late father who had attended the university and had died the same year she was born.
- 33. Plaintiff majored in Psychology.
- 34. Plaintiff was a hardworking student who balanced her studies, while also working as a server at Wells Restaurant in Harlem, New York to pay for her education.
- 35. Plaintiff was looking to make a foothold in the music industry, and had worked as a receptionist at AppleOne, a renowned talent agency and as a location scout for Gary Brewer, an industry cameraman.
- 36. Plaintiff also collaborated with Chuck Stone, a film director, on music videos for Grammy-awarding winning artists A Tribe Called Quest and Meselle Ndegocello.

Plaintiff Met Sean Combs And Learned Of His Reputation For Abusing Women

- 37. On repeated occasions, Combs pursued Plaintiff for a romantic or sexual relationship, however, Plaintiff had heard that Combs had a history of treating women badly, and rejected Combs’ advances each time.
- 38. In fact, Sister Soulja, a rapper from the Bronx, pointedly asked Plaintiff why she and Combs had been featured together in the music video for “Straight From The Soul” by Finesse and Synquis.
- 39. Plaintiff understood that Sister Soulja was warning her to stay away from Combs given his infamous reputation.

Plaintiff Reluctantly Agreed To Go On A Date With Combs Who Sexually Assaulted Her

- 40. Finally, on January 3, 1991, during her winter break, Ms. Dickerson reluctantly agreed to meet Combs in New York City.
- 41. Again, wary of being alone with Combs, Plaintiff choose Wells Restaurant in Harlem, NY, which was a familiar environment, as she worked there as a server and knew the employees.
- 42. At Wells, Plaintiff began to feel more comfortable, as her and Combs engaged in conversation over food and drinks.
- 43. Later in the evening, Plaintiff had to utilize the restroom and left her drink unattended.
- 44. Combs indicated he did not want the date to end and asked Plaintiff to join him in doing some errands he had to run around the city.
- 45. While driving with Combs in his car, Combs produced a blunt and asked Plaintiff to take a hit.
- 46. Plaintiff politely declined, but Combs was insistent that Plaintiff should “roll with him” and promised to have her home at a decent time so she could study.
- 47. Feeling pressured, Plaintiff reluctantly took a hit of the blunt.
- 48. From that point on, Plaintiff’s memory is incomplete.
- 49. Plaintiff recalls Combs bringing her to a music studio, and when she attempted to exit the car, her legs felt rubbery and she was unable to stand.
- 50. Plaintiff next recalls being outside of a residence where it seemed Combs was living, except he rang the doorbell.
- 51. A man, who was an acquaintance of both Plaintiff and Combs, answered the door.
- 52. Plaintiff recalls that being odd as she believed, perhaps mistakenly, that it was Combs’

home.

53. While in the home, Combs sexually assaulted Plaintiff.
54. Plaintiff recalls feeling humiliated and hurt, yet she could not escape the assault.
55. Because she had been drugged, Plaintiff lacked the physical ability or mental capacity to fend Combs off.
56. The next day, Plaintiff's vaginal area hurt in a way that she had never experienced from any prior consensual sexual encounters.
57. Feeling confusion, pain, embarrassment, and shame, Plaintiff did not go the hospital or report the assault to the police, and sought refuge in her apartment, avoiding any outside contact.
58. The next day, Plaintiff broke down and tearfully recalled Combs' sexual assault to her best friend.
59. Shortly thereafter, Davante Swing, a member of R&B group Jodeci, told Plaintiff that Combs had filmed himself sexually assaulting Plaintiff and had shown the video to Swing and others while working at the studio.
60. Plaintiff asked Swing who had seen the video, and he replied: "Everyone."
61. Plaintiff was mortified as she learned that Combs had filmed the assault and knew it would haunt her for the rest of her life and career.
62. Swing told Plaintiff that he wanted to speak up against Combs, but he was fearful that the band would lose their record deal.
63. Jodeci was in the midst of recording their studio album *Forever Lady*, for which Combs was doing A&R.

Following Combs' Assault, Plaintiff Suffered An Emotional Breakdown

64. In the coming weeks, Plaintiff did her best to pull herself together so she could return to Syracuse University.
65. Despite this, Plaintiff experienced traumatic flashbacks to the assault, extreme sleeplessness for days on end, social withdrawal, and would recoil at even the most basic physical touch.
66. Plaintiff felt physically unable to leave her dorm at Haven Hall, thus, she was frequently absent from her classes.
67. Plaintiff also had an inability to focus and concentrate, as her mind constantly replayed Combs' assault, leading her grades to plummet.
68. Plaintiff's mother grew so concerned with Plaintiff's sudden downturn in her emotional state and her repeated assertions that she no longer wanted to live, thus, Plaintiff's mother instructed her to go to the Emergency Room.
69. Plaintiff was admitted into a psychiatric unit to treat her emotional trauma and her physicians diagnosed her as experiencing clinical depression.
70. After Plaintiff was discharged, she continued to experience emotional turmoil, as everyday interactions triggered memories of the assault.
71. Plaintiff also became socially isolated as her classmates labeled her "crazy" as they learned of her admission in the psychiatric unit.

Plaintiff Sought Justice Against Combs For Sexually Assaulting Her

72. As Plaintiff began to recover, she desperately sought to hold Combs to account for the crimes he committed against her.
73. Plaintiff's mom told her to contact Pastor Calvin Butts of the Historic Abyssinian Church in Harlem, NY, however, Plaintiff felt too ashamed to speak with Pastor Butts, as she

- worried he would judge her.
74. Plaintiff filed police reports in New York and New Jersey and spoke to several prosecutors hoping to press charges.
 75. Members of law enforcement told Plaintiff that her allegations would need to be corroborated by witnesses and others who had experienced similar assaults.
 76. Plaintiff also approached various friends, acquaintances and colleagues to assist her in locating the revenge porn tape.
 77. Colleagues told Plaintiff that they were terrified that Combs would retaliate against them and that they would lose future business and music opportunities if they made a statement in support of Plaintiff, as Combs' star was on the rise in the 1990's.
 78. Combs had experienced great success with the launch of the career of The Notorious B.I.G. whose hit single Juicy had charted on Billboard.
 79. Some potential witnesses were afraid of Combs' wrath, as he was known to be violent; while others, declined because they feared they would not be invited to his future parties and events.

Combs Tried To Dissuade Plaintiff From Reporting Him

80. Despite her emotional pain, Plaintiff continued to work in the music industry and began working for Stress Management, a DJ Management company that represented DJ Funkmaster Flex and others.
81. At Stress Management, Plaintiff's supervisor was Jessica Rosenblum, who was known for creating Mecca – a party series where many of New York's Hip Hop legends performed.
82. Plaintiff helped promote Rosenbloom's parties and also acted as her personal assistant by

completing any errands she had.

83. One night, Plaintiff was working at one of Rosenblum’s parties when she unfortunately ran into Combs and did her best to avoid talking with him.

84. Despite Plaintiff’s efforts, Combs backed Plaintiff into a corner and inappropriately confronted her in public.

85. Combs dramatically got down on his knees, before insisting that he wanted her to believe him when he said he did not do what she was saying.

86. Rosenbloom noticed Combs’ odd behavior and asked why he was begging her for forgiveness.

87. Plaintiff merely told Rosenblum that Combs had wronged her, as she was afraid of divulging more as Rosenblum often worked with Diddy,

Plaintiff Left The Music Industry As Diddy’s Rise Was Too Painful To Witness

88. After working for Stress Management, Plaintiff began writing music video treatments.

89. However, Plaintiff realized that she could not continue to work in the music industry, as Combs’ star continued to rise and his presence was inescapable.

90. Plaintiff decided to try her hand at screenwriting and ended up moving to California – moving thousands of miles from the location of the assault.

91. Plaintiff had always wanted to work at a record label, but she knew that dream had cratered as Combs continued to garner multi-platinum albums and win Grammy’s.

Plaintiff’s Emotional Trauma Resurges

92. Plaintiff has spent years trying to recover from the emotional trauma she experienced at Combs’ hands.

93. During the COVID-19 pandemic, Plaintiff spent hours rereading her journals and

digitizing them, however, she felt physically ill once she reached the time period in which she met Combs. Plaintiff could not stomach continuing with the project.

94. It was the filing of the lawsuit about his abuse of Cassie Venture on November 16, 2023, that forced her to face his assault again.

95. After reading about the lawsuit, Plaintiff spoke to an ex-boyfriend for the first time in years after reading Ms. Venture’s lawsuit.

96. During their conversation, Plaintiff’s ex recalled how she would become physical ill and recoil every time Combs’ music was played or his name was mentioned.

97. Still hoping for justice, Plaintiff brings this case against Combs now.

98. While many years have passed, Combs’ illegal conduct has cast a shadow over her life.

99. Years later, Plaintiff has continued to see mental health providers who have aided in her recovery and treated her PTSD.

100. Tragically, despite several attempts, Plaintiff has not been able to finish her college degree, as her subconscious associates her studies with the assault.

101. Combs’ conduct forever changed the trajectory of her career, denying her what might have been a lucrative and successful career in the music industry.

102. Plaintiff is confident she can prove her case through at least a dozen witnesses to testify to her severe emotional distress and harm that she experienced after the assault.

CAUSES OF ACTION

AS A FIRST CAUSE OF ACTION

ASSAULT AND BATTERY UNDER THE NEW YORK COMMON LAW

(Against Defendant Combs)

103. Plaintiff repeats, reiterates, and realleges each and every allegation made in the above paragraphs of this complaint as if more fully set forth herein at length.

- 104. In performing the conduct described above, Defendant Combs committed assault and battery against Plaintiff because he intentionally engaged in unlawful, intentional, and offensive touching or application of force to Plaintiff's person. Defendant's actions amount to violations under N.Y. Penal L. § 130.25, N.Y. Penal L. § 130.35, N.Y. Penal L. § 130.40, N.Y. Penal L. § 130.45, N.Y. Penal L. § 130.50, N.Y. Penal L. § 130.52, Y. Penal L. § 130.55, N.Y. Penal L. § 130.60, N.Y. Penal L. § 130.65, N.Y. Penal L. § 130.65-A, N.Y. Penal L. § 130.67, and N.Y. Penal L. § 130.70.
- 105. As a result of Defendant Combs's alleged conduct, Plaintiff has suffered physical injuries, severe emotional distress, humiliation, embarrassment, anxiety, economic harm, and other consequential damages.
- 106. The conduct of Defendant Combs described above was willful, wanton, and malicious. At all relevant times, Combs acted with conscious disregard of Plaintiff's rights and feelings, acted with the knowledge of or with reckless disregard for the fact that his conduct was certain to cause injury and/or humiliation to Plaintiff, and intended to cause fear, physical injury, and/or pain and suffering to Plaintiff. By virtue of the foregoing, Plaintiff is entitled to recover punitive and exemplary damages from Defendant Combs at trial.

AS A SECOND CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
UNDER THE NEW YORK COMMON LAW
(Against Defendants)

- 107. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint.
- 108. Defendant Combs engaged in outrageous conduct by unlawfully administering to Plaintiff a narcotic or intoxicating substance, transporting her, forcing her to engage in sexual intercourse, creating a video recording of the sexual intercourse, and distributing the

recording throughout New York state – without her consent.

- 109. Defendant Combs’ actions were intended to cause harm to Plaintiff or recklessly disregarded the substantial possibility of causing Plaintiff severe emotional distress.
- 110. As a result of Defendant Combs’s alleged conduct, Plaintiff has suffered physical injuries, severe emotional distress, humiliation, embarrassment, anxiety, economic harm, and other consequential damages.

AS A THIRD CAUSE OF ACTION
SEX TRAFFICKING UNDER THE NEW YORK SERVICES FOR VICTIMS OF
HUMAN TRAFFICKING LAW
(Against Defendants)

- 111. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint.
- 112. Plaintiff is a victim of sex trafficking within the meaning of N.Y. Penal Law § 230.34 and is therefore entitled to bring a civil action under N.Y. Soc. Serv. Law § 483-BB(c)(ii).
- 113. Defendants unlawfully administered to Plaintiff a narcotic or intoxicating substance in New York state, transported her, forced her to engage in sexual intercourse, and made a video recording of the “revenge porn” which he distributed throughout New York state – all without her consent.
- 114. As a direct and proximate result of Defendants’ unlawful conduct as alleged hereinabove, Plaintiff has suffered physical injury, severe emotional distress and anxiety, humiliation, embarrassment, post-traumatic stress disorder, emotional harm, and other consequential damages.
- 115. Plaintiff seeks reasonable attorney’s fees and litigation costs including, but not limited to, expert witness fees and expenses, as provided by N.Y. Soc. Serv. § 483-bb.

AS A THIRD CAUSE OF ACTION

NEW YORK STATE REVENGE PORN LAW
(Against Defendants)

- 116. Plaintiff repeats, reiterates, and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.
- 117. New York State Civil Rights Law, Chapter 6, Article 5 § 52-B, New York’s law against revenge porn, provides in pertinent part that:

Any person depicted in a still or video image, regardless of whether or not the original still or video image was consensually obtained, shall have a cause of action against an individual who, for the purpose of harassing, annoying or alarming such person, disseminated or published, or threatened to disseminate or publish, such still or video image, where such image: a. was taken when such person had a reasonable expectation that the image would remain private; and b. depicts (i) an unclothed or exposed intimate part of such person; or (ii) such person engaging in sexual conduct, as defined in subdivision ten of section 130.00 of the penal law, with another person; and c. was disseminated or published, or threatened to be disseminated or published, without the consent of such person.

- 118. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint.
- 119. Plaintiff was depicted in a video image in which Combs engaged in sexual contact with her as defined under the New York Penal Law and/or in which Plaintiff’s body was unclothed or her intimate parts were exposed.
- 120. Plaintiff did not consent to the depiction, as she was mentally incapacitated, as Plaintiff was rendered temporarily incapable of consenting to sexual contact, as Defendant Combs administered to her a narcotic or intoxicating substance without her consent.
- 121. Additionally, Plaintiff was mentally incapacitated, as Plaintiff was rendered temporarily incapable of consenting to being featured in an intimate visual depiction, as Defendant

Combs administered to her a narcotic or intoxicating substance without her consent.

- 122. As Combs administered to Plaintiff a narcotic or intoxicating substance without her consent, Combs knowingly, willfully, and/or recklessly disregarded that Plaintiff did not consent to the intimate visual depiction.
- 123. Combs disseminated or published the video without Plaintiff’s consent, in order to harass, annoy, or alarm Plaintiff.
- 124. Combs disseminated or published the video without Plaintiff’s consent to her colleagues, in order to cause her economic, physical or substantial emotional harm.
- 125. Plaintiff would be identifiable to others from the intimate images or from the circumstances in which Combs disclosed the images to colleagues of Plaintiff.
- 126. Under New York State Civil Rights Law, Chapter 6, Article 5 § 52-B, Plaintiff is entitled to an award of compensatory and punitive damages, injunctive and declaratory relief, attorneys fees, reasonable court costs, and other remedies as this Court may deem appropriate damages.

AS A FOURTH CAUSE OF ACTION
THE NYC VICTIMS OF GENDER-MOTIVATED VIOLENCE PROTECTION ACT
(Against Defendants)

- 127. Plaintiff repeats, reiterates, and realleges each and every allegation made in the above paragraphs of this complaint as if more fully set forth herein at length.
- 128. The above-described conduct of Defendant Combs, including, but not limited to, Defendant Combs’ physical and sexual assaults of Plaintiff in New York City, constitutes a “crime of violence” against Plaintiff and is a “crime of violence motivated by gender” as defined in N.Y. C. Admin Code § 10-1103.
- 129. Defendant Combs’s crimes of violence were motivated by Plaintiff’s gender as defined in the New York City Administrative in the New York City Administrative Code § 8-903, as

Defendant Combs committed forcible sex acts upon Plaintiff.

- 130. The above-described conduct of Defendant Combs constitutes sexual offenses as defined in Article 130 of the New York Penal Law.
- 131. Upon information and belief, Defendant Combs’ acts of physical assault illustrate that he is a misogynist who took pleasure in hurting women and thus his assaults were gender motivated.
- 132. Furthermore, Defendants Bad Boy Entertainment, Bad Boy Records, Combs Enterprises, LLC, enabled Defendant Combs’ commission of the crimes of violence motivated by gender, and thus, are liable under the NYC Victims of Gender-Motivated Protection Act. Despite the fact that it was an “open secret” that Combs abused women, they continued to employ him.
- 133. As a direct and proximate result of the aforementioned crime of violence and gender-motivated violence, Plaintiff has sustained and will continue to sustain, monetary damages, physical injury, pain and suffering, and serious psychological and emotional distress, entitling her to an award of compensatory and punitive damages, injunctive and declaratory relief, attorneys fees and costs, and other remedies as this Court may deem appropriate damages, as set forth in § 10-1104.

AS A FIFTH CAUSE OF ACTION
NEW YORK CITY REVENGE PORN LAW
(Against Defendants)

- 134. Plaintiff repeats, reiterates, and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.
- 135. N.Y.C. Admin Code § 10-180(b)(1) New York City’s law against revenge porn, provides in pertinent part that:

“It is unlawful for a covered recipient to disclose an intimate image, without the depicted individual's consent, with the intent to cause economic, physical or substantial emotional harm to such depicted individual, where such depicted individual is or would be identifiable to another individual either from the intimate image or from the circumstances under which such image is disclosed.”

- 136. Pursuant to N.Y.C. Admin Code § 10-180(d), Plaintiff brings a civil cause of action for violations for the above reference law.
- 137. Plaintiff was depicted in a video image in which Combs engaged in sexual contact with her as defined under the New York Penal Law and/or in which Plaintiff’s body was unclothed or her inmate parts were exposed.
- 138. Plaintiff did not consent to the depiction, as she was mentally incapacitated, as Plaintiff was rendered temporarily incapable of consenting to sexual contact, as Defendant Combs administered to her a narcotic or intoxicating substance t without her consent.
- 139. Additionally, Plaintiff was mentally incapacitated, as Plaintiff was rendered temporarily incapable of consenting to being featured in an intimate visual depiction, as Defendant Combs administered to her a narcotic or intoxicating substance without her consent.
- 140. As Combs administered to Plaintiff a narcotic or intoxicating substance without her consent, Combs knowingly, willfully, and/or recklessly disregarded that Plaintiff did not consent to the intimate visual depiction.
- 141. Combs disseminated or published the video without Plaintiff’s consent, in order to harass, annoy, or alarm Plaintiff after she refused his sexual advances.
- 142. Combs disseminated or published the video without Plaintiff’s consent to her colleagues, in order to cause her economic, physical or substantial emotional harm.
- 143. Plaintiff would be identifiable to others from the intimate images or from the circumstances

in which Combs disclosed the images to colleagues of Plaintiff.

144. As a direct and proximate result of the aforementioned actions, Plaintiff has sustained and will continue to sustain, monetary damages, physical injury, pain and suffering, and serious psychological and emotional distress.

145. Under New York State Civil Rights Law, Chapter 6, Article 5 § 52-B, Plaintiff is entitled to an award of compensatory and punitive damages, injunctive and declaratory relief, attorneys fees, reasonable court costs, and other remedies as this Court may deem appropriate damages.

JURY DEMAND

146. Plaintiff demands a trial by jury of all issues.

PRAYER FOR RELIEF


WHEREFORE, Plaintiff respectfully requests a judgment against the Defendants:

- A. Declaring that Defendants engaged in unlawful practices prohibited by the New York Common Law, the New York Services For Victims of Human Trafficking Law, New York State Revenge Porn Law, the New York City Victims of Gender-Motivated Violence Protection Act, and the New York City Revenge Porn Law, in that Defendant Combs sexually assaulted Plaintiff and that Defendants engaged in the unlawful distribution of intimate visual depictions a.k.a. “revenge porn” without consent.
- B. Awarding Plaintiff compensatory damages for mental, and emotional injury, distress, pain and suffering and injury to her reputation in an amount to be proven;
- C. Awarding Plaintiff damages for Defendants’ breach of contract.
- D. Awarding Plaintiff punitive damages;
- E. Awarding Plaintiff attorneys’ fees, costs, and expenses incurred in the prosecution of the action; and

F. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy Defendants' unlawful practices.

Dated: New York, New York
November 23, 2023

**PHILLIPS & ASSOCIATES,
Attorneys at Law, PLLC**

By: 

Michelle A. Caiola, Esq.
Jonathan Goldhirsch, Esq.
Attorneys for Plaintiff
45 Broadway, Suite 430
New York, New York 10006
T: (212) 248-7431
F: (212) 901 - 2107
mcaiola@tpglaws.com
jgoldhirsch@tpglaws.com

EXHIBIT B

Department of State Division of Corporations

Entity Information

[Return to Results](#)

[Return to Search](#)

Entity Details

ENTITY NAME: BAD BOY ENTERTAINMENT HOLDINGS, INC.

DOS ID: 1642713

FOREIGN LEGAL NAME:

FICTITIOUS NAME:

ENTITY TYPE: DOMESTIC BUSINESS CORPORATION

DURATION DATE/LATEST DATE OF DISSOLUTION:

SECTION OF LAW: 402 BCL - BUSINESS CORPORATION LAW

ENTITY STATUS: ACTIVE

DATE OF INITIAL DOS FILING: 06/09/1992

REASON FOR STATUS:

EFFECTIVE DATE INITIAL FILING: 06/09/1992

INACTIVE DATE:

FOREIGN FORMATION DATE:

STATEMENT STATUS: CURRENT

COUNTY: NASSAU

NEXT STATEMENT DUE DATE: 06/30/2024

JURISDICTION: NEW YORK, UNITED STATES

NFP CATEGORY:

[ENTITY DISPLAY](#)

[NAME HISTORY](#)

[FILING HISTORY](#)

[MERGER HISTORY](#)

[ASSUMED NAME HISTORY](#)

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: C/O CORPORATION SERVICE COMPANY

Address: 80 STATE STREET, ALBANY, NY, UNITED STATES, 12207

Electronic Service of Process on the Secretary of State as agent: Not Permitted

Chief Executive Officer's Name and Address

Name: SEAN COMBS

Address: 1440 BROADWAY, NEW YORK, NY, UNITED STATES, 10018

Principal Executive Office Address

Address: 1440 BROADWAY, 3RD FLOOR, NEW YORK, NY, UNITED STATES, 10018

Registered Agent Name and Address

Name: CORPORATION SERVICE COMPANY

Address: 80 STATE STREET, ALBANY, NY, 12207 - 2543

Entity Primary Location Name and Address

Name:

Address:

Farmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share
NO PAR VALUE	200	\$0.00000

EXHIBIT C

Department of State Division of Corporations

Entity Information

[Return to Results](#)

[Return to Search](#)

Entity Details

ENTITY NAME: COMBS ENTERPRISES LLC

FOREIGN LEGAL NAME:

ENTITY TYPE: DOMESTIC LIMITED LIABILITY COMPANY

SECTION OF LAW: 203 LLC - LIMITED LIABILITY COMPANY LAW

DATE OF INITIAL DOS FILING: 11/17/2004

EFFECTIVE DATE INITIAL FILING: 11/17/2004

FOREIGN FORMATION DATE:

COUNTY: SUFFOLK

JURISDICTION: NEW YORK, UNITED STATES

DOS ID: 3127071

FICTITIOUS NAME:

DURATION DATE/LATEST DATE OF DISSOLUTION:

ENTITY STATUS: ACTIVE

REASON FOR STATUS:

INACTIVE DATE:

STATEMENT STATUS: CURRENT

NEXT STATEMENT DUE DATE: 11/30/2026

NFP CATEGORY:

[ENTITY DISPLAY](#)

[NAME HISTORY](#)

[FILING HISTORY](#)

[MERGER HISTORY](#)

[ASSUMED NAME HISTORY](#)

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: CE TRADEMARK LLC

Address: 1001 WILSHIRE BLVD , 1073, LOS ANGELES, CA, UNITED STATES, 90017

Electronic Service of Process on the Secretary of State as agent: Not Permitted

Chief Executive Officer's Name and Address

Name:

Address:

Principal Executive Office Address

Address:

Registered Agent Name and Address

Name: TIMOTHY COMBS

Address: 197 MAIN STREET, SAYVILLE, NY, 11783

Entity Primary Location Name and Address

Name:

Address:

Farmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share
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EXHIBIT D

MEMO ENDORSED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT COURT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/26/24

JEANNE BELLINO,

Plaintiff,

-against-

STEVEN VICTOR TALLARICO a/k/a STEVEN
TYLER, an individual; and DOES 1 -DOE 50,
whose identities are unknown to Plaintiff,

Defendants.

Case No. 1:24-cv-00712-LAK

**NOTICE OF MOTION TO
AMEND COMPLAINT**

ORAL ARGUMENT REQUESTED

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiff hereby moves the Court for leave to file an amended complaint. In support of this Motion, Plaintiff relies upon the accompanying Memorandum of Law, dated March 13, 2024, and the exhibits annexed thereto; together with all of the prior pleadings and proceedings in this action.

Dated: March 13, 2024

Respectfully submitted,

/s/ Nahid A. Shaikh

Jeffrey R. Anderson
Nahid A. Shaikh
JEFF ANDERSON & ASSOCIATES, P.A.
363 7th Ave., 12th Floor
New York, NY 10001
Telephone: (646) 759-2551
Email: *Jeff@AndersonAdvocates.com*
Email: *Nahid@AndersonAdvocates.com*

Counsel for Plaintiff

Memorandum EndorsementBellino v. Tallarico, 24-cv-0712 (LAK)

Plaintiff purports to bring this action under New York City's Victims of Gender-Motivated Violence Protection Act ("VGMVPA"), N.Y.C. Ad. Code, title 11, §§ 10-1101 *et seq.*, to recover damages allegedly sustained by a crime of violence motivated by gender that she claims was committed in approximately 1975 when she was approximately 17 years of age. The matter is before the Court on plaintiff's motion for leave to file an amended complaint. (Dkt 15)

The VGMVPA was enacted by the New York City Council and became effective on December 19, 2000. N.Y.C., N.Y., Local Law No. 73 Int. 752-A (2000). Among other things, it created a cause of action for damages sustained in consequence of crimes of violence motivated by gender. A "crime of violence" was defined in relevant part as "an act or series of acts that would constitute a misdemeanor or felony against the person as defined in state or federal law . . . if the conduct presents a serious risk of physical injury to another, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction." *Id.* at § 8-903(a). And the VGMVPA required also that any action to recover under its provisions "be commenced within seven years after the alleged crime of violence motivated by gender occurred" with exceptions not relevant here in view of the fact that plaintiff reached adulthood decades ago and alleges no disability that impaired her ability to bring suit when she did so. *Id.* at § 8-905(a).

The Court assumes for purposes of this motion – albeit without deciding – that the amended complaint sufficiently alleges that the defendant, in or about 1975, committed a "crime of violence" motivated by gender within the meaning of the VGMVPA. As the VGMVPA was not enacted until approximately 25 years after the alleged crime of violence occurred and does not even purport to be retroactive, the proposed amended complaint would fail to state a legally sufficient claim under that statute even on the Court's assumptions.

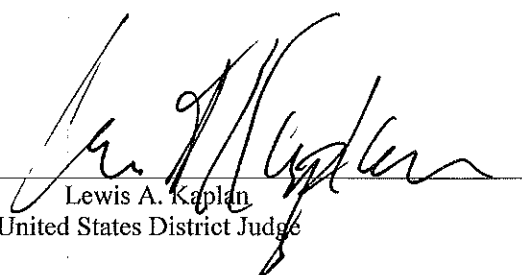
Despite the fact that plaintiff premises the proposed amended complaint exclusively on the VGMVPA, the Court recognizes that the facts pleaded at least arguably would have given rise in or about 1975 to a claim for battery. But plaintiff had not then reached an age sufficient to bring suit. The toll by reason of plaintiff's age-based disability would have ended at her eighteenth birthday – in or about 1976. N.Y. CPLR §§ 208, 105(j). The statute of limitations for battery is one year. *Id.* at § 215(3). Accordingly, it would have expired on plaintiff's nineteenth birthday, which was decades ago.

Plaintiff has not contended that her claim is timely on any basis save the VGMVPA. Nevertheless, the Court has considered whether plaintiff's battery claim was revived under either of two potentially relevant state statutes that revived for limited periods certain previously time-barred claims based on sexual offenses, the Adult Survivors Act (the "ASA") and the Child Victims Act (the "CVA"). *Id.* at §§ 214-j, 214-g. But the revival provision of the ASA could not apply here at least because it applies only to harm caused by offenses against persons who were at least eighteen years of age at the time of those offenses. *Id.* at § 214-j. Nor could the analogous provision of the CVA, at least because the revival period thereunder applies only to actions commenced no later than two years and six months after its effective date, which was February 14, 2019. *Id.* at § 214-g. This action was commenced on November 2, 2023, more than four years after the effective date of the CVA.

Accordingly, the motion for leave to amend is denied on the ground of futility. As no other amendment that would save any claim for plaintiff has been suggested or appears, the action is dismissed with prejudice. The Clerk shall close the case.

SO ORDERED.

Dated: April 26, 2024


Lewis A. Kaplan
United States District Judge

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----	X
JOI DICKERSON-NEAL,	: Index No. 952341/2023
	:
Plaintiff,	: <u>NOTICE OF MOTION</u>
	:
-against-	: ORAL ARGUMENT
	: REQUESTED
	:
SEAN COMBS a/k/a “P. DIDDY,” BAD BOY	:
ENTERTAINMENT d/b/a BAD BOY RECORDS,	:
COMBS ENTERPRISES, LLC,	:
	:
Defendants.	:
	:
-----	X

PLEASE TAKE NOTICE that, upon the Affirmation of Jonathan D. Davis, sworn to on April 26, 2024, with exhibits, and the accompanying memorandum of law, and upon all prior proceedings had herein, Defendants Sean Combs (“Mr. Combs”), Bad Boy Entertainment Holdings, Inc. f/k/a Bad Boy Entertainment, Inc. (“BBE”), and Combs Enterprises, LLC (together with BBE, the “Company Defendants”), will move the Motion Submission Part of the Supreme Court of the State of New York, at 60 Centre Street, Room 130, New York, New York 10007, on Wednesday, June 12, 2024, at 9:30 a.m., or as soon thereafter as counsel may be heard, for an order, pursuant to CPLR 3211(a)(1) and (a)(7): (a) dismissing, with prejudice, the Third, Fourth, Fifth, and Sixth Causes of Action against Mr. Combs; (b) dismissing, with prejudice, the Second, Third, Fourth, Fifth, and Sixth Causes of Action against the Company Defendants; and (c) granting such other and further relief as this Court deems just and proper.¹

¹ The Complaint, dated November 23, 2023 [NYSCEF Doc. No. 1] (the “Complaint”) mistakenly references two claims as the “Third Cause of Action.” The Causes of Action are referred to in the order they appear in the Complaint.

PLEASE TAKE FURTHER NOTICE that, by the parties' agreement, answering papers, if any, will be served and filed by no later than Monday, May 27, 2024, and reply papers, if any, will be served and filed by no later than Tuesday, June 11, 2024.

PLEASE TAKE FURTHER NOTICE that Defendants request oral argument.

Dated: April 26, 2024
New York, New York

JONATHAN D. DAVIS, P.C.

By: /s/ Jonathan D. Davis
Jonathan D. Davis
Alyssa M. Pronley
Anthony C. LoMonaco
1 Rockefeller Plaza
Suite 1712
New York, New York 10020
(212) 687-5464

*Attorneys for Defendants Sean Combs, Bad
Boy Entertainment Holdings, Inc. f/k/a Bad
Boy Entertainment, Inc., and Combs
Enterprises, LLC*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOI DICKERSON-NEAL,

Plaintiff,

-against-

SEAN COMBS a/k/a "P. DIDDY," BAD BOY
ENTERTAINMENT d/b/a BAD BOY RECORDS,
COMBS ENTERPRISES, LLC,

Defendants.
-----X

: Index No. 952341/2023
:
: **AFFIRMATION OF JONATHAN**
: **D. DAVIS IN SUPPORT OF**
: **DEFENDANTS' PARTIAL MOTION**
: **TO DISMISS THE COMPLAINT**

JONATHAN D. DAVIS, an attorney duly admitted to practice law before the courts of the State of New York, and not a party to this action, hereby affirms the following under penalty of perjury:

1. I am the sole shareholder of Jonathan D. Davis, P.C., counsel for Defendants Sean Combs ("Mr. Combs"), Bad Boy Entertainment Holdings, Inc. f/k/a Bad Boy Entertainment, Inc. ("BBE"), and Combs Enterprises, LLC (together with BBE, the "Company Defendants"), in the above-captioned action. I have personal knowledge of the facts and circumstances set forth herein.

2. I submit this affirmation in support of Defendants' motion, pursuant to CPLR 3211(a)(1) and (a)(7), for an order: (a) dismissing, with prejudice, the Third, Fourth, Fifth, and Sixth Causes of Action against Mr. Combs; (b) dismissing, with prejudice, the Second, Third, Fourth, Fifth, and Sixth Causes of Action against the Company Defendants; and (c) granting such other and further relief as this Court deems just and proper.¹

3. Attached as Exhibit A is a true and correct copy of the Complaint.

¹ The Complaint, dated November 23, 2023 [NYSCEF Doc. No. 1] (the "Complaint") mistakenly references two claims as the "Third Cause of Action." The Causes of Action are referred to in the order they appear in the Complaint.

4. Attached as Exhibit B is a true and correct copy of the “Entity Information” for Bad Boy Entertainment, Inc. n/k/a Bad Boy Entertainment Holdings, Inc. appearing on the official website of the New York Department of State, Divisions of Corporations.

5. Attached as Exhibit C is a true and correct copy of the “Entity Information” of Combs Enterprises, LLC appearing on the official website of the New York Department of State, Division of Corporations.

6. Attached as Exhibit D is a true and correct copy of the Memorandum Endorsement, dated April 26, 2024, issued by the court in *Bellino v. Tallarico*, 24-cv-0712 (LAK) (S.D.N.Y.) at Docket No. 28.

Dated: April 26, 2024
New York, New York

/s/ Jonathan D. Davis
JONATHAN D. DAVIS

REQUEST FOR JUDICIAL INTERVENTION

NYSCER 100, 01

UCS-840 (7/2012)

For Court Clerk Use Only RECEIVED BY CLERK 04/26/2024

IAS Entry Date

Supreme COURT, COUNTY OF New York

Index No: 952341/2023 Date Index Issued: 11/23/2023

Judge Assigned

CAPTION: Enter the complete case caption. Do not use et al or et ano. If more space is required, attach a caption rider sheet.

RJI Date

JOI DICKERSON-NEAL,

Plaintiff(s)/Petitioner(s)

-against-

SEAN COMBS a/k/a "P. DIDDY," BAD BOY ENTERTAINMENT d/b/a BAD BOY RECORDS, COMBS ENTERPRISES, LLC,

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING: Check ONE box only and specify where indicated.

MATRIMONIAL

Contested

NOTE: For all Matrimonial actions where the parties have children under the age of 18, complete and attach the **MATRIMONIAL RJI Addendum**. For Uncontested Matrimonial actions, use RJI form UD-13.

TORTS

Asbestos

Breast Implant

Environmental: _____ (specify)

Medical, Dental, or Podiatric Malpractice

Motor Vehicle

Products Liability: _____ (specify)

Other Negligence: _____ (specify)

Other Professional Malpractice: _____ (specify)

Other Tort: Adult Survivors Act _____ (specify)

OTHER MATTERS

Certificate of Incorporation/Dissolution [see NOTE under Commercial]

Emergency Medical Treatment

Habeas Corpus

Local Court Appeal

Mechanic's Lien

Name Change

Pistol Permit Revocation Hearing

Sale or Finance of Religious/Not-for-Profit Property

Other: _____ (specify)

COMMERCIAL

Business Entity (including corporations, partnerships, LLCs, etc.)

Contract

Insurance (where insurer is a party, except arbitration)

UCC (including sales, negotiable instruments)

Other Commercial: _____ (specify)

NOTE: For Commercial Division assignment requests [22 NYCRR § 202.70(d)], complete and attach the **COMMERCIAL DIV RJI Addendum**.

REAL PROPERTY: How many properties does the application include? _____

Condemnation

Mortgage Foreclosure (specify): Residential Commercial

Property Address: _____
Street Address City State Zip

NOTE: For Mortgage Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the **FORECLOSURE RJI Addendum**.

Tax Certiorari - Section: _____ Block: _____ Lot: _____

Tax Foreclosure

Other Real Property: _____ (specify)

SPECIAL PROCEEDINGS

CPLR Article 75 (Arbitration) [see NOTE under Commercial]

CPLR Article 78 (Body or Officer)

Election Law

MHL Article 9.60 (Kendra's Law)

MHL Article 10 (Sex Offender Confinement-Initial)

MHL Article 10 (Sex Offender Confinement-Review)

MHL Article 81 (Guardianship)

Other Mental Hygiene: _____ (specify)

Other Special Proceeding: _____ (specify)

STATUS OF ACTION OR PROCEEDING: Answer YES or NO for EVERY question AND enter additional information where indicated.

Has a summons and complaint or summons w/notice been filed?

YES NO

If yes, date filed: 11/23/2023

Has a summons and complaint or summons w/notice been served?

If yes, date served: 12/12/2023

Is this action/proceeding being filed post-judgment?

If yes, judgment date: _____

NATURE OF JUDICIAL INTERVENTION: Check ONE box only AND enter additional information where indicated. RECEIVED BY: NYSCEF: 04/26/2024

- Infant's Compromise
- Note of Issue and/or Certificate of Readiness
- Notice of Medical, Dental, or Podiatric Malpractice Date Issue Joined: _____
- Notice of Motion Relief Sought: Dismiss _____ Return Date: 06/12/2024
- Notice of Petition Relief Sought: _____ Return Date: _____
- Order to Show Cause Relief Sought: _____ Return Date: _____
- Other Ex Parte Application Relief Sought: _____
- Poor Person Application
- Request for Preliminary Conference
- Residential Mortgage Foreclosure Settlement Conference
- Writ of Habeas Corpus
- Other (specify): _____

RELATED CASES: List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases. If additional space is required, complete and attach the **RJI Addendum**. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case

PARTIES: For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in space provided. If additional space is required, complete and attach the **RJI Addendum**.

Un-Rep	Parties:	Attorneys and/or Unrepresented Litigants:	Issue Joined (Y/N):	Insurance Carrier(s):
<input type="checkbox"/>	Dickerson-Neal Last Name Joi First Name Primary Role: Plaintiff Secondary Role (if any):	Caiola Last Name Michelle First Name Phillips & Associates Firm Name 45 Broadway, Suite 430 Street Address New York City New York 10006 State Zip +1 (212) 248-7431 Phone Fax mcaiola@tpglaws.com e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	
<input type="checkbox"/>	Combs Last Name Sean First Name Primary Role: Defendant Secondary Role (if any):	Davis Last Name Jonathan First Name Jonathan D. Davis, P.C. Firm Name 1 Rockefeller Plaza, Suite 1712 Street Address New York City New York 10020 State Zip +1 (212) 687-5464 Phone Fax jdd@jddavispc.com e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	
<input type="checkbox"/>	Bad Boy Entertainment Holdings, Inc. Last Name f/k/a Bad Boy Entertainment, Inc. First Name Primary Role: Secondary Role (if any):	Davis Last Name Jonathan First Name Jonathan D. Davis, P.C. Firm Name 1 Rockefeller Plaza, Suite 1712 Street Address New York City New York 10020 State Zip +1 (212) 687-5464 Phone Fax jdd@jddavispc.com e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	
<input type="checkbox"/>	Combs Enterprises, LLC Last Name Defendant Secondary Role (if any):	Davis Last Name Jonathan First Name Jonathan D. Davis, P.C. Firm Name 1 Rockefeller Plaza, Suite 1712 Street Address New York City New York 10020 State Zip +1 (212) 687-5464 Phone Fax jdd@jddavispc.com e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 04/26/2024

/s/ Jonathan D. Davis

1840321

ATTORNEY REGISTRATION NUMBER

SIGNATURE

Jonathan D. Davis

PRINT OR TYPE NAME