CLIENT ALERTS & INSIGHTS

Only the Strong Survive: Easy Pitfalls to Avoid as a Defamation Plaintiff

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Key Takeaways

- A recent North Carolina case highlights how defamation lawsuits can be dismissed early due to procedural missteps, such as missing deadlines, failing to name all defendants or not properly characterizing statements as false facts.
- Plaintiffs risk losing their case before discovery if they do not carefully follow procedural rules, including statutes of limitations, naming all known defendants from the start and meeting pre-suit notice requirements.
- Anyone considering a defamation lawsuit should work closely with counsel to ensure all defendants are named promptly, deadlines are met, statements are clearly alleged as false facts and all notice requirements are satisfied to avoid early dismissal.

Filing a defamation lawsuit is one thing. Surviving the inevitable motion to dismiss is another. A recent case out of the Eastern District of North Carolina, *McKnight v. FOXY/WFXC/K 107.1/104.3 Radio Station, et al.*, Civil Action No. 5:26-cv-102, provides a useful case study in the kinds of missteps that can doom a defamation complaint before it ever reaches discovery.

The *McKnight* case arose from two broadcasts about celebrity Brian McKnight. In January 2025, on-air host Karen Clark interviewed Brian McKnight's ex-wife, Julie McKnight, on the FOXY 107.1 radio station in Raleigh, North Carolina, during which Ms. McKnight made a series of allegations accusing plaintiff of emotional abuse, parental neglect and dishonesty. Plaintiff alleged that Ms. Clark encouraged and amplified those allegations through her commentary and questioning. In December 2025, a second Urban One radio program-the nationally syndicated Rickey Smiley Morning Show-aired an edited clip from a separate interview with the plaintiff's son, which plaintiff Brian McKnight alleged was presented without context and framed to further a defamatory narrative.

Both Urban One and Ms. Clark moved to dismiss. Defendants' motions to dismiss raise a host of arguments, many of which could have been avoided or neutralized with careful drafting at the complaint stage.

First, Defendant Clark in the *McKnight*

case has a good argument that plaintiff has failed to name all known defendants in the original complaint in a timely manner. Plaintiff filed his initial complaint on January 22, 2026-just one day before the one-year statute of limitations expired-naming only Urban One, Inc. and its radio station. Despite the complaint's detailed allegations about on-air host Karen Clark's role in the allegedly defamatory broadcast, Ms. Clark was not added as a defendant until five days later, on January 27, 2026, when the plaintiff filed an amended complaint. By that point, the statute of limitations had already run.

Ms. Clark moved to dismiss on statute-of-limitations grounds, arguing that the amendment adding her did not relate back to the original filing date. She cited the Supreme Court's decision in *Krupski v. Costa Crociere S.p.A.*, 560 U.S. 538 (2010), for the proposition that a plaintiff's fully informed decision not to name a defendant is not a "mistake" that permits relation back under Federal Rule of Civil Procedure 15(c)(1)(C). Because the original complaint clearly demonstrated the plaintiff's knowledge of Ms. Clark's involvement, the defense argued this was a deliberate strategic choice, not an oversight.

It would have been much easier, however, if plaintiff had just named them all from the very start. The lesson is straightforward: if you know who your defendants are, name them all from the beginning, especially when the limitations clock is about to expire.

Second, the *McKnight* case is a cautionary tale about calendar management. North Carolina imposes a one-year statute of limitations on defamation claims under N.C. Gen. Stat. § 1-54(3). The allegedly defamatory broadcast aired on January 23, 2025, and the original complaint was filed on January 22, 2026-cutting it extremely close. When the plaintiff attempted to add a new defendant after the limitations period had already lapsed, the defense had a good argument for dismissal.

Prudent practice dictates filing well in advance of any limitations deadline. This buffer allows time for amendments, discovery of additional defendants and compliance with any pre-suit notice requirements. As the *McKnight* case shows, waiting until the last possible moment eliminates all margin for error and can result in the loss of claims against critical parties.

Third, plaintiff's complaint contained language the defense used to argue that the alleged defamatory statements were mere opinions. The plaintiff described the statements at issue as "unverified, disputed, or solely Ms. McKnight's opinion." The defense seized on this admission, arguing it was fatal to the actual malice analysis: if the plaintiff himself concedes the statements are opinions, they are not actionable as defamation, and the plaintiff cannot show the defendants knew the statements were false.

This is a critical drafting lesson: every statement the plaintiff identifies as defamatory should be characterized as a false statement of fact, not as opinion, speculation or unverified rumor. The complaint should affirmatively allege that each statement was presented as, and reasonably understood by listeners to be, a factual assertion. Defense counsel will comb the complaint for any concession that cuts against the elements of the claim. Do not hand them ammunition.

Finally, North Carolina-like many states-requires that before initiating a defamation lawsuit, the plaintiff serve written notice of the alleged defamatory statement on the defendant at least five days prior to filing suit. Some states have longer requirement periods and others are shorter. Failure to comply with this notice requirement can be fatal to a claim for punitive damages. In *McKnight*

, the defense argued that the plaintiff failed to allege (or provide) any such pre-suit notice, which should bar any recovery of punitive damages. This is the kind of procedural requirement that is easy to overlook but can meaningfully limit a plaintiff's recovery.

In summation, the two motions to dismiss in *McKnight* are a roadmap of the pitfalls that can undermine an otherwise meritorious defamation complaint. Most of the arguments did not challenge whether defamation actually occurred in some general sense-they targeted specific pleading deficiencies. By naming all known defendants at the outset, respecting the statute of limitations, characterizing statements as false facts rather than opinions, and complying with pre-suit notice requirements, plaintiffs can file complaints that are far more resilient to early dismissal. In defamation litigation, a well-drafted complaint is not just good practice-it is the difference between getting to discovery and getting dismissed.

Benesch stands ready to counsel and advise on defamation and other such matters. If you have any questions, please contact the authors or your contact point at Benesch.