**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

LYNN IANNI, Ph.D., MFT,

Plaintiff,

v.

COURTROOM TELEVISION NETWORK LLC; THE SMOKING GUN; ANDREW GOLDBERG; WILLIAM BASTONE; VIACOM INTERNATIONAL INC; MTV NETWORKS; VH1; PATRICIA A. FARRELL; and DOES 1 through 50, Inclusive.

Defendants.

NO. CV 05-4633 GPS (SSx)

**ORDER GRANTING DEFENDANT COURTROOM TELEVISION NETWORK LLC, THE SMOKING GUN, ANDREW GOLDBERG, AND WILLIAM BASTONE'S SPECIAL MOTION TO STRIKE [DOC. # 28]; GRANTING DEFENDANTS VIACOM INTERNATIONAL INC., MTV NETWORKS, AND VH1'S SPECIAL MOTION TO STRIKE [DOC # 21]; GRANTING DEFENDANT PATRICIA A. FARRELL'S SPECIAL MOTION TO STRIKE**

---

This is a defamation action arising from an article published by The Smoking Gun website and a subsequent VH1 News Report. Before the Court are three Motions to Strike Plaintiff's Complaint pursuant to California Code of Civil Procedure section 425.16. Having considered the parties' submissions and the arguments of counsel, the Court hereby **GRANTS** Defendants' Motions and dismisses this action with prejudice.

## I. BACKGROUND

Plaintiff Lynn Ianni, Ph.D., MFT ("Plaintiff") is a licensed Marriage and Family Therapist who has conducted an active psychotherapy practice since 1996. In 1998, Plaintiff received a Ph.D. degree in clinical psychology from California Coast University ("CCU"). Thereafter, Plaintiff gained substantial notoriety resulting from her appearances as an on-air therapist for Fox Television's popular, but controversial, make-over show called "The Swan." (Complaint ¶¶ 2, 4.) The show featured so-called "ugly duckling" women who underwent, among other things, extensive plastic surgery, "life-coaching" and psychotherapy sessions. Each season of "The Swan" culminated in a beauty pageant in which the women competed to be crowned "The Ultimate Swan." The show debuted in April 2004 and ran for two months. Its second season ran from October 2004 to December 2004.

At about this same time, the U.S. General Accounting Office ("GAO"), at the request of the U.S. Senate Committee on Governmental Affairs ("Committee"), conducted an eight-month investigation into whether the federal government paid for degrees for federal employees from "diploma mills" and other unaccredited post-secondary schools. On May 11, 2004, the GAO presented its finding to the Committee in a prepared statement entitled: "Diploma Mills: Federal Employees Have Obtained Degrees from Diploma Mills and Other Unaccredited Schools, Some at Government Expense." The GAO report focused on four schools, one of which was CCU.

On May 14, 2004, The Smoking Gun, a popular Internet news website, reported that Congressional investigators had characterized Plaintiff's school as a "diploma mill."[1] The Smoking Gun article stated, in part: "The Los Angeles doctor [Plaintiff] Fox Television has tabbed to provide 'psychological counseling' to contestants on 'The Swan,' its controversial plastic surgery make over show, received her Ph.D. from a California correspondence school that was described this week as an unaccredited 'diploma mill' by Congressional investigators...." The article, citing the

---

[1] The Smoking Gun is owned by Defendant Courtroom Television Network, LLC. Defendants Andrew Goldberg ("Goldberg") and William Bastone ("Bastone") are associated with Courtroom Television. The Court, therefore, will refer to these defendants collectively as the "Courtroom TV Defendants."

GAO report, explains that California Coast University, the institution from which Plaintiff obtained her Ph.D., offers degree programs that "'have not been designed to meet any particular local, state, or national licensing or credentialing laws,' according to a 2003-04 school catalog." The article goes on to state that "[t]herapist Lynn Ianni, it turns out, is not a doctor, she just plays one on TV." Plaintiff avers that this article is false and defamatory inasmuch as the article is of and concerning her and directed at injuring her profession and occupation. (Compl. ¶ 11.)

VH1 subsequently decided to include a segment about Plaintiff and "The Swan" in the television program entitled "VH1 News Presents: Reality Television Secrets Revealed II."[2] (*Id.* ¶ 14.) This segment contains an interview of Defendant Goldberg, who is identified as being associated with The Smoking Gun. (*Id.*) According to Plaintiff, Goldberg recites many of the same statements set forth in The Smoking Gun article, including the claim that Plaintiff obtained her degree from a "diploma mill." (*Id.*) A picture of The Smoking Gun article is displayed during the VH1 News Report segment and the narrator refers to Plaintiff as "not only not a doctor, but as a 'fake therapist.'" (*Id.*)

Defendant Patricia Farrell ("Farrell") also appears on the VH1 segment and identifies herself as "Dr. Patricia A. Farrell, clinical psychologist." (*Id.* ¶ 14.) Farrell then states the following opinion: "When I hear about people presenting themselves as something they are not, I think that is something totally unacceptable." Plaintiff asserts that the VH1 program not only re-publishes the defamatory statements contained in The Smoking Gun article but also includes additional false and defamatory statements. (*Id.* ¶ 15.)

The Courtroom TV Defendants, VH1 Defendants, and Defendant Farrell have each moved to strike the Complaint pursuant to California Code of Civil Procedure section 425.16 on the grounds that the action is aimed at suppressing free speech.

---

[2] Defendants Viacom International, Inc., MTV Networks and VH1 are collectively referred to as the "VH1 Defendants."

## II. LEGAL STANDARD

A special motion to strike under California Code of Civil Procedure section 425.16, commonly referred to as the anti-SLAPP statute, allows a defendant to gain early dismissal of a lawsuit that qualifies as a SLAPP. A SLAPP suit arises "from any act of [a] person in furtherance of the person's right of petition or free speech under the United States or California Constitution in connection with a public issue." Section 425.16 (b)(1). It is subject to a special motion to strike, "unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim." § 425.16(b)(1).

The Court's determination of the motions to strike under section 425.16 involves a two-step process. "First, the court decides whether the defendant has made a threshold showing that the challenged cause of action is one 'arising from' protected activity. (§ 425.16, subd. (b)(1).) If the court finds such a showing has been made, it then must consider whether the plaintiff has demonstrated a probability of prevailing on the claim." *City of Cotati v. Cashman*, 29 Cal.4th 69, 76 (2002). Thus, "the burden then shifts to the plaintiff to establish by a 'reasonable probability' that he or she will prevail on the claim...." *eCash Techs., Inc. v. Guagliardo*, 210 F.Supp.2d 1138, 1144 (C.D. Cal. 2001) (quoting *Wilcox v. Superior Court*, 27 Cal.App.4th 809, 824-25, 33 (1994)).

A plaintiff can demonstrate the probability of success required by this statute if he/she submits sufficient pleadings and affidavits that state facts upon which liability is based. *Equilon Enterprises v. Consumer Cause, Inc.*, 29 Cal. 4th 53, 67 (2002). The purpose of this section is to dismiss baseless lawsuits aimed at deterring the exercise of political or legal rights. The procedure set forth in section 425.16 applies to state law claims filed in federal court under diversity jurisdiction. *United States ex rel. Newsham v. Lockheed Missiles & Space Co., Inc.*, 190 F.3d 963, 972 (9th Cir. 1999).

"Only a cause of action that satisfies both prongs of the anti-SLAPP statute–i.e., that arises from protected speech or petitioning *and* lacks even minimal merit--is a SLAPP, subject to being stricken under the statute." *Navellier v. Sletten*, 29 Cal.4th 82, 89 (2002) (emphasis in original).

The Ninth Circuit has explained that a motion to strike under California Civil Procedure Code section 425.16 is "akin to a motion to dismiss." *Lockheed Missiles & Space Co.*, 190 F.3d at 970.

## III. DISCUSSION

### A. The Applicability of Section 425.16

As a threshold matter, the Court determines whether the challenged claim for relief arises from a protected activity as defined by section 425.16, that is, whether acts underlying Plaintiff's claim for relief fall within one of four categories of conduct described in section 425.16. The four categories are: "(1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law; (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law; (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest; (4) or any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest." Cal. Code Civ. Proc. § 425.16 (e).

The Complaint contains a single claim for relief for defamation arising out of statements made in The Smoking Gun article published on the Internet, as well as subsequent statements made during a segment of VH1 News Report program. Defendants argue that section 425.16(e) applies to both the article and the television program for two reasons. First, the defamation claim arises from Defendants' exercise of its free speech rights given that the Complaint is based solely on the publication of an article concerning Plaintiff's role as an on-air therapist for "The Swan" television show and a television show on the same topic. (Court TV's P. & A. 4: 10-21.)

Second, Defendants assert that the publications at issue clearly relate to a matter of public interest. As Defendants point out, "[t]he definition of 'public interest' within the meaning of [section 425.16] has been broadly construed[.]" *Id.* (quoting *Damon v. Ocean Hills Journalism Club*, 85 Cal.App.4th 468, 479-81, (2000)). The article and television show at issue raise questions about Plaintiff's credentials as a provider of "psychological counseling" to women undergoing plastic

surgery for a nationally-televised program. (Court TV's P. & A. 5: 15-24.) Further, the article reported the contents of a federal government agency report concerning unaccredited correspondence schools. (*Id.*) Defendants argue that in light of the extraordinary increase in cosmetic surgery and, moreover, the role psychological counseling can play in identifying "candidates for such surgeries and managing patient expectations afterwards," the publications constitute a matter of public interest. (*Id.*)

The Court finds that the challenged statements are clearly in furtherance of Defendants' constitutional rights of free speech and concern a matter of public interest. *See* Cal. Code Civ. Proc. § 425.16. Moreover, "Plaintiff concedes that the anti-SLAPP statute is applicable to actions for defamation, like this one." (Pl's Opp'n to Court TV's Mot. 2: 19-22.) Thus, the conduct at issue falls within the scope of section 425.16.

B. Plaintiff's Likelihood of Success on the Merits

The Court now turns to the second inquiry of an anti-SLAPP analysis, i.e., Plaintiff's likelihood of success on the merits. This prong requires Plaintiff to demonstrate a probability of prevailing on her claim. The court determines only whether the plaintiff has made a prima facie showing of facts that would support a judgment if proved at trial. *ComputerXpress, Inc. v. Jackson*, 93 Cal.App.4th 993, 1009 (2001). The court should grant the motion if the plaintiff fails to produce evidence to substantiate the claim or if the defendant has shown that the plaintiff cannot prevail as a matter of law. *Wilson v. Parker, Covert & Chidester*, 28 Cal.4th 811, 821 (2002) *superceded on other grounds.*

Plaintiff identifies five statements that, according to Plaintiff, are defamatory. (Compl. ¶¶ 10, 15.) Specifically, those statements include: three statements contained in The Smoking Gun article, one statement made by Defendant Goldberg on the VH1 News Report, and one statement made by Defendant Farrell on the VH1 News Report. (*Id.*)

The Courtroom TV Defendants and the VH1 Defendants move to strike the complaint on grounds that the allegedly defamatory statements identified by Plaintiff are not actionable.

**1. The Smoking Gun Article, Statement No. 1: California Coast University's "degree programs 'have not been designed to meet any particular local, state, or national licensing or credentialing laws' according to a 2003-04 school catalog."**

The Courtroom TV Defendants and the VH1 Defendants each argue that the statement is not actionable because it is substantially, if not literally, true because the statement is a direct quote from California Coast University's 2003-04 catalog. (Court TV's P. & A. 8-9; VH1 P. & A. 12-13.) "Truth, of course, is an absolute defense to any [defamation] action." *Campanelli v. Regents of the Univ. of Cal.*, 44 Cal.App.4th 572, 581-82 (1996) (citation omitted). In order to establish the defense, the defendant need not prove the literal truth of the alleged defamatory statement, "so long as the imputation is substantially true so as to justify the 'gist or sting' of the remark." *Id.* (quoting *Emde v. San Joaquin County Central Labor Council*, 23 Cal. 2d 146, 160 (1943)).

Plaintiff concedes that the statement is a direct quote from California Coast University's 2003-04 catalog. (Compl. ¶ 12.) Further, Plaintiff concedes that the statement is, in fact, true. (Pl's Opp'n to Court TV's Mot. 14: 1-23.) The statement accurately describes the degree program at CCU during the period when Plaintiff received her Ph.D. degree. At that time, CCU's clinical psychology degree program was not accredited by the American Psychological Association, the organization recognized by the Department of Education as the accrediting agency for doctoral programs in clinical counseling and school psychology. (Court TV's P. & A. 9: 3-17; Exs. C, E, and H.) Accordingly, the Court finds that the statement is true and, therefore, not actionable.

**2. The Smoking Gun Article, Statement No. 2: "The Los Angeles doctor Fox Television has tabbed to provide 'psychological counseling' to contestants on 'The Swan,' its controversial plastic surgery makeover show, received her Ph.D. from a California correspondence school that was described this week as an unaccredited 'diploma mill' by congressional investigators, The Smoking Gun has learned."**

The Courtroom TV Defendants and the VH1 Defendants each argue that the reference to California Coast University as a "diploma mill" is protected because it fairly and accurately

describes a report from the GAO, which was provided to the U.S. Senate Committee on Governmental Affairs. (Court TV's P. & A. 13-15; Ex. B; VH1 P. & A. 5-6, 22-23.)

California Civil Code section 47(d) states that "[a] privileged publication or broadcast is one made: [b]y a fair and true report in, or a communication to, a public journal, of (A) a judicial, (B) legislative, or (C) other public official proceeding, or (D) of anything said in the course thereof, or (E) of a verified charge or complaint made by any person to a public official, upon which complaint a warrant has been issued." Cal. Civ. Code § 47(d)(1). To satisfy section 47's requirement of a "fair and true report," the publication or broadcast need only capture the "substance, the gist, [or] the sting" of the proceeding covered. *Hayward v. Watsonville Register-Pajaronian & Sun*, 265 Cal.App.2d 255, 261-62 (1968). Furthermore, the media is due a "certain amount of literary license." *McClatchy Newspapers, Inc. v. Superior Court*, 189 Cal.App.3d 961, 976 (1987). In other words, "[t]he reporter is not bound by the straitjacket of the testifier's exact words; a degree of flexibility is tolerated in deciding what is a 'fair report.'" *Id.* (citation omitted).

The Smoking Gun article references the May 11, 2004, report by the GAO before the U.S. Senate Committee. The GAO report details the results of an investigation into (1) "whether the federal government has paid for degrees from diploma mills and other unaccredited post secondary schools;" and (2) "whether federal employees who hold senior-level positions have degrees from diploma mills and other unaccredited schools." (Pl's Opp'n to Court TV's Mot. at Ex. C p. 32.) The report defines "diploma mills" as schools that "sell academic degrees based on life experience or substandard or negligible academic work." (*Id.* at p. 34.) The GAO report goes on to state that some "diploma mills" "require no academic work and merely sell degrees for a fee." (*Id.*)

In connection with the report, the GAO searched the Internet for "nontraditional, unaccredited, post-secondary schools that offer degrees for a relatively low flat fee, promote the award of academic credits based on life experience, and do not require any classroom instruction." (*Id.* at p. 32.) The GAO requested that four such schools provide information on the number of former and current students identified in their records as federal employees. (*Id.*)

California Coast University was identified as one of these postsecondary schools that "charge[d] a flat fee for degrees." (*Id.* at p. 25.) The GAO ultimately criticizes the use of federal funds to pay for degrees from schools like CCU. (*Id.* at p. 33.)

The Smoking Gun article, referring to the GAO report, stated that the "California correspondence school," from which Plaintiff obtained her Ph.D, "was described this week as an unaccredited 'diploma mill' by congressional investigators." (*Id.* Ex. A.) The Smoking Gun summarized the report by stating that "federal employees - including some with senior-level posts - had obtained degrees from unaccredited outfits like California Coast." (*Id.*) The article went on to state that "[t]he GAO investigations, conducted at the request of the Senate Committee on Governmental Affairs, noted that, in some instances, advanced degrees were obtained in an effort to secure promotions." (*Id.*) Thus, Courtroom TV Defendants argue that The Smoking Gun article accurately summarized the findings of the GAO. Specifically, the statement in The Smoking Gun article that describes the GAO's report as characterizing CCU as a "diploma mill" captures the "substance" or "gist" of the GAO report; therefore, the statement is privileged under section 47(d).

In response, Plaintiff asserts that the statement is not privileged as a fair and true report of a government proceeding because the GAO report does not define CCU as a "diploma mill." (Pl's Opp'n to Court TV's Mot. 16: 2-9.) According to Plaintiff, the GAO report discussed institutions ranging from unaccredited schools offering "the standard curricula traditionally found at accredited universities" to "diploma mills," and does not suggest that CCU is on the "diploma mill" end of the spectrum. (*Id.*)

However, the Court does not find Plaintiff's argument persuasive. As noted, the GAO searched for "nontraditional, unaccredited, post-secondary schools that offer degrees for a relatively low flat fee, promote the award of academic credits based on life experience, and do not require any classroom instruction." The GAO identified "four such schools," one of which was CCU and specifically noted that CCU "charge[s] a flat fee for its degrees." Importantly, the GAO report defined "diploma mills" to include schools that require no academic work and merely sell degrees for a fee. Thus, CCU fits within the GAO's definition of "diploma mill." While the GAO

recognized that some unaccredited schools "offer standard curricula traditionally found at accredited universities," there is nothing in the report to suggest that CCU is, or was, one of these schools.

Based on the foregoing, the Court concludes that the statements referencing CCU as a "diploma mill" in The Smoking Gun article and the VH1 News Report present a "fair and true" explanation of the findings of the GAO Report. Thus, the statement is privileged under section 47(d).

**3. The Smoking Gun Article, Statement No. 3: "Therapist Lynn Ianni, it turns out, is not a doctor, she just plays one on TV."**

The Courtroom TV Defendants argue that this statement is a rhetorical play on the phrase made famous by actor Robert Young, who starred in the popular 1960s television show, "Marcus Welby, MD." (Court TV's P. & A. 16.) In popular television commercials for aspirin, Young would state, "I'm not a doctor, I just play one on TV." (*Id.*) Defendants assert that this statement is not intended to be taken literally; rather, it is simply a commentary on whether someone who has no medical training should refer to themselves as "doctor." (*Id.*) Thus, Defendants argue that the statement falls within the realm of rhetorical hyperbole clearly protected by the Constitution. (*Id.* at 15-16: 22-23.)

As the Supreme Court explained in *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20 (1990), the Constitution provides protection for statements that cannot "reasonably [be] interpreted as stating actual facts" about an individual. *Id.* (citations omitted). "This provides assurance that public debate will not suffer for lack of 'imaginative expression' or the 'rhetorical hyperbole' which has traditionally added much to the discourse of our Nation." *Id.* (citations omitted).

To support their position that the above statement is mere hyperbole, Defendants cite *Morningstar, Inc. v. Superior Court*, 23 Cal.App.4th 676 (1994). In that case, a mutual fund sponsor brought a suit against the publisher of a financial newsletter arguing that the title of a particular article, "Lies, Damn Lies, and Fund Advertisements," constituted a direct, false assertion. *Id.* at 687. In response, the publisher claimed that the caption was simply a play on

Mark Twain's famous quote, "lies, damn lies and statistics." *Id.* Twain wrote, in his 1924 autobiography, that the English politician and historian Benjamin Disraeli had once said there were three kinds of lies: "lies, damned lies, and statistics." *Id.*

The *Morningstar* court, relying on *Milkovich*, determined that the title was not actionable because it was "loose, figurative or hyperbolic speech." *Id.* at 691. The court explained that the "title 'Lies, Damn Lies, and Fund Advertisements' alone cannot reasonably be read to imply a provably false factual assertion about Pilgrim, as it is clearly a play on words, borrowed from a recognizable quote, and an 'imaginative expression'...meant to be eye-catching and witty." *Id.*

Similarly, the statement that Plaintiff "is not a doctor, she just plays one on TV" is a play on words taken from a famous quote. The statement cannot reasonably be interpreted as stating actual facts about Plaintiff. Rather, it is simply loose speech that this Court finds to be constitutionally protected.

**4. VH1 News Report, Statement No. 4: "The federal government is saying, hey, this is a diploma mill, this is not the sort of legitimate place where you should be giving people credit for being a doctor...."**

Plaintiff also complains of the statement made by Defendant Goldberg during his appearance on the VH1 News Report program. The Court finds that, for the same reasons discussed above in connection with statement number two, Goldberg's statement fairly and accurately describes the substance and gist of the GAO report. Thus, the statement is privileged pursuant to California Civil Code section 47(d).

For the foregoing reasons, the Court finds that Plaintiff has failed to satisfy her burden of demonstrating a reasonable probability that she will prevail on her claims against the Courtroom TV Defendants and the VH1 Defendants. Given that the statements which Plaintiff identifies as defamatory are (1) substantially or literally true, (2) absolutely privileged; and (3) Constitutionally protected, the Court finds that Plaintiff cannot prevail on her claims against Courtroom TV Defendants and VH1 Defendants as a matter of law.

**5. VH1 News Report, Statement No. 5: "When I hear about people presenting themselves as something they are not, I think that is something totally unacceptable."**

Defendant Farrell's alleged defamatory statement is contained in a brief clip of an interview she gave in connection with the VH1 News Report program. Defendant Farrell argues that her statement is not actionable for several reasons. (Farrell P. & A. 12-13.)

First, Defendant Farrell correctly points out that she did not expressly state or imply a false statement of fact as to Plaintiff. (*Id.*) At no point in the televised portion of the VH1 News Report does Defendant Farrell mention Plaintiff by name or otherwise make a statement from which a viewer might reasonably infer that Defendant Farrell was referring to Plaintiff. (*Id.*)

Defendant Farrell explains in her declaration that in September 2004, she was contacted by a producer for VH1 regarding an upcoming VH1 feature on reality television. (Decl. of Farrell ¶ 8.) Defendant Farrell was asked if she had any opinions relating to reality television programing. (*Id.*) In response, Defendant Farrell expressed her concern that some participants in reality shows place themselves in positions where they do not understand the risks involved. (*Id.* ¶ 9.)

Defendant Farrell agreed to be interviewed for the VH1 News Report so that she would have a "forum through which to express these concerns." (*Id.* ¶ 10.) At the time of the interview, Defendant had never watched "The Swan" nor had she heard of Plaintiff. (*Id.* ¶ 13.) The majority of the interview consisted of Defendant Farrell discussing her various concerns about reality programs in general. (*Id.* ¶ 14.) During the interview, she was asked her opinion about therapists who work on reality shows. Defendant Farrell explained that not all therapists possessed the same qualifications, thus it is important to examine the therapist's background. (*Id.* ¶ 17.)

Defendant Farrell declares that none of the statements made during the VH1 interview were in reference to Plaintiff or any other specific therapist. (*Id.* ¶ 19.) Moreover, Defendant Farrell declares that the first time she heard Plaintiff's name was when she was served with this lawsuit in 2005. (*Id.*)

Notably, Defendant Farrell did not identify Plaintiff by name, nor does she impugn Plaintiff's skills as a therapist or state that Plaintiff is unethical. Defendant Farrell merely stated: "When I

hear people presenting themselves as something they're not, I think that is something that is totally unacceptable." (*VH1 Presents Reality TV Secrets Revealed 2*, Ex. 1 to Notice of Lodging of Non-Paper Physical Exhibit.) Simply put, this a general statement expressing Defendant Farrell's belief and opinion that it is unacceptable for "people," not necessarily Plaintiff, to misrepresent themselves.

As the Supreme Court confirmed in *Milkovich*, 497 U.S. at 20, the Constitution provides protection for statements that cannot "reasonably [be] interpreted as stating actual facts" about an individual. *Id.* (citations omitted). Defendant Farrell's statement cannot reasonably be interpreted as stating actual facts about Plaintiff; rather, it is simply Defendant Farrell's opinion about a class of unnamed individuals. An opinion, of course, is not capable of being proven true or false, and is therefore not actionable as defamatory.

For the foregoing reasons, the Court finds that Plaintiff has failed to demonstrate by a reasonable probability that she will prevail on her defamation claim against Defendant Farrell.

C. Actual Malice Standard

In addition, the Court finds that Plaintiff would be considered a public figure, at least for the limited purpose of the issues addressed in each of the five statements, because she chose to be represented as a licensed psychologist on national television and judge reality show contestants. *See Gertz v. Welch,* 418 U.S. 323, 351 (1974) ("... an individual voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues."). As a public figure, Plaintiff would have to prove that the above statements were made with "actual malice," a higher standard than required for defamation against private individuals. *See New York Times v. Sullivan*, 376 U.S. 254, 279-80 (1964) (a public official cannot recover damages from a defamatory falsehood relating to his official conduct unless he proves that the statement was made with "'actual malice' – that is, with knowledge that it was false or with reckless disregard of whether it was false or not."). In applying the second prong of the anti-SLAPP analysis to this issue of actual malice, the Court also finds insufficient Plaintiff's prima facie showing that she will likely succeed on the merits.

## IV. CONCLUSION

For the forgoing reasons, the Court hereby **GRANTS** the following motions to dismiss: (1) Courtroom TV Defendants' motion; (2) VH1 Defendants' motion; and (3) Defendant Farrell's motion. This action is hereby dismissed with prejudice, and without leave to amend.

**IT IS SO ORDERED.**

Dated this 14th day of January, 2008.

HON. GEORGE P. SCHIAVELLI
UNITED STATES DISTRICT JUDGE