IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ALEXANDER RHODES, et al.,	:	
Plaintiffs,	:	**Civil Action No.: 2:25-cv-01956-MJH**
v.	:	
AYLO HOLDINGS, S.A.R.L., et al.,	:	
Defendants.	:	

MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANT TAYLOR & FRANCIS GROUP, LLC'S MOTION TO DISMISS
THE AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM

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PRELIMINARY STATEMENT

In this sprawling 600-plus paragraph lawsuit, Plaintiffs Alexander Rhodes and NoFap LLC seek to hold eight Defendants liable for what they describe as a vast conspiracy to spread disinformation on behalf of the pornography industry. One of those Defendants is Taylor & Francis Group, LLC, which did nothing more than publish a scholarly article in one of its academic journals, authored by a neuroscientist and a psychologist, titled "Violence on Reddit Support Forums Unique to r/NoFap," about their research into a possible link between the "porn addiction recovery" practices Plaintiffs espouse and violent rhetoric (the "Article"). The factual allegations in the Amended Complaint (ECF No. 9) fall far short of stating a claim against Taylor & Francis under any of the eleven causes of action Plaintiffs assert:

- Plaintiffs' defamation, trade disparagement, and false light claims (Claims V, IX, X) fail because the challenged statements in the Article are protected opinion and the Amended Complaint is devoid of facts that would establish Taylor & Francis published the Article with actual malice.
- The conspiracy claim (Claim XIV) fails because Plaintiffs have not alleged that Taylor & Francis published the Article with the sole purpose of injuring them and cannot state a claim for any underlying tort.
- The tortious interference claim (Claim VIII) fails because it is duplicative of the defamation claim, and there is no allegation that Taylor & Francis was aware of a non-disparagement agreement between Plaintiffs and Defendant Nicole Prause prior to publication or that it intended to induce a breach of that agreement.
- The claim for publicity given to private life (Claim XI) fails because the Article did not disclose any private facts about Rhodes.

- The claim for intentional infliction of emotional distress (Claim XIII) fails because it is duplicative of the defamation claim, Taylor & Francis's conduct was not extreme and outrageous, and Rhodes does not allege any physical harm.
- The negligence claim (Claim No. XV) fails because Taylor & Francis did not owe any legally cognizable duty to Plaintiffs.
- The RICO claim against Taylor & Francis (Claim I) fails because Plaintiffs have not plausibly alleged that Taylor & Francis is part of an enterprise with the other Defendants or that it has engaged in a pattern of racketeering activity.
- The federal trademark dilution claim (Claim III) fails because the Article's discussion of NoFap is exempt as a descriptive fair use and as a noncommercial use.
- The declaratory judgment claim (Claim No. XVII) fails because it is duplicative of Plaintiffs' other claims.

For all of these reasons, the Amended Complaint should be dismissed as to Taylor & Francis in its entirety. In addition, because the claims against Taylor & Francis are based on "protected public expression," Taylor & Francis is immune from liability under Pennsylvania's Uniform Public Expression Protection Act.

STATEMENT OF FACTS[1]

Rhodes is the founder of NoFap, which "operates a secular, science-supported, and sex-positive peer-support website for recovery from pornography addiction." Am. Compl. ¶¶ 1-2.

Rhodes has a contentious history with the Article's authors, Defendants Nicole Prause

[1] For purposes of this motion only, Taylor & Frances accepts the factual allegations in the Amended Complaint as true unless they are contradicted by documents incorporated by reference into the Amended Complaint, as the Court must do on a motion to dismiss pursuant to Rule 12(b)(6). *See Eid v. Thompson*, 740 F.3d 118, 122 (3d Cir. 2014).

and David Ley, including a previous lawsuit against Prause. *See, e.g.*, *id.* ¶¶ 26-27, 30. Rhodes and Prause settled that lawsuit in February 2021. *Id.* ¶ 33. In the settlement agreement (the "Agreement"), Prause agreed not to "defame or disparage" Rhodes but retained the ability to "criticiz[e] the purported scientific claims of NoFap LLC or its users or followers in a professional context such as a professional journal." Am. Compl. Ex. A at 3-4 ¶ 8 (ECF No. 9-1).

Taylor & Francis is an academic publisher whose publications include the journal *Deviant Behavior*, which addresses social deviance. *Id.* ¶¶ 247-48. Taylor & Francis's website includes ethical guidelines and policies governing conflicts of interest and data fabrication; it is also a member of the Committee on Publication Ethics. *Id.* ¶¶ 249-51.

On November 15, 2023, Taylor & Francis published the Article. *Id.* ¶ 254; Ex. 1, https://www.tandfonline.com/doi/epdf/10.1080/01639625.2023.2280795.[2] Prause, a licensed therapist, "neuroscientist, sexual psychophysiologist, and statistician," and Ley, a licensed therapist and psychologist, wrote the Article. *See id.* ¶¶ 8, 94, 125, 254. The Article found a link between NoFap and violent discourse and explored possible theories to explain it. *See id.* ¶¶ 284-85.

Soon after publication of the Article, NoFap sent Taylor & Francis a series of emails detailing its issues with the Article. *See id.* ¶¶ 294-97. Those issues included the Article's underlying data, conflicts of interest between Plaintiffs and the Article's authors, the purportedly confidential Agreement Prause had signed, and the Article's conclusions. *See id.* ¶¶ 256-57,

[2] The Court may consider the Article, as well as the other documents attached to Taylor & Frances's motion to dismiss, because they are incorporated by reference into the Amended Complaint and integral to Plaintiffs' claims. *See In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1426 (3d Cir. 1997); *Pension Benefit Guar. Corp. v. White Consol. Indus.*, 998 F.2d 1192, 1196 (3d Cir. 1993).

271-82, 284-85. On February 12, 2024, after investigating these complaints, Taylor & Francis informed NoFap that it would not retract or revise the Article, though it did update the disclosure statement to clarify Ley's association with the Sexual Health Alliance. *Id.* ¶ 298; *see also* Ex. 2, https://www.tandfonline.com/doi/epub/10.1080/01639625.2024.2316534; Ex. 3 (Feb. 12, 2024 email).

On November 13, 2024, Plaintiffs commenced this action in the Court of Common Pleas of Allegheny County, Pennsylvania. ECF No. 1 at 1-2. On December 16, 2025, Defendant The Regents of the University of California (incorrectly identified as University of California, Los Angeles d/b/a UCLA) removed the action to this Court. *Id.* This Court granted Plaintiffs leave to file an Amended Complaint by December 30, 2025, and ordered Defendants to file responsive pleadings by January 30, 2026. ECF No. 8.

The Amended Complaint asserts eleven causes of action against Taylor & Francis, all of which, as detailed below, fail to state a claim as a matter of law. Notably, although the Amended Complaint consists of more than 600 paragraphs,[3] most of the factual allegations relate to conduct and statements by other Defendants. *See, e.g.*, Am. Compl. ¶¶ 341, 426a, 474a-80a. With respect to Taylor & Francis, Plaintiffs' claims rely entirely on its publication of the Article and its subsequent decision not to retract or revise the Article. *See id.* ¶¶ 247-300.

On January 13, 2026, Plaintiffs' counsel and undersigned counsel met and conferred regarding Taylor & Francis's anticipated motion to dismiss for failure to state a claim. On January 27, Plaintiffs' counsel sent an email stating that his clients had agreed not to pursue their

[3] The Amended Complaint's numbering scheme contains an error. It jumps from paragraph 480 back to paragraph 419, and thus contains two sets of paragraphs 419 to 480. To distinguish between paragraphs with duplicative numbering, Taylor & Frances refers to the first set (on pages 153 to 174 of the Amended Complaint) as 419a to 480a and the second set (on pages 174 to 184) as 419b to 480b.

trade disparagement, RICO, or trademark dilution claims against Taylor & Francis. Nonetheless, to preserve its arguments for dismissal of those claims, Taylor & Francis addresses each of them below.

ARGUMENT

I. PLAINTIFFS FAIL TO STATE CLAIMS AGAINST TAYLOR & FRANCIS FOR DEFAMATION (CLAIM IX), TRADE DISPARAGEMENT (CLAIM V), OR FALSE LIGHT (CLAIM X)[4]

While the torts of defamation, trade disparagement, and false light invasion of privacy address "different harms," they implicate "similarly important interests in the free flow of information and are thus subject to the same privileges, or limitations, that render certain statements nonactionable." *Pacira BioSciences v. Am. Soc'y of Anesthesiologists*, 63 F.4th 240, 244-45 (3d Cir. 2023) (discussing defamation and trade libel); *see also Hill v. Cosby*, 665 F. App'x 169, 177 (3d Cir. 2016) ("Pennsylvania courts apply the same analysis for both defamation and false light."). Plaintiffs cannot state a claim against Taylor & Francis based on its publication of the Article under any of these theories. The challenged statements in the Article—including the finding of a link between NoFap and violence—are constitutionally protected opinion. Furthermore, the factual allegations in the Amended Complaint fail to establish that Taylor & Francis published the challenged statements with actual malice. For both of these independent reasons, the defamation, trade disparagement, and false light claims should be dismissed.

A. The Challenged Statements Are Protected Opinion.

The First Amendment requires that the plaintiff "bear the burden of showing falsity," and only statements of verifiable fact are actionable. *Phila. Newspapers v. Hepps*, 475 U.S. 767, 776

[4] As noted, *supra* at 4-5, Plaintiffs have agreed to drop the trade disparagement claim against Taylor & Frances, but Taylor & Frances addresses it here to preserve its arguments for dismissal.

(1986); *see also Hill*, 665 F. App'x at 174 ("a statement must be provable as false to give rise to a claim of defamation" (citing *Milkovich v. Lorain J.*, 497 U.S. 1, 19-20 (1990))). Statements of "subjective interpretation, or opinion," are constitutionally protected. *Parano v. O'Connor*, 641 A.2d 607, 609 (Pa. Super. 1994). Whether a statement is one of fact or opinion is a threshold question of law for the Court to decide. *See, e.g.*, *Kerrigan v. Otsuka Am. Pharm.*, 560 F. App'x 162, 168 (3d Cir. 2014); *Veno v. Meredith*, 515 A.2d 571, 575 (Pa. Super. 1986). "If a statement could be construed as either fact or opinion," the Court "must construe it as an opinion" because a "contrary presumption would tend to impose a chilling effect on speech." *Pacira*, 63 F.4th at 245 n.9 (cleaned up).

As the Third Circuit has explained, "opinions based on disclosed facts are absolutely privileged, no matter how derogatory they are." *McCafferty v. Newsweek Media Grp.*, 955 F.3d 352, 357 (3d Cir. 2020) (cleaned up); *see also Hill*, 665 F. App'x at 174 ("Statements that provide the facts on which the opinion-holder bases his or her opinion, known as 'pure' opinions, are not actionable."). The reason for this rule is straightforward: The disclosure of the facts underlying an opinion "allow[s] the recipient to draw his or her own conclusions on the basis of an independent evaluation of the facts." *Id.* at 175-76 (cleaned up). Thus, a "statement in the form of an opinion is actionable only if it may reasonably be understood to imply the existence of *undisclosed* defamatory facts justifying the opinion." *Veno*, 515 A.2d at 575 (cleaned up); *see also Parano*, 641 A.2d at 609 (expressions of opinion "are not actionable unless they imply undisclosed, false and defamatory facts").

The constitutional protection for opinion has particular salience in cases, such as this one, involving vigorously contested matters of scientific and academic debate. "While statements are not protected solely because they appear in a peer-reviewed journal," the Third Circuit and other

courts have recognized that assessments of scientific validity and academic methods—even when they appear at first blush to be factual statements—are best understood as expressions of opinion. *Pacira*, 63 F.4th at 248-49 (disagreements over "data and methodology may be the basis of future scholarly debate, but they do not form the basis for trade libel," and to "conclude otherwise would risk 'chilling' the natural development of scientific research and discourse"); *see also, e.g.*, *ONY v. Cornerstone Therapeutics*, 720 F.3d 490, 497 (2d Cir. 2013) ("[W]hile statements about contested and contestable scientific hypotheses constitute assertions about the world that are in principle matters of verifiable 'fact,' for purposes of the First Amendment and the laws relating to fair competition and defamation, they are more closely akin to matters of opinion, and are so understood by the relevant scientific communities."). As one court explained, in holding that an infectious disease physician's statement that an anti-vaccine advocate "lies" was protected opinion,

> Courts have a justifiable reticence about venturing into the thicket of scientific debate, especially in the defamation context.
>
> Plaintiff may wish to defend in Court the credibility of her conclusions about the dangers of vaccines, the validity of the evidence she offers in support of those theories, and the policy choices that flow from those views—as well as her own credibility for having advanced those positions. These, however, are academic questions that are not the sort of thing that courts or juries resolve in the context of a defamation action.

Arthur v. Offit, 2010 WL 883745, at *6 (E.D. Va. Mar. 10, 2010).

Plaintiffs' core objection to the Article is its finding of a link between NoFap and violent discourse. *See, e.g.*, Am. Compl. ¶ 284(a) (asserting that the title and "entire premise" of the Article are false and defamatory); *id.* ¶ 284(c) (complaining about unspecified statements in the Article's abstract); *id.* ¶ 284(n) (objecting to alleged conclusion that "NoFap is [u]niquely, [p]roblematically violent"). While Plaintiffs disagree with the Article's conclusions, these are precisely the kind of scholarly questions that "must be settled by the methods of science rather

than by the methods of litigation." *Underwager v. Salter*, 22 F.3d 730, 736 (7th Cir. 1994). Courts have shown particular reluctance to settle such debates when, as in this case, the challenged statements appear in a publication "directed to the relevant scientific community." *Pacira*, 63 F.4th at 248; *see also ONY*, 720 F.3d at 497 ("Needless to say, courts are ill-equipped to undertake to referee such controversies. Instead, the trial of ideas plays out in the pages of peer-reviewed journals, and the scientific public sits as the jury.").

The Article fully disclosed the facts on which its conclusions were based by providing a hyperlink to the relevant data set and dozens of citations to academic literature and primary sources. Article at 607, 612-16; *see also Cheng v. Neumann*, 51 F.4th 438, 447 (1st Cir. 2022) (by "provid[ing] a link to the source material," article "enable[d] readers to draw their own conclusions based on facts accessible to everyone" (cleaned up)); *Remick v. Manfredy*, 238 F.3d 248, 263 (3d Cir. 2001) (reference to earlier letter that provided factual basis for statement in later letter was sufficient to disclose facts underlying opinion); *Ganske v. Mensch*, 480 F. Supp. 3d 542, 554 (S.D.N.Y. 2020) ("[T]he inclusion of a hyperlink to a report or article in a communication shared on an Internet forum is a sufficient means of disclosing a factual basis on which an opinion rests."). *Deviant Behavior*'s specialized readers had "the expertise to assess" the Article's "merits based on the disclosed data and methodology" and were "equipped to evaluate the opinions the authors reached." *Pacira*, 63 F.4th at 249.

Though Plaintiffs call the underlying data "falsified," Am. Compl. ¶ 271, they do not challenge the authenticity or content of any of the posts in the data set. Instead, they complain about the way the authors allegedly selected and categorized the posts from NoFap and two control forums. *See id.* ¶¶ 258-70 (alleging that a Pornhub employee was involved in gathering NoFap posts for the data set); *id.* ¶ 272 (disagreeing with the authors' categorization of some

NoFap posts as violent); *id.* ¶¶ 273-74 (disagreeing with the authors' categorization of some control forum posts as non-violent); *id.* ¶¶ 275-78 (alleging that the data set included some NoFap posts that must have been collected through a different methodology than the one described in the Article); *id.* ¶ 279 (alleging that the data set excluded two purportedly "violent" posts by Prause); *id.* ¶ 283(a) (alleging that the authors failed to remove some NoFap posts by "obviously underage users" from the data set); *id.* ¶ 283(b)-(c) (disagreeing with the search terms the authors chose). These are purely methodological disputes that cannot support a defamation claim. *See, e.g.*, *Pacira*, 63 F.4th at 247 ("allegations that competent scientists would have included variables that were available to the defendant authors but were not taken into account in their analysis cannot create an actionable falsehood" (cleaned up)). Indeed, the Article acknowledged potential shortcomings and uncertainties in the study, including that the "findings may reflect the chosen search terms." Article at 611. In the context of an academic paper, "tentative scientific conclusions" that are "subject to revision" and "expressly disclosed as such" are not actionable. *Pacira*, 63 F.4th at 246.

Plaintiffs' contention that the authors should have disclosed additional conflicts of interest, Am. Compl. ¶ 257, is irrelevant to this analysis. As the Third Circuit has recognized, even "[s]ubstantial undisclosed conflicts of interest" do not render scientific conclusions false and "have no bearing on whether the statements may be actionable as a threshold matter." *Pacira*, 63 F.4th at 247 n.15.

Many other statements with which Plaintiffs take issue are also protected opinion:

- Plaintiffs object to the use of the phrase "NoFap Army" to describe NoFap's followers, Am. Compl. ¶ 284(d), but the Article derives that term from cited sources indicating that Plaintiffs themselves have used it. *See* Article at 605 (citing post showing that Rhodes

was "given the designation of 'Major' of the 'NoFap Army'"); *id.* (citing forum moderated by Rhodes called "r/NoFapArmy," which has since been banned by Reddit)[5]; *id.* at 607 (citing academic paper for proposition that "NoFap views itself as an 'army' and hosts 'wars'"). Even if Plaintiffs had not described themselves in this way, the phrase simply reflects the Article's protected scientific conclusions about NoFap.

- Plaintiffs object to statements in the Article noting that some NoFap followers have perpetrated violent acts, Am. Compl. ¶ 284(e), but they do not challenge the truth of the specific examples the Article provides. *See* Article at 603 (discussing three individuals by name). Rather, Plaintiffs say they are "unaware of any single individual committing a violent act *in support of*" NoFap, Am. Compl. ¶ 284(e) (emphasis added), a claim the Article never made. The Article merely stated that the "homicidal behaviors" of certain NoFap followers "*appear to be linked* to these sexual beliefs and practices," Article at 602 (emphasis added), an opinion that is not actionable. *See McCafferty*, 955 F.3d at 359 ("Everyone is free to speculate about someone's motivations based on disclosed facts about that person's behavior."). The Article further cautioned that "Only a small minority of NoFap followers are likely to become violent in real life," thus negating any impression that participation in NoFap inevitably leads to violence. Article at 611.
- Plaintiffs disagree with statements in the Article suggesting that NoFap is anti-science, Am. Compl. ¶ 284(m), but they do not challenge any of the citations in the Article offered to support that view. *See* Article at 603 (citing source for proposition that the

[5] *See* https://web.archive.org/web/20230210235153/https://www.reddit.com/r/NoFapArmy/, cited in Article at 605, 615.

"'nineteenth century understandings of onanistic self-harm' in NoFap has been described as grossly and scientifically inaccurate"); *id.* at 606 (citing sources for proposition that "[s]cientists regularly comment on the misleading use of their research by NoFap to monetize and on NoFap's non-evidence-based practice" (cleaned up)). In any event, whether beliefs are "anti-science" is a matter of academic debate incapable of being proved true or false. *See Arthur*, 2010 WL 883745, at *6 (statement that anti-vaccine advocate "lies" was "hardly the sort of issue that would be subject to verification based upon a core of objective evidence" (cleaned up)).

- Plaintiffs dislike being labeled as "part of the manosphere," Article at 604; Am. Compl. ¶ 284(l), but they again fail to challenge any of the facts and citations underlying the Article's characterization. Moreover, a term like "manosphere," even if used in a derogatory manner, lacks a precise meaning that could give rise to a claim. *See McCafferty*, 955 F.3d at 358 ("derogatory characterizations without more are not defamatory"); *Cheng*, 51 F.4th at 446 ("vague, judgement-based terms that admit of numerous interpretations . . . are not objectively provable as false" (cleaned up)).

Other allegedly defamatory meanings Plaintiffs seek to draw from the Article are simply unreasonable. *See Bull Int'l v. MTD Consumer Grp.*, 654 F. App'x 80, 105 (3d Cir. 2016) (publication must "fairly and reasonably be construed to have the meaning imputed"); *Bogash v. Elkins*, 176 A.2d 677, 679 (Pa. 1962) (claim cannot be based on an "unfair and forced construction"). For example:

- Plaintiffs contend that the Article stated NoFap is "[h]ostile to [m]inorities," Am. Compl. ¶ 284(l), but nothing in the Article made such an accusation. Even if it had, "a simple

accusation of racism is not enough" for liability. *McCafferty*, 955 F.3d at 358 (cleaned up).

- Plaintiffs claim the Article accused NoFap of being "a recognized terrorist group," Am. Compl. ¶ 284(g), but the Article did no such thing: Instead, it accurately stated that "NoFap was recently described by the International Centre for Counter-Terrorism as an 'extremist' misogynist group," Article at 603 (citing source). The Article did not even fully adopt that characterization as its own. *See id.* at 610-11 ("*If* the characterization by the International Centre on Counter-Terrorism of r/NoFap as an 'extremist' misogynist group is accurate . . ." (emphasis added)). Regardless, the derogatory characterization of NoFap as "extremist" or "misogynist" is not actionable.[6] *See McCafferty*, 955 F.3d at 358; *Cheng*, 51 F.4th at 446.
- Plaintiffs contend the Article connects NoFap to "incels," Am. Compl. ¶ 284(k), but the Article actually states that "Incels and NoFap Army are quite different," despite their "overlap in membership." Article at 605. Even if the Article had described NoFap as "a controversial online community" that is "often accused of holding misogynistic views," Am. Compl. ¶ 284(k), which it did not, that would not give rise to a claim. *See McCafferty*, 955 F.3d at 358; *Cheng*, 51 F.4th at 446.

Finally, Plaintiffs object to the Article's discussion of past social media posts by Rhodes, *see* Am. Compl. ¶ 285, including:

[6] The same is true of the keywords assigned to the Article. *See* Am. Compl. ¶ 284(b) (objecting to keywords of "Extremism; manosphere, NoFap; pornography; abstinence; violence; misogyny").

- A post in which Rhodes said he "wrecked car, ran from police," Article at 605 (citing https://archive.ph/ge5mj);
- Posts showing Rhodes "holding 'an empty vodka bottle filled with water and some lighter fluid' that appeared to be on fire," Article at 605 (citing https://archive.ph/8lRny and https://web.archive.org/web/20220520202012/http://i.imgur.com/IV8yK.jpg);
- A post in which Rhodes said he would use a kiln in his father's home to dispose of a corpse, Article at 605 (citing https://archive.ph/L5Z9N#selection-1771.0-1771.54);
- A post in which Rhodes said he "admitted to wrapping up a piece of poop and using it as a marker," Article at 605 (citing https://archive.ph/6e3Uq); *see* Am. Compl. ¶ 285; and
- A post in which Rhodes said he had "been diagnosed with 'severe' bipolar disorder," Article at 604 (citing https://archive.ph/Yqz9q#selection-241.12-241.74).

While Plaintiffs disagree with the Article's interpretation of Rhodes' posts, as well as the conclusion based on the posts that "NoFap leadership appears to promote violence and criminality in NoFap forums," Article at 605; Am. Compl. ¶ 285, these statements of "subjective interpretation" based on disclosed facts are constitutionally protected opinion. *Parano*, 641 A.2d at 609. The First Amendment further protects the Article's discussion of Rhodes' public social media posts, which are a matter of public record, because they are part of a vigorous public debate about Rhodes' porn addiction recovery practices. *See N.Y. Times v. Sullivan*, 376 U.S. 254, 279 (1964) (concluding that any "rule" that "dampens the vigor and limits the variety of public debate . . . is inconsistent with the First and Fourteenth Amendments"); *St. Amant v. Thompson*, 390 U.S. 727, 732 (1968) (emphasizing the importance of safeguarding "the ascertainment and publication of the truth about public affairs"); *Marcone v. Penthouse Int'l*

Mag. For Men, 754 F.2d 1072, 1081 (3d Cir. 1985) (explaining the Supreme Court's commitment to "robust public debate").

Because all of the challenged statements are opinion, the defamation, trade disparagement, and false light claims against Taylor & Francis should be dismissed with prejudice.[7]

B. Plaintiffs Have Failed to Plead that Taylor & Francis Published the Challenged Statements with Actual Malice.

Even if the statements published by Taylor & Francis were not protected opinion, the defamation, trade disparagement, and false light claims should be dismissed for the independent reason that Plaintiffs have not pleaded facts sufficient to establish that Taylor & Francis published any challenged statement with actual malice—that is, knowing the statement was false or entertaining serious doubts about its truth. *McCafferty*, 955 F.3d at 359. The First Amendment requires that public figures like Plaintiffs[8] meet this "demanding standard" in defamation cases, *id.*, and it is an element of all trade disparagement and false light claims under Pennsylvania law. *See id.* at 360 (citing Restatement (Second) of Torts § 652E); *Pro Golf Mfg.*

[7] To the extent Plaintiffs seek to base their claims against Taylor & Frances on unspecified "sources that fail to support the propositions attributed to them," Am. Compl. ¶ 283(d), additional "false, defamatory, misleading, and disparaging statements targeting" Rhodes, *id.* ¶ 284(h), other "disparaging statements and imputations," *id.* ¶ 284(i), or statements "misattributed" to Rhodes, *id.* ¶ 284(j), their allegations are too vague to survive a motion to dismiss. *See Weir v. Univ. of Pittsburgh*, 2022 WL 17095566, at *11 (W.D. Pa. Aug. 18, 2022) ("Without a specific identification of any statement that Plaintiff contends is defamatory, his claim necessarily fails."), *R. & R. adopted*, 2022 WL 17093615 (W.D. Pa. Nov. 21, 2022), *aff'd*, 2023 WL 3773645 (3d Cir. June 2, 2023).

[8] *See, e.g.*, Am. Compl. ¶¶ 22, 59-60 (describing NoFap's history as "the largest platform for recovering porn addicts," with "millions of visits per month"); *id.* ¶¶ 76-77, 173, 456a-57a (describing extensive national media coverage of Plaintiffs in connection with issue of pornography addiction prior to publication of the Article, including *Time* magazine cover story and *New York Times* profile on Rhodes).

v. Trib. Rev. Newspaper, 809 A.2d 243, 246 (Pa. 2002) (citing Restatement (Second) of Torts § 623A).

The actual malice "standard is a subjective one, based on the defendant's actual state of mind." *Schiavone Constr. v. Time*, 847 F.2d 1069, 1089 (3d Cir. 1988). To meet this standard, the plaintiff must establish, by clear and convincing evidence, that the defendant knew its publication was false or "*in fact* entertained serious doubts as to the truth of [the] publication." *Pace v. Baker-White*, 850 F. App'x 827, 831 (3d Cir. 2021) (emphasis added). The law is "clear that reckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing." *St. Amant*, 390 U.S. at 731. Thus, "even an extreme departure from professional standards, without more, will not support a finding of actual malice." *McCafferty*, 955 F.3d at 359. Nor are "ill will, bias, spite," or "prejudice" sufficient to demonstrate actual malice. *St. Surin v. V.I. Daily News*, 21 F.3d 1309, 1317 (3d Cir. 1994); *see also McCafferty*, 955 F.3d at 359 (same). Whether a plaintiff has met the burden of establishing actual malice presents a question of law for the Court. *See, e.g.*, *Marcone*, 754 F.2d at 1088-89.

Under the *Iqbal*/*Twombly* standard, a public figure is required to plead more than "legal conclusions" that amount to "actual-malice buzzwords." *Schatz v. Republican State Leadership Comm.*, 669 F.3d 50, 56 (1st Cir. 2012). Rather, the plaintiff "must allege *facts* to support an inference of actual malice." *Pace*, 850 F. App'x at 831 & n.16 (collecting cases). When a plaintiff fails to meet this requirement, his claims must be dismissed. *See, e.g.*, *id.* at 833 (affirming Rule 12(b)(6) dismissal of defamation claim for failure to plausibly plead actual malice); *McCafferty*, 955 F.3d at 360 (same); *Lee v. TMZ Prods.*, 710 F. App'x 551, 560 (3d Cir. 2017) (same).

The Amended Complaint does not come close to pleading that Taylor & Francis published the Article with actual malice. There is not a single factual allegation to suggest that Taylor & Francis was aware of any material falsity in the Article or had any doubts about its accuracy prior to publication. As Plaintiffs allege, UCLA's Institutional Review Board "approved of and oversaw" the research. Am. Compl. ¶ 255. A defendant's reliance on information from a reputable source, such as a prominent research university, undercuts any claim of actual malice. *See, e.g.*, *Hatfill v. N.Y. Times*, 532 F.3d 312, 325 (4th Cir. 2008) (no actual malice where defendant relied on source "considered an expert in [her] field"); *Marcone*, 754 F.2d at 1089-90 (no actual malice where defendant relied on "the professional reputation" of its freelance journalist and newspaper article); *Dickey v. CBS*, 583 F.2d 1221, 1229 (3d Cir. 1978) (no actual malice where defendant relied on charges against plaintiff "made by a veteran congressman who was intimately acquainted with the subject and content of his charges").

Plaintiffs' various allegations about Pornhub's supposed involvement in the research, undisclosed conflicts of interest, and methodological flaws, *e.g.*, Am. Compl. ¶¶ 256-79, say nothing about Taylor & Francis's awareness of those purported issues prior to publishing the Article. The most Plaintiffs can allege is that, in their view, Taylor & Francis *should have* discovered the issues in advance of publication. *See, e.g.*, Am. Compl. ¶ 281 (alleging that "a proper peer review and editorial review would have identified" the Article's "defects"); *id.* ¶ 286 (alleging that "the prior disputes between Plaintiffs and Defendants Prause and Ley were readily ascertainable and should have been investigated by" Taylor & Francis); *id.* ¶ 287 (alleging that the Article's "inflammatory framing and its focus on a single website should have alerted" Taylor & Francis "to conduct appropriate due diligence prior to publication"). But errors resulting from "insufficient editorial verification and checking procedures" are not evidence of

actual malice. *Marcone*, 754 F.2d at 1091; *see also McCafferty*, 955 F.3d at 359 ("a failure to investigate" does not constitute actual malice). Contrary to Plaintiffs' suggestion, these alleged issues do not "support[] a reasonable inference of bad faith" by Taylor & Francis, Am. Compl. ¶ 288, but even if they did, "ill will or improper motivation" do not establish actual malice. *McCafferty*, 955 F.3d at 359.

Plaintiffs contend that, even if Taylor & Francis's pre-publication conduct does not amount to actual malice, its subsequent refusal to retract or amend the Article meets that standard. Am. Compl. ¶¶ 288-89. That is flatly incorrect. After receiving communications from NoFap about the Article, Taylor & Francis conducted an investigation and concluded that no changes to the Article were warranted other than an updated disclosure statement. *Id.* ¶¶ 294-300; *see also* Ex. 2. But, to the extent NoFap's critiques of the Article were correct, "actual malice cannot be inferred from a publisher's failure to retract a statement once it learns it to be false." *Pippen v. NBCUniversal Media*, 734 F.3d 610, 614 (7th Cir. 2013); *see also Boone v. Newsweek*, 2023 WL 2245104, at *6 (E.D. Pa. Feb. 27, 2023) (same). As the Supreme Court has concluded, only the publisher's state of mind "at the time of the publication" is relevant for the actual malice inquiry, and any allegations about a failure to retract are necessarily after the time of publication. *Sullivan*, 376 U.S. at 286; *see also Curran v. Phila. Newspapers*, 546 A.2d 639, 648 (Pa. Super. 1988) ("failure to retract upon plaintiff's demand [is] not adequate evidence of malice for constitutional purposes"); *Kahl v. Bureau of Nat'l Affs.*, 856 F.3d 106, 118 (D.C. Cir. 2017) (failure to retract "does not necessarily prove actual malice, because it does not prove a wrongful state of knowledge *at the time of initial publication*").

In short, Plaintiffs' factual allegations are insufficient to "nudge[]" their defamation, trade disparagement, and false light claims against Taylor & Francis "across the line from

conceivable to plausible." *Bell Atl. v. Twombly*, 550 U.S. 544, 570 (2007). This provides an independent ground for dismissal. *See Pace*, 850 F. App'x at 833; *McCafferty*, 955 F.3d at 360; *Lee*, 710 F. App'x at 560.[9]

II. PLAINTIFFS FAIL TO STATE A CLAIM AGAINST TAYLOR & FRANCIS FOR CIVIL CONSPIRACY (CLAIM XIV)

Plaintiffs allege that all Defendants engaged in a civil conspiracy "intended to harm Plaintiffs by engaging in defamatory, fraudulent, and otherwise tortious conduct." Am. Compl. ¶ 532. This claim fails against Taylor & Francis because Plaintiffs do not plausibly allege that Taylor & Francis acted with malice and, separately, because they cannot state a claim for any underlying torts.

Malice "is an essential part" of a claim for civil conspiracy under Pennsylvania law. *Sarpolis v. Tereshko*, 625 F. App'x 594, 601 (3d Cir. 2016). In this context, "malice requires that the conspirators act with the *sole purpose* of injuring the plaintiff." *Id.* (emphasis added); *see Thompson Coal v. Pike Coal*, 412 A.2d 466, 472 (Pa. 1979) (no malice where party acted "to advance the legitimate business interests of his client and to advance his own interests"); *Conquest v. WMC Mortg.*, 247 F. Supp. 3d 618, 637 (E.D. Pa. 2017) ("Malice is not found where there are facts establishing that the person acted for professional reasons and not solely to injure the plaintiff.").

Here, the Amended Complaint is bereft of allegations that Taylor & Francis acted for the "sole purpose of injuring" Plaintiffs when it published the Article. *Sarpolis*, 625 F. App'x at 601. This Court need not credit Plaintiffs' conclusory statement, unsupported by any factual

[9] NoFap's false light claim also fails because this tort applies "only to natural persons," not to business entities. *See Fraternal Ord. of Police v. Crucifucks*, 1996 WL 426709, at *2 (E.D. Pa. July 29, 1996) (citing Restatement (Second) of Torts § 652I & cmt. c).

allegations, that "Defendants acted with malicious intent." *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."). As the Amended Complaint acknowledges, Taylor & Francis is "one of the world's leading academic publishers," whose "purpose is to foster human progress through knowledge," and *Deviant Behavior* is a scholarly journal focusing "specifically and exclusively" on issues of "social deviance." Am. Compl. ¶¶ 247-48. If anything, the pleaded facts show that Taylor & Francis published the Article for its "own legitimate business reasons," foreclosing a finding of malice. *Conquest*, 247 F. Supp. 3d at 637 (dismissing civil conspiracy claim for lack of malice where plaintiff failed to allege facts suggesting that defendants "acted contrary to their own legitimate business interests or with the sole intent to harm" plaintiff).

Additionally, "civil conspiracy may not exist without an underlying tort." *Boyanowski v. Cap. Area Intermediate Unit*, 215 F.3d 396, 405 (3d Cir. 2000); *Kist v. Fatula*, 2007 WL 2404721, at *9 (W.D. Pa. Aug. 17, 2007) ("[I]n Pennsylvania, success on a claim for civil conspiracy is predicated on the existence of the underlying tort; if the underlying tort is found not to exist, the related claim for civil conspiracy to commit that tort necessarily fails."). To the extent that Plaintiffs base their civil conspiracy claim on the tort of defamation or any other cause of action asserted in the Amended Complaint, their conspiracy claim fails for the same reasons those underlying claims fail.

III. PLAINTIFFS FAIL TO STATE A CLAIM AGAINST TAYLOR & FRANCIS FOR TORTIOUS INTERFERENCE (CLAIM VIII)

Plaintiffs contend that, by publishing the Article, Taylor & Francis tortiously interfered with the non-disparagement Agreement between Plaintiffs and Prause, as well as "existing relationships" and "prospective relationships" between Plaintiffs and "paying members,

professional collaborators, and other entities critical to their operations and success." *See* Am. Compl. ¶¶ 53, 475b-79b; *id.* ¶ 256. Their claim should be dismissed for two reasons.

First, the tortious interference claim fails because it is based on the same theory and facts as Plaintiffs' defamation claim. A plaintiff cannot repackage a deficient defamation claim as a different type of tort claim to avoid the protections of the First Amendment. *See Hustler Mag. v. Falwell*, 485 U.S. 46, 55-56 (1988) (plaintiff cannot pursue emotional distress claim when defamation claim fails on actual malice grounds). Courts routinely dismiss tortious interference claims on this basis. *See, e.g.*, *Nanavati v. Burdette Tomlin Mem. Hosp.*, 857 F.2d 96, 109 (3d Cir. 1988); *Yoho v. Bank of N.Y. Mellon*, 2020 WL 7336579, at *11 (W.D. Pa. Dec. 14, 2020), *aff'd*, 2022 WL 296637 (3d Cir. Feb. 1, 2022); *Atiyeh Publ'g v. Times Mirror Mags.*, 2000 WL 1886574, at *4 (E.D. Pa. Dec. 7, 2000). The Court should do the same here.

Second, under Pennsylvania law, a claim for tortious interference with existing or prospective contractual relationships requires a plaintiff to allege "purposeful action by the defendant, specifically intended to harm an existing relationship or intended to prevent a prospective relation from occurring." *Acumed v. Advanced Surgical Servs.*, 561 F.3d 199, 212 (3d Cir. 2009); *see also, e.g.*, *Lubold v. Univ. Veterinary Specialists*, 2017 WL 2834668, at *3 (W.D. Pa. June 30, 2017) (dismissing tortious interference claim where plaintiff failed to allege that defendant "took any purposeful action specifically intended to harm the existing relationship" (cleaned up)).

Here, there is no allegation that Taylor & Francis was even aware of an Agreement between Plaintiffs and Prause at the time it published the Article, much less that it had the purpose or intent to interfere with the alleged Agreement. In fact, the Amended Complaint alleges that Prause had already breached the Agreement well before Taylor & Francis published

the Article and continued to do so after publication. *See* Am. Compl. ¶¶ 214-15 (alleging that Prause first breached the Agreement on March 7, 2021); *id.* ¶ 254 (alleging that Taylor & Francis published the Article on November 15, 2023); *see also, e.g.*, *id.* ¶ 358 (alleging that Prause breached the Agreement again on February 6, 2025). Taylor & Francis simply could not have induced Prause to breach the Agreement if she had already done so in the past and intended to do so again. *See Charbonneau v. Chartis Prop. Cas.*, 2015 WL 10793434, at *8 (E.D. Pa. Sept. 21, 2015) (rejecting argument that "a defendant can be found to have 'induced' breach even where the third party independently intended to breach the contract all along"), *aff'd*, 680 F. App'x 94 (3d Cir. 2017). Likewise, the Amended Complaint lacks any factual allegations that Taylor & Francis was aware of Plaintiffs' current or prospective relationships "with paying members, professional collaborators, and other entities critical to their operations and success," Am. Compl. ¶ 478b, or had any plausible motive to interfere with those alleged relationships. For this reason as well, Plaintiffs' tortious interference claim against Taylor & Francis fails as a matter of law.

IV. RHODES FAILS TO STATE A CLAIM AGAINST TAYLOR & FRANCIS FOR PUBLICITY GIVEN TO PRIVATE LIFE (CLAIM XI)

Rhodes asserts a claim for publicity given to private life against all Defendants, including Taylor & Francis, alleging that they obtained and disclosed "private and highly personal material pertaining to" him, including his "personal address, the address of [his] family members, personal photographs from his teenage years, medical records, the names of [his] former romantic partners, [and] partially unclothed photographs of [him]." Am. Compl. ¶ 512. Rhodes fails to plausibly allege that Taylor & Francis gave publicity to any private facts by publishing the Article.

Under Pennsylvania law, a claim for publicity given to private life has the following elements: "1) giving publicity; 2) to private facts; 3) of a kind highly offensive to a reasonable person; and 4) which are not of legitimate concern to the public." *Bowley v. City of Uniontown Police Dep't*, 404 F.3d 783, 788 n.7 (3d Cir. 2005). The crux of this tort is that the facts at issue must have been private at the time the defendant published them. *See Harris by Harris v. Easton Publ'g*, 483 A.2d 1377, 1384 (Pa. Super. 1984) ("A private fact is one that has not already been made public.").

As noted, Rhodes' claims against Taylor & Francis arise solely from its publication of the Article. *See* Am. Compl. ¶¶ 247-300. The Amended Complaint, however, contains no allegations that the Article conveyed any private facts about Rhodes. Nor could it: The Article relied entirely on publicly available sources, including social media posts created by Rhodes himself. *See* Article at 615; *Harris by Harris*, 483 A.2d at 1384 ("Liability cannot be based upon that which the plaintiff himself leaves open to the public eye."). The Article did not contain personal addresses, photographs, medical records, names of Rhodes' romantic partners, or any other arguably private information. *See* Am. Compl. ¶ 512. Any alleged disclosures by other Defendants, *see, e.g.*, *id.* ¶¶ 341, 408, 426a, had nothing to do with Taylor & Francis. Thus, there are no factual allegations to support Rhodes' claim against Taylor & Francis for publicity given to private life.

V. RHODES FAILS TO STATE A CLAIM AGAINST TAYLOR & FRANCIS FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (CLAIM XIII)

Rhodes also asserts a claim for intentional infliction of emotional distress against all Defendants, alleging that they "intentionally conspired to fabricate false and defamatory accusations against Plaintiffs for the purposes of harming their reputation and standing in the

community." Am. Compl. ¶ 524; *see id.* ¶¶ 523-30. Their emotional distress claim against Taylor & Francis fails as a matter of law for several reasons.

First, as noted above, *supra* at Section III, a plaintiff cannot circumvent First Amendment protections in the defamation context by pursuing a claim for intentional infliction of emotional distress instead. *Hustler*, 485 U.S. at 55-56; *see also, e.g.*, *Shay v. Walters*, 702 F.3d 76, 83 (1st Cir. 2012) ("The Supreme Court has made it pellucid that a failed defamation claim cannot be recycled as a tort claim for negligent or intentional infliction of emotional distress."); *Chaiken v. VV Publ'g*, 119 F.3d 1018, 1034 (2d Cir. 1997) (plaintiffs "cannot avoid the obstacles involved in a defamation claim by simply relabeling it as a claim for intentional infliction of emotional distress"). Here, Plaintiffs' emotional distress claim is based on the same allegedly defamatory statements as their defamation claim, and it should be dismissed for the same reasons. *See supra* at Section I.

In any event, Plaintiffs cannot meet the elements for intentional infliction of emotional distress, which are: "(1) the conduct must be extreme and outrageous; (2) the conduct must be intentional or reckless; (3) it must cause emotional distress; and (4) the distress must be severe." *Bruffett v. Warner Commc'ns*, 692 F.2d 910, 914 (3d Cir. 1982) (cleaned up). "Liability attaches for only the most clearly desperate and ultra extreme conduct." *Davis v. Wigen*, 82 F.4th 204, 216 (3d Cir. 2023) (cleaned up); *see also Cox v. Keystone Carbon*, 861 F.2d 390, 395 (3d Cir. 1988) ("Pennsylvania courts have been chary to declare conduct 'outrageous'"). Additionally, the plaintiff must allege "some type of resulting physical harm due to the defendant's conduct." *Davis*, 82 F.4th at 216.

Here, once again, the only alleged conduct attributable to Taylor & Francis is the publication of the Article. Am. Compl. ¶ 526. Taylor & Francis had no involvement with the

other alleged "acts and omissions" that form the basis of an emotional distress claim. *Id.*; *see also, e.g.*, *id.* ¶ 39 (alleging that Prause interacted with an "estranged and unstable biological family member"); *id.* ¶ 36 (alleging that Prause "attempted to frame" Rhodes "with serious crimes"); *id.* ¶ 257 (alleging that Prause "previously filed two successful (false) administrative complaints against Plaintiffs"); *id.* ¶ 408 (alleging that Prause obtained Plaintiffs' personal information "through data mining"); *id.* ¶ 257(cc) (alleging that Prause "posted violent material . . . celebrating the death of Gary Wilson"). Under Pennsylvania law, publishing allegedly defamatory statements does not constitute extreme and outrageous conduct for purposes of this tort. *See, e.g.*, *Cheney v. Daily News*, 654 F. App'x 578, 583-84 (3d Cir. 2016) (news report falsely suggesting that plaintiff was "involved in a sex scandal" did "not rise to the level of 'extreme and outrageous'"); *Suniaga v. Downingtown Area Sch. Dist.*, 504 F. Supp. 3d 430, 457 (E.D. Pa. 2020) (allegations that teacher "'is a threat to all students and needs to be listed on Megan's law to protect our young,' while a serious charge," was not 'extreme and outrageous' conduct); *Salerno v. Phila. Newspapers*, 546 A.2d 1168, 1172-73 (Pa. Super. 1988) ("[T]he publication of a newspaper article which merely reports a shooting incident and possible motives thereof, cannot support a cause of action for intentional infliction of emotional distress."). For this reason alone, Rhodes cannot maintain his emotional distress claim.

Moreover, Rhodes does not allege that Taylor & Francis's conduct caused him any physical harm. *See* Am. Compl. ¶ 529. His claim is also deficient on this independent ground. *See Di Loreto v. Costigan*, 600 F. Supp. 2d 671, 691 (E.D. Pa. 2009) (dismissing intentional infliction of emotional distress claim where plaintiff failed to plead "that she suffered any physical harm"), *aff'd*, 351 F. App'x 747 (3d Cir. 209).

VI. PLAINTIFFS FAIL TO STATE A CLAIM AGAINST TAYLOR & FRANCIS FOR NEGLIGENCE (CLAIM XV)

Plaintiffs assert a claim for negligence[10] against Taylor & Francis based on its alleged "duty to exercise reasonable care in enforcing its ethics policies, to prevent the publication of falsified material masquerading as academic research, and to act upon credible notice of misconduct." Am. Compl. ¶ 540. Because Taylor & Francis did not owe any legally cognizable duty to Plaintiffs, the Amended Complaint fails to state a negligence claim.

Under Pennsylvania law, the "primary element in any negligence cause of action is that the defendant owes a duty of care to the plaintiff." *Althaus ex rel. Althaus v. Cohen*, 756 A.2d 1166, 1168-69 (Pa. 2000). Whether a duty of care exists is a question of law for the Court to decide. *Kleinknecht v. Gettysburg Coll.*, 989 F.2d 1360, 1366 (3d Cir. 1993).

Plaintiffs contend that Taylor & Francis owed them a duty of care arising from Taylor & Francis's voluntary adherence to a third party's ethical guidelines. *See* Am. Compl. ¶ 249 ("Defendant Taylor & Francis purports to be a member of the Committee on Publication Ethics ('COPE') and lists purported ethical guidelines on their website. . . . "); *id.* ¶ 252 ("By publishing these ethical guidelines and maintaining membership in the Committee on Publication Ethics ('COPE'), Defendant Taylor & Francis held itself out as a publisher of credible, scientifically rigorous, empirically supported, and otherwise reliable information."); *id.* ¶ 540. These allegations, however, do not shed light on why Taylor & Francis would owe any such duty to Plaintiffs specifically. Indeed, at least one federal court has concluded that a scientific journal's "voluntary adoption of publication standards established by third party journalistic

[10] Plaintiffs style the claim as one for "gross negligence and negligence," *see* Claim XV, but Pennsylvania does not recognize a "separate cause of action" for "gross negligence," *Spence v. ESAB Grp.*, 623 F.3d 212, 215 n.2 (3d Cir. 2010).

organizations," including COPE, does not "create a duty owed by" the defendant to the plaintiff. *Romero v. Buhimschi*, 2007 WL 2902896, at *6, *17, *24 (E.D. Mich. Sept. 28, 2007) (granting defendant's motion to dismiss negligence claim), *aff'd*, 396 F. App'x 224 (6th Cir. 2010); *see also Marchand v. Taylor & Francis Grp.*, 2025 WL 3562631, at *4 (D. Ariz. Dec. 12, 2025) (academic publisher did not owe duty of care to its authors based on internal policies and COPE guidelines); *Yeager v. Nat'l Pub. Radio*, 2021 WL 3510653, at *11-12 (D.D.C. Aug. 10, 2021) (news organization's internal standards and guidelines of professional organizations did not give rise to duty of care toward subject of news report).

Plaintiffs further suggest that that Taylor & Francis somehow owed them a duty of care based on the content of the Article. *See* Am. Compl. ¶ 540 (alleging duties "to prevent the publication of falsified material masquerading as academic research, and to act upon credible notice of misconduct"). Again, these allegations simply do not address why Taylor & Francis would owe any such duty to Plaintiffs specifically. *See id.* To the extent that Plaintiffs are really arguing Taylor & Francis had a duty not to defame them through the Article, there is no support for that in the law. Federal courts interpreting Pennsylvania law have concluded that a publisher does not have a legal duty to avoid defaming its subjects. *See Morgenstern v. Fox Television Stations of Phila.*, 2008 WL 4792503, at *12 (E.D. Pa. Oct. 31, 2008) (finding no "duty in the context of a defamatory publication" owed by a newspaper to subject); *Gaber v. Mortg. Asset Rsch. Inst.*, 2010 WL 3039885, at *5 (D.N.J. Aug. 3, 2010) (recognizing no authority under Pennsylvania law that "justifies imposition of a duty, separate and apart from what is normally owed under the law of defamation, in regard to the care with which" a publisher gathers and verifies the information it publishes). Because Taylor & Francis owed no legally cognizable duty of care to Plaintiffs, their negligence claim should be dismissed.

VII. PLAINTIFFS FAIL TO STATE A CLAIM AGAINST TAYLOR & FRANCIS UNDER RICO (CLAIM I)[11]

Plaintiffs claim that all Defendants, including Taylor & Francis, violated one or two provisions of the RICO statute—18 U.S.C. § 1962(c) "and/or" 18 U.S.C. § 1962(d)—without explaining which Defendants purportedly violated what provision. *See* ECF No. 15. Even assuming Plaintiffs assert that Taylor & Francis violated both Sections 1962(c) and (d), their civil RICO claims fail as a matter of law because they have not plausibly alleged that Taylor & Francis is part of a RICO "enterprise" or engaged in a "pattern of racketeering activity." *See Kolar v. Preferred Real Est. Invs.*, 361 F. App'x 354, 367 (3d Cir. 2010) (affirming dismissal of Section 1962(d) conspiracy claim where plaintiff "failed to allege a pattern of racketeering activity" and thus "consequently failed to establish a substantive violation of §§ 1962(a) or (c)"); *Lightning Lube v. Witco*, 4 F.3d 1153, 1191 (3d Cir. 1993) ("Any claim under section 1962(d) based on a conspiracy to violate the other subsections of section 1962 necessarily must fail if the substantive claims are themselves deficient."); *McLaughlin v. Int'l Bhd. of Teamsters*, 641 F. Supp. 3d 177, 203 (W.D. Pa. 2022) (explaining that a plaintiff's failure "to plead a substantive RICO claim under section 1962(c) . . . is fatal to the RICO conspiracy claim under section 1962(d)" and dismissing conspiracy claim).

First, the statute defines an "enterprise" to include "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." 18 U.S.C. § 1961(4). As Plaintiffs do not (and could not) allege that Defendants collectively are a legal entity, Taylor & Francis assumes they intend to allege that all Defendants are an association-in-fact enterprise under RICO. *See Clark v. Clark*,

[11] As noted, *supra* at 4-5, Plaintiffs have agreed to drop the RICO claim against Taylor & Frances, but Taylor & Frances addresses it here to preserve its arguments for dismissal.

2016 WL 1623184, at *5 (W.D. Pa. Apr. 25, 2016) ("Plaintiffs make no assertion that [defendant] is a legal entity, and so the court must view it as an association-in-fact enterprise for RICO purposes."), *aff'd*, 668 F. App'x 11 (3d Cir. 2016). An association-in-fact enterprise under RICO "is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit." *Boyle v. United States*, 556 U.S. 938, 945 (2009). It further has "at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose." *Id.* at 946.

The Amended Complaint fails to meet the requirements for an association-in-fact enterprise. Plaintiffs allege that all Defendants "constitute" a RICO enterprise because they "systematically engaged in an ongoing pattern of racketeering activity affecting interstate and international commerce." Am. Compl. ¶ 420b. But "the existence of an enterprise is an element distinct from the pattern of racketeering activity and proof of one does not necessarily establish the other." *Boyle*, 556 U.S. at 947 (cleaned up). Moreover, the nonconclusory allegations that could be read as describing a purported RICO enterprise simply do not involve Taylor & Francis. *See, e.g.*, Am. Compl. ¶ 447a (outlining a "tortious scheme" between several Defendants, but not Taylor & Francis); *id.* ¶ 474a-80a (describing a "common enterprise" and "unified enterprise" made up of other Defendants).[12] Similarly, the Amended Complaint does not allege Taylor & Francis's involvement in any ongoing organization, explain how Taylor & Francis and the other

[12] The allegation that Taylor & Frances "knowingly aided and abetted the scheme, providing substantial assistance with actual knowledge of the wrongful activities," *id.* ¶ 14, is conclusory and should be disregarded. *See Iqbal*, 556 U.S. at 678. The same goes for the contention that Taylor & Frances "worked collectively with the Pornhub defendants, defendant Prause, defendant Ley and defendant UCLA in furtherance of their shared scheme and for profit" by publishing the Article and deciding not to later revise it. *See* ECF No. 15 at ¶ 2.d.

Defendants function as a continuing unit, or allege the requisite longevity, given the focus on Taylor & Francis's publication of the Article. Dismissal is therefore appropriate. *See, e.g.*, *Ferguson v. Moeller*, 2016 WL 1106609, at *7 (W.D. Pa. Mar. 22, 2016) (dismissing civil RICO claim where alleged enterprise was "no more than a post-hoc invention of Plaintiffs' attorneys"); *Miller-Bell v. Hall*, 2023 WL 5153677, at *7 (W.D. Pa. Aug. 9, 2023) ("it is not sufficient to merely allege claims against multiple defendants and call them an enterprise," as "the existence of such an enterprise must be plausible based on the facts alleged").

Second, a "'pattern of racketeering activity' requires at least two acts of racketeering activity" as defined in the statute, 18 U.S.C. §§ 1961(1), (5), and the complaint must allege that the specific defendant, rather than the enterprise as a whole, engaged in the pattern. *See United States v. Williams*, 974 F.3d 320, 369 (3d Cir. 2020) ("It is a 'person,' not the enterprise itself, who violates [RICO] by conducting or participating in the enterprise's affairs through a pattern of racketeering activity." (cleaned up)). Moreover, the plaintiff "must show that the racketeering predicates are related, *and* that they amount to or pose a threat of continued criminal activity." *H.J. Inc. v. Nw. Bell Tel.*, 492 U.S. 229, 239 (1989).

Again, the Amended Complaint fails to plausibly allege these requirements. It contains no nonconclusory allegations that Taylor & Francis, as opposed to Defendants generally, committed any racketeering activity, let alone engaged in a pattern of such activity. *See* Am. Compl. ¶ 421b. The Amended Complaint alleges that Taylor & Francis published the Article and, after receiving Plaintiff NoFap's queries, decided not to retract or revise the Article. *See id.* ¶¶ 254, 294-98. Those acts of editorial discretion do not amount to any form of racketeering activity enumerated in the statute or listed in the Amended Complaint, for example, distribution of obscene materials through interstate commerce, tampering with a witness, or wire fraud.

18 U.S.C. § 1961(1); Am. Compl. ¶ 421b; *see also, e.g.*, *Hourani v. Mirtchev*, 796 F.3d 1, 10 n.3 (D.C. Cir. 2015) ("defamation and conspiracy to defame . . . are not predicate acts of racketeering under RICO"); *Kimberlin v. Nat'l Bloggers Club*, 2015 WL 1242763, at *9 (D. Md. Mar. 17, 2015) (courts "are universally hostile" to attempts to "spin an alleged scheme to harm a plaintiff's professional reputation into a RICO claim"). Nor does the Amended Complaint plausibly allege that Taylor & Francis's purported pattern of racketeering activity poses "a threat of continued criminal activity." *Nw. Bell Tel.*, 492 U.S. at 239. For these additional reasons, dismissal of the RICO claim is appropriate. *See, e.g.*, *Ferguson v. Moeller*, 2016 WL 4530383, at *9 (W.D. Pa. Aug. 30, 2016) (dismissing RICO claim where allegations did "not establish a pattern of racketeering activity").

VIII. PLAINTIFFS FAIL TO STATE A CLAIM AGAINST TAYLOR & FRANCIS FOR TRADEMARK DILUTION (CLAIM III)[13]

Plaintiffs' federal trademark dilution claim against Taylor & Francis, based on the publication of an Article about NoFap, is also meritless. *See* Am. Compl. ¶¶ 437b-40b. The Lanham Act expressly exempts from dilution claims this type of "descriptive fair use" that does not reference the plaintiff's trademark as "a designation of source" for the defendant's "own goods or services." 15 U.S.C. § 1125(c)(3)(A); *see also Jack Daniel's Props. v. VIP Prods.*, 599 U.S. 140, 147-48 (2023). Among other things, the exemption protects "identifying" and "criticizing" or "commenting upon" a trademark. 15 U.S.C. § 1125(c)(3)(A)(ii); *see, e.g.*, *Radiance Found. v. NAACP*, 786 F.3d 316, 331 (4th Cir. 2015) (use of NAACP mark "to comment upon and criticize the NAACP for its perceived position on abortion and other issues

[13] As noted, *supra* at 4-5, Plaintiffs have agreed to drop the trademark dilution claim against Taylor & Frances, but Taylor & Frances addresses it here to preserve its arguments for dismissal.

affecting the African American community" was protected). That is exactly what the Article does with respect to NoFap, and the descriptive fair use exemption therefore applies.

The Lanham Act also exempts "noncommercial use of a mark" from dilution claims. *Id.* § 1125(c)(3)(C); *see, e.g.*, *Mattel v. MCA Recs.*, 296 F.3d 894, 906-07 (9th Cir. 2002) (use of Barbie mark in "Barbie Girl" song fell within noncommercial use exemption). This exemption applies when speech "does more than propose a commercial transaction" and contains "protected expression," *id.* at 906, as the Article plainly does. On this basis as well, Plaintiffs cannot maintain a trademark dilution claim against Taylor & Francis as a matter of law.

IX. THE DECLARATORY JUDGMENT CLAIM (CLAIM XVII) SHOULD BE DISMISSED BECAUSE IT IS DUPLICATIVE OF PLAINTIFFS' OTHER CLAIMS

Plaintiffs assert a claim for declaratory judgment against all Defendants, including Taylor & Francis. *See* Am. Compl. ¶¶ 555-60. They seek a judicial declaration that Prause violated her non-disparagement Agreement with Plaintiffs and that Taylor & Francis "facilitated, conspired, or otherwise participated in" Prause's alleged breaches by publishing the Article. *Id.* ¶¶ 559, 560(a)-(b). In other words, this claim simply echoes their other tort claims. But a "court should decline to exercise its jurisdiction under the Declaratory Judgment Act when a request for declaratory judgment is duplicative of other claims." *Tjahjono v. Westinghouse Air Brake Techs.*, 2024 WL 1287085, at *8 (W.D. Pa. Mar. 26, 2024) (dismissing claim for declaratory judgment with prejudice because it was duplicative of negligence claim); *see also Collings v. State Farm Fire & Cas.*, 2022 WL 1291511, at *2-3 (E.D. Pa. Apr. 29, 2022) (same); *Mader v. Union Twp.*, 2021 WL 3852072, at *8 (W.D. Pa. Aug. 27, 2021) ("Where a plaintiff includes a request for relief as a separate cause of action, the court may dismiss the count as

redundant. . . ."). Accordingly, this Court should dismiss Plaintiffs' declaratory judgment claim as duplicative.

X. TAYLOR & FRANCIS IS IMMUNE UNDER PA-UPEPA AND ENTITLED TO RECOVER ITS FEES AND COSTS

In 2024, Pennsylvania enacted the Uniform Public Expression Protection Act ("PA-UPEPA"), 42 Pa.C.S. § 8340.11 *et seq*., a statute designed to remedy strategic lawsuits against public participation, otherwise known as "SLAPP" suits. The law seeks to deter "lawsuits brought primarily to chill the valid exercise of" speech and to "encourage continued participation in matters of public significance." *Id.* § 8340.12(1), (2). It achieves this objective by "grant[ing] immunity to those groups or parties exercising the rights to protected public expression," *id.* § 8340.12(3)(i), and providing a mandatory award of attorneys' fees and costs for parties who are forced to defend against claims from which they are immune.[14] Plaintiffs' claims against Taylor & Francis epitomize what PA-UPEPA was enacted to prevent: a meritless SLAPP suit targeting speech on a matter of public concern.

The immunity provided under PA-UPEPA is implicated whenever a defendant faces "a cause of action based on protected public expression." 42 Pa.C.S. §§ 8340.14(a), 8340.15.[15]

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[14] *See* Michael Berry & Kaitlin M. Gurney, *Pennsylvania Joins States Enacting Tough Anti-SLAPP Protections: The New Uniform Public Expression Protection Act*, 96 Pa. Bar Ass'n Q. 9-28 (Jan. 2025) (providing detailed overview of PA-UPEPA), https://bit.ly/3DPf7Jo.

[15] As the commentary to the law explains, this immunity is "substantive in nature." *Id.* § 8340.13 Uniform Law cmt. 2; *id.* § 8340.14 Uniform Law cmt. 2 ("The point of the anti-SLAPP statute is that you have a right not to be dragged through the courts because you exercised your constitutional rights." (cleaned up)). For this reason, the new statute is codified in the subchapter of the Pennsylvania Consolidated Statutes dedicated to immunities. *See* 42 Pa.C.S. Chap. 83, Subchs. C, C.1. And, accordingly, the Pennsylvania law explicitly states that it "grants immunity" and provides for when "a person is immune from civil liability." 42 Pa.C.S. §§ 8340.12(3)(i), 8340.15. As one federal court recently held, the immunity conferred by PA-UPEPA protects a defendant's "right not to stand trial." *Salaam v. Trump*, 2025 WL 2375397, at *1 n.1 (E.D. Pa. Aug. 15, 2025).

PA-UPEPA defines "protected public expression" to include any exercise of the constitutional "rights of freedom of speech [or] press" "on a matter of public concern." *Id.* § 8340.13(3). Speech deals with matters of public concern "when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public." *Snyder v. Phelps*, 562 U.S. 443, 453 (2011). Scientific research exploring the relationship between violence and "the largest porn addiction recovery peer-support platform," Am. Compl. ¶ 14, is plainly a matter of public concern.

Where, as in this case, the claims are based on "protected public expression," PA-UPEPA provides that a defendant "is immune from civil liability" if the plaintiff fails to "state a cause of action upon which relief can be granted." 42 Pa.C.S. § 8340.15(1)(ii). Because Plaintiffs have failed to state a claim, Taylor & Francis is immune under PA-UPEPA. Accordingly, it is entitled to recover its attorneys' fees, court costs, and "expenses of litigation." *Id.* § 8340.18(a)(1). This award is mandatory: The law provides that a "court shall award" an immune party these damages. *Id.* Thus, if the Court dismisses Plaintiffs' claims, Taylor & Francis is entitled to recover its attorneys' fees, costs, and expenses of litigation.[16]

[16] PA-UPEPA's immunity and fee-shifting provisions apply in federal court, as both are substantive state law provision that do not conflict with federal law. *See, e.g.*, *Alyeska Pipeline Serv. v. Wilderness Soc'y*, 421 U.S. 240, 259 n.31 (1975) (explaining that statutory right to attorneys' fees reflects "a substantial policy of the state" and "should be followed" in ordinary diversity cases); *Ali v. McClinton*, 2017 WL 2588425, at *2 (E.D. Pa. June 14, 2017) ("[U]nder the *Erie* doctrine, state rules of immunity govern actions in federal court alleging violations of state law."). They are consistent with the procedures set forth in the Federal Rules, which provide that a case should be dismissed when a plaintiff fails to state a claim, *see* Fed. R. Civ. P. 12(b)(6), and that a party can seek attorneys' fees under a "statute . . . entitling the movant to the award," Fed. R. Civ. P. 54(d)(2)(B)(ii). While two courts have held that aspects of PA-UPEPA do not apply in federal court, the defendants in those cases did not move to dismiss under the Federal Rules, and the holdings did not address the availability of the statutory immunity and mandatory fee award when a defendant moves under the Federal Rules, as Taylor & Frances has

CONCLUSION

For the foregoing reasons, Plaintiffs' Amended Complaint should be dismissed as to Taylor & Francis Group, LLC with prejudice.

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Respectfully submitted,

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done here. *See Salaam v. Trump*, 350 F.R.D. 14, 21 (E.D. Pa. June 27, 2025) (explaining that defendant moved "solely under Pennsylvania's Anti-SLAPP Statute" and expressly not deciding whether the law's attorneys' fee provision applies in federal court), *appeal docketed*, No. 25-2230 (3d Cir. July 9, 2025); *Jakes v. Youngblood*, 782 F. Supp. 3d 210, 220 (W.D. Pa. 2025) (same).