2024-03-22

Rent Stabilization Ass'n of N.Y.C. v. McKee

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. LESLIE A. STROTH** **PART** **12M**

Justice

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RENT STABILIZATION ASSOCIATION OF N.Y.C., INC.,

Plaintiff,

- v -

MICHAEL MCKEE, TENANTS POLITICAL ACTION COMMITTEE, INC., MET COUNCIL, INC. D/B/A METROPOLITAN COUNCIL ON HOUSING, AND REAL RENT REFORM CAMPAIGN

Defendant.

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INDEX NO. 155789/2018

MOTION DATE 10/03/2023, 10/03/2023, 10/03/2023

MOTION SEQ. NO. 006 007 008

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 006) 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 159, 177, 178, 179, 180, 181, 182, 192, 198, 199, 200

were read on this motion to/for SUMMARY JUDGMENT(AFTER JOINDER).

The following e-filed documents, listed by NYSCEF document number (Motion 007) 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 158, 160, 183, 184, 185, 186, 187, 188, 189, 190, 191, 193, 196, 197, 204, 205

were read on this motion to/for SUMMARY JUDGMENT(AFTER JOINDER).

The following e-filed documents, listed by NYSCEF document number (Motion 008) 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 194, 201, 202, 203, 206, 207

were read on this motion to/for SUMMARY JUDGMENT(AFTER JOINDER).

In this defamation action, defendants Michael McKee/Tenants Political Action Committee, Inc. and Met Council, Inc. move separately for summary judgment to dismiss the amended complaint, while the plaintiff Rent Stabilization Association of NYC, Inc. (RSA) moves for summary judgment on that complaint (motion sequence numbers 006, 007 & 008). This decision disposes of all summary judgment applications.

BACKGROUND

The RSA is a landlords' trade association that is organized as a not-for-profit corporation and lobbies/advocates on behalf of the owners of rent-regulated residential rental properties located in New York City. *See* NYSCEF document 4, ¶¶ 6-7 (Amended Complaint). The defendant Tenants Political Action Committee, Inc. (TPAC) is also a not-for-profit corporation that lobbies/advocates on behalf of the tenants of New York City rent regulated buildings, and co-defendant Michael McKee (McKee) is one of its corporate officers (specifically, its treasurer). *Id.*, ¶¶ 8-11. Co-defendant Met Council, Inc. d/b/a Metropolitan Council on Housing (Met Council) is another not-for-profit corporation that lobbies/advocates on behalf of the tenants of New York City rent regulated buildings, and McKee is a member of its board of directors. *Id.*, ¶¶ 12-13. The final named defendant, Real Rent Reform Campaign (RRRC), was released from this action via the Court's decision, dated October 21, 2019, that granted an earlier motion for summary judgment to dismiss the amended complaint as against it. *See* NYSCEF document 52.

This litigation arises from certain statements regarding the RSA that McKee purportedly made at a May 2, 2018 meeting of the New York City Council Committee on Housing and Buildings (NYCCCHB). *See* NYSCEF document 4, ¶¶ 1-5, 24-48 (amended complaint). The RSA specifically alleges that:

> McKee continued his response to (NYCCCHB) Councilmember Torres' question by uttering the following false and defamatory statements concerning RSA:
>
> > In 2010, when the Democrats had a one vote majority in the State Senate, the real estate industry, *the RSA, the Rent Stabilization Association, went to three Democratic senators and promised them $150,000 in campaign funds if they would vote against two of our bills that came to the floor*. * * *
> >
> > All three voted against [one of the bills] ... and *they [RSA] did indeed follow through on that pledge to give them $150,000 each* ... it was heartwarming to see that two of them lost anyway. *One of them is still in the Senate, David Valesky of Syracuse* (emphasis in original). *Id.*, ¶ 36.

The RSA also alleges that McKee repeated those statements to a reporter for non-party online real estate news publication The Real Deal (The Real Deal) on June 20, 2018, and that The Real Deal published them on its website on that same day. *Id.*, ¶¶ 44-46. Defendants admit that McKee made the above statements, to the extent that the transcript of the May 2, 2018 meeting and the text of the Real Deal website speak for themselves; however, they deny that the statements are actionable. *See* NYSCEF documents 20, ¶¶ 36-38 (Met Council answer); 21, ¶¶ 35-41, 44-48 (TPAC/McKee answer).

The RSA commenced this action that same day (June 20, 2018), but served an amended complaint on July 2, 2018 raising causes of action for: 1) defamation; and 2) defamation *per se*. *See* NYSCEF documents 1-19. On August 29, 2018, Met Council and TPAC/McKee each respectively filed an answer with affirmative defenses and a request for court costs and attorney's fees. *See* NYSCEF documents 20, 21. Discovery and motion practice ensued, during which the amended complaint was dismissed as against RRRC on October 21, 2019 (motion sequence number 001). *See* NYSCEF documents 52-53. Now before the Court are the remaining parties' competing motions for summary judgment, all of which are fully submitted and ready for disposition (motion sequence numbers 006, 007 & 008). Oral argument was held on October 3, 2023.

DISCUSSION

"It is well settled that a movant for summary judgment bears the initial burden of presenting affirmative evidence of its entitlement to summary judgment." *Hairston v Liberty Behavioral Mgt. Corp.*, 157 AD3d 404, 405 (1st Dept 2018). Once this showing has been made, the burden shifts to the party opposing the motion to produce evidentiary proof, in admissible form, sufficient to establish the existence of material issues of fact which require a trial of the

action. *See e.g.*, *Zuckerman v City of New York*, 49 NY2d 557, 562 (1980); *Pemberton v New York City Tr. Auth.*, 304 AD2d 340, 342 (1st Dept 2003). The remaining parties herein have all submitted summary judgment requests with respect to the RSA's causes of action for defamation and defamation *per se*.

The Appellate Division, First Department, recognizes that the elements of a defamation claim are "'a false statement, published without privilege or authorization to a third party, constituting fault as judged by, at a minimum, a negligence standard, and it must either cause special harm or constitute defamation per se.'" *Frechtman v Gutterman*, 115 AD3d 102, 104 (1st Dept 2014); quoting *Dillon v City of New York*, 261 AD2d 34, 38 (1st Dept 1999). The Second Department notes that "[t]he four exceptions which constitute 'slander per se' [a/k/a defamation *per se*] are statements (1) charging plaintiff with a serious crime; (2) that tend to injure another in his or her trade, business or profession; (3) that plaintiff has a loathsome disease; or (4) imputing unchastity to a woman." *Epifani v Johnson*, 65 AD3d 224, 234 (2d Dept 2009); citing *Liberman v Gelstein*, 80 NY2d 429, 435 (1992). This decision examines both of the RSA's claims.

Met Council's motion (motion sequence number 006)

As an initial matter, the Court must address Met Council's argument that the complaint should be dismissed on the ground that Met Council did not authorize McKee to speak on its behalf at the May 2, 2018 meeting so no liability for any defamatory statements he may have made there attaches under New York law. Met Council specifically argues that documentary evidence establishes that (1) it was unaware that McKee intended to attend the May 2, 2018 meeting, and (2) that instead Met Council sent a different person, one Kathy Wakeham (Wakeham) to speak on its behalf there. *See* NYSCEF document 145 at 12-15 (Met Council memorandum of law). Counsel cites a quantity of Appellate Division precedent for the

proposition that a party cannot be held liable for defamatory statements made by another party which it did not authorize. *Id.* However, after careful review, the Court finds that Met Council's characterization of the facts is inaccurate and that the law which it seeks to invoke is inapposite.

The documentary evidence mentioned above includes two email chains. The first is an internal TPAC email chain, dated April 27, 2018, which responded to a communication from NYCCCHB soliciting individuals to provide public testimony at the upcoming May 2, 2018 public meeting. *See* NYSCEF document 148. Both McKee and the Met Council's Director of Programs and Advocacy, Andrea Shapiro (Shapiro), answered that solicitation. *Id.* McKee stated that he would attend the meeting and instructed Shapiro to circulate the request to Met Council members. *Id.* In the second email chain, dated May 1, 2018, Shapiro internally circulated the NYCCCHB's request for public testimony to Met Council staff and received positive responses from Wakeham and one other person. *See* NYSCEF documents 149-151. Wakeham later also provided Shapiro with a written summary of the matters about which she intended to testify. *Id.*

At her deposition on June 18, 2020, Shapiro acknowledged that: McKee was a member of Met Council's board of directors, that she was aware that McKee would be attending the May 2, 2018 meeting, and that McKee had instructed her to forward the NYCCCHB's request for attendees to other Met Council personnel. *See* NYSCEF document 154 at 29-48. Shapiro further acknowledged that Wakeham was one of 400 unpaid Met Council volunteers rather than an employee of the organization. *Id.* at 48-49.

Although McKee avers that he only attended the May 2, 2018 NYCCCHB meeting on behalf of TPAC, neither the meeting transcript nor McKee's subsequent October 22, 2018 deposition testimony include a disclaimer that McKee's remarks did not reflect the views of Met

Council (or the RRRC, for that matter). *See* NYSCEF documents 152, 173. In both instances, however, McKee was identified as an officer of both entities. *Id.*

The foregoing documentary evidence renders Met Council's assertion that McKee testified at the May 2, 2018 NYCCCHB meeting without authorization incredible. Met Council was aware that a member of its board of directors would be attending the meeting and/or offering testimony with respect to items on the meeting's agenda. The only other person attending the meeting on behalf of Met Council was a volunteer staffer whose presence had been solicited at the request of the same director (McKee). Met Council made no attempts to curtail or limit McKee's participation at the meeting. McKee himself did not offer any disclaimer with respect to Met Council despite having been introduced at the meeting as a Met Council board member.

There is absolutely no evidence that McKee lacked Met Council's authorization to speak on its behalf at the May 2, 2018 meeting. Given that Met Council has failed to produce such evidence, it may not invoke the appellate rule that no liability for defamation attaches with respect to unauthorized statements. *See e.g.*, *Khan v New York Times Co.*, 269 AD2d 74, 80 (1st Dept 2000), citing *Karaduman v Newsday, Inc.*, 51 NY2d 531 (1980); *Schwartz v Main St. LI, LLC*, 62 Misc 3d 127(A), 2018 NY Slip Op. 51861(U), *2 (App Term 1st Dept 2018), citing *Vanderpuye v AuPrintemps Fashions*, 234 AD2d 158 (1st Dept 1996). Therefore, the Court finds that caselaw to be inapposite and rejects Met Council's argument as unsupported and factually untenable. *See also* NYSCEF documents 52-53 (decision, motion sequence number 001, Jaffe, J.). Because this is the only argument that Met Council raised in its motion, the Court consequently denies motion sequence #006.

This does not end the present inquiry with respect to Met Council, however, since it officially requested permission to join in the original and reply arguments that TPAC and McKee

asserted in their motion, and also in TPAC and McKee's opposition arguments to the RSA's motion. *See* NYSCEF documents 143, 197, 201. Those matters are disposed of below.

TPAC/McKee's and the RSA's motions (motion sequence numbers 007 & 008)

TPAC and McKee raise a number of arguments in support of their motion for summary judgment to dismiss the amended complaint.

First, they assert that they "are afforded absolute immunity from lawsuits based on testimony before a legislative committee." *See* NYSCEF document 141 at 6-8 (TPAC and McKee memorandum of law). This argument plainly misreads the controlling law. The Court of Appeals holds that "[w]hether allegedly defamatory statements are subject to an absolute or a qualified privilege 'depend[s] on the occasion and the position or status of the speaker,' a complex assessment that must take into account the specific character of the proceeding in which the communication is made", and that "'[a]s a matter of policy, the courts confine absolute privilege to a very few situations.'" *Stega v New York Downtown Hosp.*, 31 NY3d 661, 670 (2018), citing *Front, Inc. v Khalil*, 24 NY3d 713, 719 (2015), quoting *Park Knoll Assoc. v Schmidt*, 59 NY2d 205, 210 (1983).

The Court limits the above situations to those that involve individuals "who in speaking are discharging a public function arising from the duties of their office," such as judges and participants in judicial proceedings, administrative agency officers and participants in quasi-judicial proceedings (sometimes) and/or witnesses testifying before petit or grand juries. *Stega v New York Downtown Hosp.*, 31 NY3d at 670 citing *Toker v Pollak*, 44 NY2d 211, 219-220 (1978). The Court of Appeals has squarely held that, unlike a public officer, "a speaker at [a] public hearing . . . may have enjoyed a qualified privilege protecting him from liability in the absence of malice," but *not* an absolute privilege. *600 W. 115th St. Corp. v Von Gutfeld*, 80

NY2d 130, 135-136 (1992), citing *Park Knoll Assoc. v Schmidt*, 59 NY2d at 209-210, *Loughry v Lincoln First Bank*, 67 NY2d 369, 376 (1986).

Here, McKee was a member of several tenants' advocacy groups speaking at a public hearing, but *not* a public official conducting the hearing. Therefore, it is plain that New York law does not confer the protection of absolute privilege to any of the remarks he made at that hearing, and the Court consequently rejects the TPAC/McKee absolute privilege argument.

TPAC and McKee's follow up argument that "McKee's post-complaint statements in response to press inquiries are also protected by an absolute privilege" is similarly rejected for the same reason.

Next, TPAC and McKee argue that "even without the protection of an absolute privilege, summary judgment should enter for defendants because plaintiff cannot prove actual malice." *See* NYSCEF document 141 at 9-16 (TPAC and McKee memorandum of law). This argument derives from the Court of Appeals' touchstone New York defamation law decision in *Huggins v Moore* (94 NY2d 296 [1999]), which held that:

> In defamation actions against a 'public official' or 'public figure,' a plaintiff must prove the statement was made with 'actual malice,' i.e., with either knowledge that it was false or reckless disregard for the truth (*New York Times Co. v Sullivan*, 376 US 254, 279–280 [1964]; *Curtis Publ. Co. v Butts*, 388 US 130, 162 [1967]). Public figures for constitutionalized defamation purposes include 'limited-purpose' public figures, those who 'have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved' (*Gertz v Robert Welch, Inc.*, 418 US 323, 345 [1974]). 94 NY2d at 301-302.

TPAC's and McKee's fourth affirmative defense asserts that the RSA is a limited-purpose public figure subject to the actual malice standard. *See* NYSCEF document 21, ¶ 68 (answer, TPAC and McKee). Their motion argues that the RSA is a limited-purpose public figure because "[t]he three pillars of its business model - lobbying public officials, a high-profile media presence, and educating its 25,000 members - are all hallmarks of a public figure plaintiff." *See* NYSCEF

document 141 at 10-13 (TPAC and McKee memorandum of law). TPAC and McKee have presented documentary evidence and testimony that establishes that the RSA, *inter alia*: 1) has about 25,000 members drawn from the ranks of New York City landlords of rent-stabilized properties; 2) regularly lobbies New York State and City government officials and entities, including the governor, Mayor, New York State Legislature, New York City Council, the Rent Guidelines Board and the New York State Division of Homes and Community Renewal (among others); 3) maintains "a high profile media presence," with its own interactive website and YouTube channel, a Twitter (X) feed, a Facebook page and a monthly newsletter; 4) retains a public relations firm called Mercury Public Affairs; and 5) sends its officers to attend public meetings, give televised interviews and publish op-ed newspaper columns. *Id.*; *see also* NYSCF documents 136-138, 204-207. TPAC and McKee conclude that the RSA's activities justify designating it as a "limited-purpose public figure" for the purpose of the instant defamation claims. *Id.*

For its part, the RSA simply denies that it meets that designation and argues that TPAC and McKee have failed to present sufficient evidence to warrant a finding that it is a limited-purpose public figure. *See* NYSCEF document 183 at 11-13 (plaintiff's memorandum of law). TPAC's and McKee's reply papers repeat their original argument and note that the RSA fails to address any of the caselaw which supports that argument. *See* NYSCEF document 196 at 6-8 (reply mem, TPAC and McKee). As noted, Met Council joins in both sets of arguments. *See* NYSCEF documents 143, 197. After careful consideration, the Court finds for defendants.

The Court of Appeals holds that "limited-purpose public figures" are "those who 'have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved.'" *Huggins v Moore*, 94 NY2d at 301-302, quoting *Gertz v*

Robert Welch, Inc., 418 US 323, 345 (1974). Precedent following *Huggins v Moore* recognizes that some limited-purpose public figures "may invite publicity only with respect to a narrow area of interest," and has held that activities that characterize such limited-purpose public figures include "purposefully and continuously publicizing and promoting business relationships to continue to attract publicity," "participating in interviews, conferences and meetings" with entities engaged in that narrow area of interest, and conducting "their own radio broadcasts," "granting news interviews," engaging in public relations events, answering public inquiries about the narrow area of interest and publishing news and op-ed columns. *See Gottwald v Sebert*, 40 NY3d 240, 251-252 (2023); *Winklevoss v Steinberg*, 170 AD3d 618, 619 (1st Dept 2019); *Perez v Violence Intervention Program*, 116 AD3d 601, 601-602 (1st Dept 2014).

Here, the RSA's own organizational material and the testimony of its officers establish that it regularly engages in all of the activity outlined above. *See* NYSCEF documents 136-138, 204-207. Indeed, the amended complaint itself states that:

> 20. RSA was formed in 1969 and at present, among other things, provides assistance to New York City's landlords with navigating the complex and ever-changing maze of rules governing the relationship between landlords and tenants.
> 21. RSA provides its members with a wide variety of services and benefits, ranging from compliance and education services to lobbying elected officials and government agency officials, among others, on behalf of RSA's membership.
> 22. Advocating on behalf of its membership by lobbying elected and government agency officials is at the core of RSA's mission. In order to credibly advocate on behalf of its constituents, RSA has expended a significant amount of resources in developing its excellent reputation, integrity, standing and goodwill over many decades . . .

See NYSCEF document 4, ¶¶ 20-22 (amended complaint).

The foregoing establishes that the RSA's activities fall within all of the categories of activities in which limited-purpose public figures engage. It is thus evident that the RSA must be deemed to be a "limited-purpose public figure" with respect to any matters that affect its field of

operation; i.e., rent-regulated tenancies in New York.[1] Its blanket denial that it is a limited-purpose public figure and its statement that "[the] RSA is anything but a household word" are not convincing arguments against a finding that it maintains that status. *See* NYSCEF document 183 at 12 (plaintiff's memorandum of law). In light of defendants' evidence, and of the RSA's failure to present a cogent counterargument, the Court finds that it is a "limited-purpose public figure" for the purpose of the defamation claims raised in this action and thus must prove that defendants acted with actual malice. TPAC and McKee argue that the RSA has failed to meet the "actual malice" standard that applies to those claims. *See* NYSCEF document 141 at 13-16 (TPAC and McKee memorandum of law).

Under that standard, the RSA must establish by clear and convincing evidence that all of McKee's statements were made "with either knowledge that [they were] false or reckless disregard for the truth." *Winklevoss v Steinberg*, 170 AD3d at 619. "The standard requires evidence demonstrating inferentially that the defendants subjectively had a high degree of awareness of probable falsity of the complained-of statements or that they entertained serious doubts as to the truth." *Sprewell v NYP Holdings, Inc.*, 43 AD3d 16, 20-21 (1st Dept 2007), citing *Khan v New York Times Co.*, 269 AD2d 74, 77 (1st Dept 2000); *see also Suozzi v Parente*, 202 AD2d 94, 101-102 (1st Dept 1994).

The RSA first argues that it does not have to meet the actual malice standard because it is not a limited-purpose public figure. *See* NYSCEF documents 183 at 11-13 (plaintiff's

[1] It is also clear that the items on the agenda at the May 2, 2018 meeting were matters that affected rent-regulated tenancies. The meeting's green sheet recites that the NYCCCHB was seeking public input on eight proposed resolutions that would curtail landlords' abilities to raise rents on and/or deregulate rent-stabilized housing accommodations and increase tenants' abilities to recover for rent overcharges. *See* NYSCEF document 168. These are matters on which the evidence shows that the RSA advocates in favor of landlords.

memorandum of law in opposition, motion sequence number 007), 203 at 6-7 (plaintiff's memorandum of law, motion sequence number 008). The Court rejects that argument for the reason stated above; i.e., it has found that the RSA *is* a limited-purpose public figure for the purposes of the instant defamation claims.

The RSA next argues that "McKee acted with actual malice" by making "inflammatory and false statements . . . recklessly (or with disinterested malevolence) and in total disregard for RSA and the individuals affiliated with RSA." *See* NYSCEF documents 183 at 13-14 (plaintiff's memorandum of law in opposition, motion sequence number 007). As proof, they rely on excerpts from the testimony McKee gave at the May 2, 2018 NYCCCHB meeting and the deposition that he gave on October 22, 2018. *See* NYSCEF documents 135, 139. McKee responds that the RSA's argument cherry picked his statements, took them out of context and ascribed a meaning to them which he had expressly disavowed. *See* NYSCEF document 196 at 8-10 (TPAC and McKee reply memorandum). After reviewing the transcripts, the Court finds that RSA's interpretation of McKee's statements is specious and unwarranted.

First, despite the RSA's obvious persistence in disregarding the point, the transcript of the NYCCCHB meeting plainly shows that McKee was speaking about "the real estate industry" as a whole – of which the RSA (and its members) are a part – when he alleged that three state senators had been gifted improperly large amounts of money in the form of campaign donations in return for voting for certain pro-landlord legislation in 2010. *See* NYSCEF document 135. He did *not* limit that assertion solely to the RSA or its members. *Id.* It is thus reasonable to read McKee's testimony to state that the RSA took part in the alleged conduct, but *not* that it was the sole actor.

Secondly, the RSA also persisted in adhering to its preferred – but unjustified – interpretation of McKee's statements at the October 22, 2018 deposition. When asked how he had come to believe that three state senators had been given unduly large campaign contributions, McKee responded that he relied on "conversations that I had with legislative staff, conversations I had with legislators, and my review of the campaign finance filings in the fall of 2010." *See* NYSCEF document 139 at 51. Counsel for the RSA then asked McKee specifically which legislators and staff had told him that the RSA illegally contributed $150,000.00 to each of the three senators in question and which campaign finance filings showed that the RSA had made those illegal contributions. *Id.*, at 51-91. McKee responded by denying that he had ever claimed that the RSA had, by itself, made the three subject campaign contributions, and reasserted instead that prominent figures in the state-wide real estate lobby - including RSA members - had "bundled" funds to make those contributions. *Id.* It is plain that counsel's contention that McKee "admitted" the falsity of the claim that the RSA made three illicit $150,000.00 payments to state senators constitutes a "straw man" argument. The amended complaint accuses McKee of saying something that he denies having said, and then casts his denial as "admission" that the statement was false.

These arguments do not constitute evidence of "actual malice." As noted, "[t]he standard requires evidence demonstrating inferentially that the defendants subjectively had a high degree of awareness of probable falsity of the complained-of statements or that they entertained serious doubts as to the truth." *Sprewell v NYP Holdings, Inc.*, 43 AD3d at 21. Here, the only reasonable interpretation of McKee's deposition testimony is that he believed the truth of his statements that RSA members had improperly contributed to the bundling of money in the form of campaign donations to state senators in order to influence their legislative votes. The RSA

certainly has not presented "clear and convincing evidence" that Mckee knew or believed them to be false. Thus, their defamation claims must fail under the "actual malice" standard. *Gottwald v Sebert*, 40 NY3d at 251, quoting *Huggins v Moore*, 94 NY2d at 301; *New York Times Co. v Sullivan*, 376 US at 279–280. The Court notes that, even if the RSA had raised a question about the falsity of McKee's statements, "[f]alsity is not sufficient for an inference of malice . . . [which] must be . . . consistent only with a desire to injure the plaintiff . . .." *Recant v New York Presbyt. Hosp.*, 25 Misc 3d 1219(A), 2009 NY Slip Op 52195(U), *5 (Sup Ct, NY County 2009), quoting *Fowles v Bolen*, 30 NY 20 (1864).

The RSA has not presented clear and convincing evidence that McKee's only intent was to cause injury to its reputation out of spite. Therefore, the Court rejects the RSA's "actual malice" argument as inadequately supported.

As a result of the foregoing, the Court concludes that the RSA's two defamation claims must fail as a matter of law. Accordingly, the Court grants TPAC's and McKee's motion for summary judgment for that relief and dismisses the two causes of action in the amended complaint as against those defendants, and also as against co-defendant Met Council, since that latter defendant joined in TPAC's and McKee's motion. *See* NYSCEF documents 143, 197, 201. The Court concomitantly denies the RSA's motion. As to defendants request for court costs and attorney's fees in their respective answers, counsel are directed to file a motion for fees as appropriate within thirty (30) days.

CONCLUSION

Accordingly, it is

ORDERED that the motion, pursuant to CPLR 3212, of defendant Met Council, Inc. d/b/a Metropolitan Council on Housing (mot. seq. 006) is denied; and it is further

ORDERED that the motion, pursuant to CPLR 3212, of the defendants Michael McKee and the Tenants Political Action Committee, Inc. (mot. seq. 007) - in which defendant Met Council, Inc. has joined, is granted and the amended complaint is dismissed with costs and disbursements to said defendants as taxed by the Clerk upon the submission of an appropriate bill of costs; and it is further

ORDERED that the motion, pursuant to CPLR 3212, of the plaintiff Rent Stabilization Association of NYC, Inc. (mot. seq. 008) is denied; and it is further

ORDERED that defendants shall file a motion for reasonable attorney's fees and costs to recover against plaintiff within 30 days; and it is further

ORDERED that counsel for defendants shall, within 30 days from the date of this order, serve a copy of this order with notice of entry on plaintiff and the County Clerk; and it is further

ORDERED that the Clerk is directed to enter judgment accordingly.

The foregoing constitutes the Decision and Order of the Court.

Dated: March 20, 2024

ENTER:

HON. LESLIE A. STROTH
J.S.C.

Check One: [X] **Case Disposed** [ ] **Non-Final Disposition**

Check if Appropriate: [ ] **Other (Specify _____)**