

U.S. Supreme Court's Denial of Actress's Petition Highlights First Amendment Protection of Docudramas

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PRACTICES Anti-SLAPP and First Amendment Rights, Media and Entertainment Litigation

The U.S. Supreme Court denied certiorari this month to Olivia de Havilland, the 102-year-old retired actress famous for her roles in such films as “Gone With the Wind” and “The Adventures of Robin Hood.” De Havilland appealed a decision from a California appellate court that dismissed her suit against the creators and producers of the television miniseries “Feud: Bette and Joan” under California’s anti-SLAPP law, a law designed to reduce frivolous lawsuits based on activity protected by the First Amendment. The denial of certiorari leaves in place an opinion that delivered a major win for docudrama creators who take artistic license depicting public figures and highlights the availability of quick dismissal of certain suits under California’s anti-SLAPP law.

The first season of “Feud”—a docudrama covering famous celebrity quarrels—tells the story of the infamous rivalry between the now-deceased actresses Joan Crawford and Bette Davis, played by Jessica Lange and Susan Sarandon respectively. Actress Catherine Zeta-Jones portrays de Havilland in “Feud”—a real-life friend and confidante of Bette Davis—in a limited role that totals less than 17 minutes of screen time over the eight-episode season.

After the season aired, de Havilland sued “Feud”’s creators and producers, FX Networks, LLC and Pacific 2.1 Entertainment Group, Inc. (collectively FX), claiming they violated Civil Code section 3344, California’s statutory right of publicity, based on their use of de Havilland’s name and likeness without her consent. De Havilland also asserted a false light claim based on the show’s portrayal of her saying and doing things that she claims are offensive and never happened. De Havilland claims she was “falsely portrayed as a gossip who . . . shares intimate details on-camera about her close friend, Bette Davis, calls her sister a ‘bitch’ to others in her profession, and makes snide remarks about Frank Sinatra’s alcohol consumption.”

To read the full publication, see the PDF linked below.

[De Havilland-v-Fox-Article.PDF](#)