

UPEPA Case Tackles Fans' Interactions With Public Figures

By **Christina Sinclair, Jeffrey Camhi and Benjamin Levine** (October 29, 2025)

On June 6, New York Jets cornerback Ahmad "Sauce" Gardner's order to show cause seeking dismissal was granted by New Jersey Superior Court Judge Jonathan Romankow, pursuant to the state's recently enacted Uniform Public Expression Protection Act, of a defamation claim filed by a fan of the rival Buffalo Bills.

The decision in this case is particularly meaningful, as it is one of the earliest of its kind in interpreting the UPEPA statute, and may have broader implications across the nation for future matters contemplating social media interactions and interactions between public figures and fans. Here, we break down Judge Romankow's decision and highlight its anticipated impact looking forward.

During the summer of 2024, the plaintiff, Kalli Mariakis, and Gardner exchanged barbs on X, with Mariakis roasting Gardner's coverage skills and Gardner responding, "I'm sure your husband wouldn't like it if I told him you dm'd me your [OnlyFans] link would he?"

The plaintiff issued multiple responses, including a message stating "Nice comeback @iamSauceGardner but what a shame it's a big fat lie!" which contained an emoji signifying she was "rolling on the floor laughing."

The exchange garnered millions of views on X and was reported on by a variety of publications, including Barstool Sports, which published an article shortly thereafter titled, "If You're a Married OnlyFans Model Who's Been DMing Sauce Gardner, You'd Be Wise Not to Troll Him About His Coverage Skill."

Months later, on Dec. 31, 2024, the plaintiff filed a complaint against Gardner and Barstool Sports in the Superior Court of New Jersey, Morris County, alleging defamation and intentional infliction of emotional distress.

Specifically, Mariakis alleged that Gardner's comments falsely expressed that she had an OnlyFans page containing sexual content she had sent to him, and that Barstool had defamed her by publishing its story without taking steps to verify the veracity of Gardner's comments.

Although Mariakis voluntarily dismissed Barstool, she proceeded against Gardner, contending that she had suffered personal and professional reputational harm, and that she and her family had been harassed in the wake of Gardner's comments.

In moving to dismiss the action, Gardner invoked New Jersey's UPEPA, an anti-SLAPP statute adopted in 2023. New Jersey's UPEPA is designed to prevent "the impairment of First Amendment rights and the time and expense of defending against litigation that has no demonstrable merit," and to aid defamation defendants in combating "costly litigation that chills society from engaging in constitutionally protected activity."



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Other states have adopted their own anti-SLAPP statutes, with several states adopting their own version of UPEPA, to provide defendants with an avenue for expeditious relief in meritless defamation disputes and to aid defamation defendants in protecting their constitutional rights to free speech on matters of public concern.

New Jersey courts apply a multistep analysis when considering orders to show cause seeking dismissal under UPEPA, first determining whether the claims asserted fall within the scope of the act, and next considering whether the plaintiff has failed to establish a prima facie case as to each element of the asserted claim, that the defendant has established that the plaintiff failed to state a cause of action upon which relief can be granted, and that there is no genuine issue as to any material fact.

Where speech falls within the scope of the act and the plaintiff fails to establish a claim, UPEPA requires dismissal of the claims and an award of attorney fees to the defendant, making UPEPA a powerful tool for defendants in actions based on speech.

Communications that fall within the scope of the act include speech that is a matter of public concern, among certain unrelated applications for speech in government proceedings, and according to UPEPA, apply "to a cause of action asserted in a civil action against a person based on the person's... exercise of the right of freedom of speech or of the press ... guaranteed by the United States Constitution or the New Jersey Constitution, on a matter of public concern."

Limited exceptions to the act's scope exclude matters asserted against government personnel for actions taken in their official capacity, and against a person involved in the sale or lease of goods or services communicating about such sale or lease.

In finding for Gardner, Judge Romankow acknowledged that the public concern standard is, as required under UPEPA, applied broadly, and includes matters that are not only weighty and serious, but also those of interest to a community and that would engender public attention and scrutiny.

Judge Romankow, in his decision, cited to case law from across the country broadly applying this standard in finding matters of public concern, noting that matters relating to sports, even tangentially so, had previously been held to satisfy this requirement.

In his decision holding that the speech at issue was of a public concern, Judge Romankow acknowledged the undeniable public interest in professional football and professional athletes, particularly those as well-decorated as Gardner, and specifically held the statements at issue to involve a matter of public concern, because "there's public concern about [Gardner] before, during, and after the incident in question."

The court further found the views generated by the posts and the public's ensuing reaction, which included reporting by various media companies, served as further support for this holding.

In the second stage of its analysis, the court determined that the plaintiff was unable to make out a prima facie claim for defamation. Specifically, the court held that Gardner's communication, which posed a question as to the plaintiff's husband's reaction to a hypothetical situation, was not an assertion of fact capable of defamatory meaning.

Although dispositive, Judge Romankow went further, holding that even if Gardner could be

deemed to have made a statement of fact, "[t]he situation was very obviously one where the parties troll each other, engaging in a display of lowbrow hyperbole, which was akin to two juveniles exchanging zingers in a schoolyard, and none of which any reasonable person would take seriously."

Judge Romankow also noted that the plaintiff herself responded to Gardner's comment with an emoji indicating that she was laughing, demonstrating that not only would a reasonable person not take the comment seriously, but also that the plaintiff herself had not done so.

Judge Romankow, therefore, determined the speech at issue could not reasonably cause harm to the plaintiff's reputation; expose her to public hatred, ridicule, contempt or disgrace; or injure her business, profession or standing in the community. He dismissed the plaintiff's cause of action for defamation. Judge Romankow also dismissed the plaintiff's claim for infliction of emotional distress, finding Gardner's conduct fell far short of the extreme and outrageous conduct required to support such a claim.

The court, therefore, dismissed the complaint against Gardner in its entirety and, as required by UPEPA, awarded Gardner his attorney fees and costs.

The decision is noteworthy not only because it is one of the earliest rendered under New Jersey's anti-SLAPP statute, but also because of its potential implications for defamation claims in the age of social media, particularly those involving public figures.

Although only a single case, because nearly a dozen states have already adopted UPEPA, which promotes uniformity in its application, Judge Romankow's decision could have implications beyond New Jersey's own borders.

Judge Romankow's decision suggests that courts addressing claims under UPEPA, and other anti-SLAPP statutes, may display an increased appetite for protecting speech in direct interactions between public figures and the general public broadcast on social media, and a distaste for finding such speech capable of defamatory meaning absent compelling circumstances.

At the very least, the decision provides support for the position that such communication will constitute speech of a public concern, a boon to defendants seeking dismissal under anti-SLAPP statutes.

This protection, along with increased concern on the part of the plaintiffs bringing such claims that they may not only see their claims dismissed, but may be left to foot a sizable legal bill, may lead to a reduction in claims based on social media exchanges with public figures.

Practitioners are cautioned to exercise care in counseling would-be clients of social media-based defamation claims, as this area of the law continues to evolve and litigation takes an increased eye to online trolling, whether of public or private figures, as it persists as a common feature of daily speech.

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Disclosure: The authors represented Gardner in the case.

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