

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

Samantha M. Markle,  
Plaintiff,

vs.

Meghan Markle,  
Defendant.

Case No. 8:22-cv-00511-CEH-TGW

**DEFENDANT’S PARTIALLY UNOPPOSED REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF MOTION TO DISMISS THIRD AMENDED  
COMPLAINT**

Defendant Meghan, The Duchess of Sussex (“Meghan”) has concurrently moved to dismiss Plaintiff’s Third Amended Complaint (“TAC”; Dkt. 72) under Federal Rule of Civil Procedure 12(b)(6). In connection with the Motion, Meghan requests that the Court take judicial notice of (a) the transcripts of three episodes, and the video footage of one episode, of the Netflix series *Harry & Meghan* (the “Series”); and (b) the “multitude of previous reports,” *Rosanova v. Playboy Enterprises, Inc.*, 580 F.2d 859, 862 (5th Cir. 1978),<sup>1</sup> about (i) Plaintiff’s claim that she “raised” Meghan and (ii) Plaintiff’s involvement in the alleged cyber-bullying of Meghan. *Plaintiff does not oppose the request as to the transcripts or footage of the Series.* The bases for Meghan’s requests are set forth below.

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<sup>1</sup> This holding is binding Eleventh Circuit precedent. *See Bonner v. City of Prichard, Ala.*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc) (adopting pre-1981 Fifth Circuit cases).

**I. ARGUMENT**

**A. The Transcripts and Footage of the Series**

First, the Court may consider a document submitted with a motion to dismiss if its “contents are alleged in a complaint and no party questions those contents ... provided it meets the centrality requirement.” *Day v. Taylor*, 400 F.3d 1272, 1276 (11th Cir. 2005); *see, e.g., Hoffman-Pugh v. Ramsey*, 312 F.3d 1222, 1225 (11th Cir. 2002) (“The ‘publication’ at issue here is the entire book, which was properly before the court on the motion to dismiss because [plaintiff] referred to it in her complaint and it is central to her claims.”).

Here, the Court has already taken judicial notice of the transcript of the Oprah interview at issue in both the First Amended Complaint (Dkt. 31 at ¶¶ 20-31) and the TAC (Dkt. 72 at ¶¶ 23-38). (*See* Dkt. 70 at 7.) The transcripts of the Series episodes in question—i.e., episode 2 (**Ex. 1** hereto), episode 3 (**Ex. 2** hereto), and episode 5 (**Ex. 3** hereto)—are equally noticeable. So too is the footage of episode 5 (**Ex. 4**) (which, due to its size, must be submitted by flash drive after the Court grants leave to so lodge it). *See Parekh v. CBS Corp.*, 820 F. App’x 827, 830 n.1 (11th Cir. 2020) (considering allegedly defamatory news broadcast and accompanying online article as exhibits to the dismissal motion because broadcast and article incorporated by reference to complaint, which provided the web address). As discussed in Meghan’s concurrently filed motion to dismiss, visual elements of episode 5 are not (and

cannot be) depicted in the transcript, thereby requiring consideration of the footage in addition to the corresponding transcript. *Plaintiff does not oppose this request.*

**B. The “Multitude of Previous Reports” Regarding Certain Claims in the Series**

Second, under *Rosanova* and its progeny, a “multitude of previous reports” precludes a finding of actual malice. *Rosanova*, 580 F.2d at 862; *Berisha v. Lawson*, 973 F.3d 1304, 1313 (11th Cir. 2020) (noting that the reliance on “many independent sources, alone, should defeat any claim of actual malice”). To that end, the Court may take judicial notice of those previous reports. *See, e.g., Moore v. Cecil*, 488 F. Supp. 3d 1144, 1150 n.1 (N.D. Ala. 2020) (“The court considers articles cited in Moore’s complaint, plus articles that are central to his claim (e.g. proving actual malice) and whose authenticity are not challenged. The court limits its review to ... those allegations [that] are central to his claim.”) (citing *SFM Holdings, Ltd. v. Banc of AM. Sec. LLC*, 600 F.3d 1334, 1337 (11th Cir. 2010)); *see generally United States ex rel. Osheroff v. Humana Inc.*, 776 F.3d 805, 811 n.4 (11th Cir. 2015) (courts may “take judicial notice of ... newspaper articles ... for the limited purpose of determining which statements the documents contain”).

More generally, federal courts properly take judicial notice of press reports, articles, and other publicly available materials on a motion to dismiss in defamation cases such as this one where the broader context in which a given statement was disseminated is an important element of the legal analysis. *See, e.g., Lil’ Joe Wein*

*Music, Inc. v. Jackson*, 245 F. App'x 873, 879 (11th Cir. 2007) (taking judicial notice of widespread distribution of a film based on newspaper articles); *Farah v. Esquire Magazine*, 736 F.3d 528, 534 (D.C. Cir. 2013) (taking judicial notice of prior news articles in considering motion to dismiss defamation claims).

Meghan thus requests that the Court take notice of the “multitude of public reports” of (i) Plaintiff’s claims to have “raised” Meghan<sup>2</sup> and (ii) Plaintiff’s alleged involvement in the cyber-bullying of Meghan.<sup>3</sup> As discussed in Meghan’s motion to dismiss the TAC, Plaintiff alleges that these statements in the Series defamed her.

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<sup>2</sup> See, e.g., Bard Wilkinson, *Samantha Markle, Meghan’s half-sister, emerges as player in royal drama*, CNN (May 16, 2018), online at <https://www.cnn.com/2018/05/16/europe/samantha-markle-meghan-markle-prince-harry-royal-wedding-intl/index.html> (“Seventeen years older than Meghan, Samantha Markle has claimed she raised her half-sister for 12 years when they were growing up in California, but that has been disputed by other family sources, the report added.”); Amanda Devlin & Tom Gillespie, *Royal Pardon: Who is Meghan Markle’s sister Samantha Markle?*, The Sun (Mar. 5, 2021), online at <https://www.thesun.co.uk/tvandshowbiz/2102239/who-meghan-markle-sister-samantha-markle/> (“In the past, Samantha has claimed to have raised Meghan for 12 years when she was growing up in California.”); Richard Wheatstone, *Meet the In-Laws: The VERY un-royal Markle family now set to liven up Windsor family Christmases*, The Sun (Nov. 27, 2017), online at <https://www.thesun.co.uk/news/5008385/prince-harry-meghan-markle-engagement-family-windsor/> (“The 36-year-old is estranged from her older half-sister Samantha Grant, who claims to have raised Meghan for 12 years growing up in California.”); Frances Kindon, *Meet the Markels – From a ‘reclusive’ bishop to a gun-wielding brother and Meghan’s mum and dad*, The Mirror (Nov. 27, 2017), online at <https://www.mirror.co.uk/3am/celebrity-news/meghan-markle-meet-the-family-11393546> (“Samantha Grant - born Yvonne - shares a dad with Meghan and once claimed to have raised her half-sister for 12 years in California.”); Laura Burnip, *‘She’s Princess Pushy’: Meghan Markle’s estranged half-sister launches into unprovoked Twitter rant branding Prince Harry’s girlfriend a ‘hypocrite’*, The Sun (Mar. 16, 2017), online at <https://www.thesun.co.uk/news/3102690/meghan-markle-sister-samantha-grant-twitter/> (“Grant - who claims to have raised Meghan for 12 years growing up in California ....”).

<sup>3</sup> See, e.g., Bot Sentinel, *Report: Coordinated Hate Campaign Targeting Harry and Meghan, Duke and Duchess of Sussex* (Jan. 18, 2022), online at <https://botsentinel.com/reports/documents/duke-and-duchess-of-sussex/report-01-18-2022.pdf> at 2 (“In 2018, Yankee Wally co-founded a private MeWe group focused primarily

## II. CONCLUSION

The materials at issue were incorporated by reference in the Third Amended Complaint or are necessary to evaluate Plaintiff's claims of actual malice under *Rosanova*, 580 F.2d at 862. Meghan therefore respectfully requests that the Court grant her Request for Judicial Notice in its entirety.

## III. LOCAL RULE 3.01(G) CERTIFICATION

Pursuant to Local Rule 3.01(g)(2), Meghan, The Duchess of Sussex hereby certifies that the undersigned counsel met and conferred by telephone with opposing counsel, and the parties agreed on the resolution of part of the motion: namely, the

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on Harry and Meghan, Duke and Duchess of Sussex. Samantha Markle, Meghan Markle's half-sister, was also a member of the group and became friends with Yankee Wally."); *id.* at 3 ("Yankee Wally touted her public relationship with Samantha Markle and her popularity with anti-Meghan hate accounts to correspond with journalists and royal experts."); Ellie Hall, *Meghan Markle's Biggest Troll Is Her Half-Sister Samantha*, BuzzFeed News (Mar. 12, 2022), online at <https://www.buzzfeednews.com/article/elliehall/meghan-markles-biggest-troll-is-her-half-sister-samantha> ("In an investigation spanning months, BuzzFeed News found evidence that for the past four years, Samantha has apparently used various Twitter accounts ... not just to criticize Meghan but to also propagate and give credibility to damaging and potentially defamatory claims about her half sister."); *id.* ("There is also evidence that suggests Samantha has for years been coordinating with and feeding information to the person behind one of the oldest and most influential anti-Meghan YouTube accounts"); Mia Mercado & Olivia Truffaut-Wong, *There Really Is a Coordinated Online Attack on Meghan Markle*, The Cut (Jan. 18, 2022), online at <https://www.thecut.com/2022/01/new-report-meghan-markle-was-focus-of-twitter-hate-campaign.html> ("For example, the [Bot Sentinel] report details one YouTube channel focused on anti-Meghan Markle content reportedly has ties to Markle's estranged half sister, Samantha Markle, was able to create a network with two other anti-Meghan channels across platforms. Per the report, these three anti-Meghan YouTube channels have over 70 million views combined, as well as '\$495,730' in total YouTube earnings."); Martha Ross, *Meghan Markle's half-sister and the dark world of pregnancy truthers*, The Mercury News (Mar. 15, 2022), online at <https://www.mercurynews.com/2022/03/15/meghan-markles-half-sister-and-the-dark-world-of-pregnancy-truthers/> ("Among the conspiracy theories that Samantha Markle allegedly floated about her famous half-sister, Meghan Markle, is the bizarre but long-simmering idea that the Duchess of Sussex faked her two pregnancies.").

Court taking judicial notice of the transcripts and footage of the Series. *See* L.R.

3.01(g)(2)(B). In all other respects, Plaintiff opposes the request.

RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of April, 2023

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing has been furnished to all parties registered to receive service via CM/ECF this 27th day of April, 2023.

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