

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Pima Community College District,

Plaintiff,

v.

Edip Yuksel,

Defendant.

No. CV-23-00361-TUC-RCC

**ORDER**

Before the Court is Defendant Edip Yuksel's Motion to Dismiss (Doc. 8) and Plaintiff Pima Community College District's (PCC) Response and Motion to Strike Portions of Defendant's Motion to Dismiss (Doc. 9).

PCC's complaint alleges Defendant engaged in federal copyright infringement and breached his employment contract when, while employed by PCC, he published lectures from his PCC classes on YouTube and Defendant's website. (Doc. 1.)

Defendant's motion to dismiss argues Plaintiff's complaint is frivolous, contains false allegations, was intended to intimidate Defendant, and wastes taxpayers' resources. (Doc. 8.) Defendant provides a version of events that he believes counters Plaintiff's statement of facts. (*Id.*) Defendant states he sees no reason to hire a lawyer because "there is no cause for legal action" because he did not harm anyone by sharing videos of his lectures, PCC did not lose money on his publications, students benefitted from them, and he could not otherwise publish the videos on the PCC website. (*Id.* at 11–14.) Defendant also argues he owns the rights to his class lectures. (*Id.* at 15.) Moreover, Defendant claims PCC has not demonstrated it suffered damages. (*Id.* at 17.) Defendant asks this

1 case be dismissed "for personal reasons and due to the financial burden, as well as  
2 residing 1788 miles away from Tucson . . . ." (*Id.* at 18.)

3 A motion under 12(b)(6) must contain a "short and plain statement of the claim  
4 showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). While Rule 8 does  
5 not require detailed factual allegations, "it demands more than an unadorned, the  
6 defendant unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
7 (2009). "[A] complaint must contain sufficient factual matter, accepted as true, to 'state a  
8 claim to relief that is plausible on its face.'" *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,  
9 550 U.S. 544, 570 (2007)). A claim is plausible "when the plaintiff pleads factual content  
10 that allows the court to draw the reasonable inference that the defendant is liable for the  
11 misconduct alleged." *Id.* The complaint must contain more than "a statement of facts that  
12 merely creates a suspicion [of] a legally cognizable right of action." *Bell Atlantic Corp.*,  
13 550 U.S. at 555.

14 "Determining whether a complaint states a plausible claim for relief [is] . . . a  
15 context-specific task that requires the reviewing court to draw on its judicial experience  
16 and common sense." *Iqbal*, 556 U.S. at 679. So, although a plaintiff's specific factual  
17 allegations may be consistent with a constitutional claim, a court must assess whether  
18 there are other "more likely explanations" for a defendant's conduct. *Id.* at 681. If the  
19 plaintiff "fails to state a claim on which relief may be granted," the District Court must  
20 dismiss the claim. 28 U.S.C. §1915(e)(2)(B)(ii).

21 Defendant argues ethical, logistical, and financial reasons to dismiss the claim  
22 against him, but offers no legal argument supporting dismissal. On a motion to dismiss,  
23 the Court must take Plaintiff's factual allegations as true. On this basis, the Court finds  
24 Plaintiff has stated a claim for copyright infringement under 17 U.S.C. § 106 and for state  
25 breach of contract under A.R.S. § 12-341.01.

26 Moreover, Defendant has not provided a certification pursuant to Local Rule of  
27 Civil Procedure stating he conferred with Plaintiff prior to filing the motion. LRCiv  
28 12.1(c). "A motion that does not contain the required certification may be stricken  
summarily." *Id.*

1           **The Court will therefore deny the motion to dismiss and require Defendant to**  
2 **file a responsive pleading.**

3           Plaintiff's Motion to Strike Portions of Defendant's Motion to Dismiss argues that  
4 Defendant's motion unnecessarily includes "scandalous and immaterial  
5 content." "[S]tatements that amount to name-calling and are argumentative or  
6 disrespectful are appropriately stricken." *Micromed Tech., Inc. v. Birdsall*, 2014 WL  
7 129049 at \*3 (D. Ariz. Jan. 3, 2014); *see also e.g., Alvarado Morales v. Digital*  
8 *Equipment Corporation*, 669 F.Supp. 1173, 1187 (D. Puerto Rico 1987) ("The federal  
9 courts do not provide a forum for mudslinging, name calling and 'privileged'  
10 defamation.""). **The Court finds that the defamatory statements as to PCC's**  
11 **character are appropriately stricken.** In addition, the Court warns Defendant that  
12 any future filings must focus on the legal argument and the material facts in  
13 support, not unnecessary name calling or irrelevant facts.

14           The Court is aware that Defendant is proceeding pro se. Defendant shall  
15 familiarize himself with the Federal Rules of Civil Procedure and Local Rules for the  
16 District of Arizona, both of which can be found on the Court's web site at  
17 [www.azd.uscourts.gov](http://www.azd.uscourts.gov). Defendant is also advised that a Handbook for Self-Represented  
18 Litigants is available on the Court's website at: [http://www.azd.uscourts.gov/handbook-](http://www.azd.uscourts.gov/handbook-self-represented-litigants)  
19 [self-represented-litigants](http://www.azd.uscourts.gov/handbook-self-represented-litigants). In addition, Step Up to Justice offers a free, advice-only clinic  
20 for self-represented civil litigants on Thursdays from 1:30 p.m. to 3:30 p.m. Clinic  
21 appointments can be made by going to the Step Up to Justice website:  
22 <https://www.stepuptojustice.org/>.

23 ///

24 ///

25 ///

26 ///

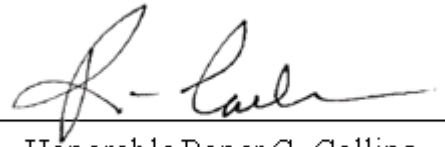
27 ///

28 ///

IT IS ORDERED:

- 1) Defendant Edip Yuksel's Motion to Dismiss is DENIED. (Doc. 8.)
- 2) Plaintiff PCC's Motion to Strike is GRANTED. (Doc. 9.)
- 3) The Clerk of Court shall strike Defendant's Motion to Dismiss. (Doc. 8.)
- 4) Within 30 days of the date of this Order, Defendant must file a responsive pleading addressing Plaintiff's Complaint.

Dated this 28th day of September, 2023.



Honorable Raner C. Collins  
Senior United States District Judge