

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

884

CA 16-00208

PRESENT: WHALEN, P.J., SMITH, LINDLEY, TROUTMAN, AND SCUDDER, JJ.

PATRICIA J. CURTO, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

NEW YORK LAW JOURNAL AND ALM MEDIA
PROPERTIES, LLC, DEFENDANTS-RESPONDENTS.

PATRICIA J. CURTO, PLAINTIFF-APPELLANT PRO SE.

BARCLAY DAMON, LLP, BUFFALO (KARIM A. ABDULLA OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS.

Appeal from an order of the Erie County Court (Michael L. D'Amico, J.), dated March 9, 2015. The order affirmed two orders of the Buffalo City Court (Susan M. Eagan, J.) dated November 1, 2012 and November 7, 2012.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Plaintiff commenced this action in Buffalo City Court (court) alleging, inter alia, defamation based upon an article that appeared in defendant New York Law Journal regarding an underlying action in federal court that plaintiff commenced against a third party under the Federal Debt Collection Practices Act (FDCPA). In two orders, the court denied plaintiff's motion for a default judgment against defendants and granted defendants' motion to dismiss the complaint pursuant to CPLR 3211 (a) (1) and (7), and County Court affirmed the orders. We affirm.

Defendants had 30 days in which to answer the complaint (see UCCA 402 [b]) and, contrary to plaintiff's contention, that period ended on a Sunday and was therefore extended until "the next succeeding business day" (General Construction Law § 25-a). Thus, the court properly denied plaintiff's motion seeking a default judgment. The court also properly granted defendants' motion to dismiss the complaint because the alleged defamatory statements were absolutely privileged under Civil Rights Law § 74. It is axiomatic that " 'newspaper accounts of . . . official proceedings must be accorded some degree of liberality' " (*Alf v Buffalo News, Inc.*, 21 NY3d 988, 990). Upon viewing the article as a whole, we conclude that it is a "substantially accurate" report of the federal court's decision (*Holy Spirit Assn. for Unification of World Christianity v New York Times Co.*, 49 NY2d 63, 67). Although plaintiff contends that she did not

owe a debt and that defendants' reference to her as a debtor therefore constituted defamation, it is well settled that "there is 'no requirement that the publication report the plaintiff's side of the controversy' " (*Alf*, 100 AD3d 1487, 1489, *affd* 21 NY3d 988). Indeed, the focus of the article was on the court's denial of summary judgment to the defendant on the ground that "a jury could conclude from this [record] that Defendant[] violated the FDCPA." We have reviewed plaintiff's remaining contentions and conclude that they are without merit.

Entered: November 10, 2016

Frances E. Cafarell
Clerk of the Court