“Loathsome” Reason a Model Can Sue After Her Image Appeared in HIV Ads

An appeals court says the woman can sue for defamation. Here’s why.

January 19, 2018 By Trent Straube

Brooklyn model Avril Nolan can sue a New York state agency for using a stock photo of her in an HIV ad, reports The New York Post. The reasoning, in part, is that people with HIV are stigmatized and considered “loathsome” by a “significant segment of society.”

The campaign ran in 2013. In it, Nolan’s photo appears next to text reading: “I am positive (+)” and “I have rights.” In real life, Nolan does not have HIV, and her license agreement had stated her image couldn’t be used in an “unflattering or controversial” campaign. In the suit, Nolan said she was upset that “relatives, potential romantic partners and clients” would see the ads.

In 2015, Nolan planned to sue the Division of Human Rights (DHR), which created the HIV ad, for $1.5 million. At that time, the Court of Claims ruled that she could sue, but the DHR appealed, stating, “HIV is no longer a shameful condition.”

As the Post reports this week, the appeals court rejected the DHR line of thinking. “The very fact that DRH highlighted the need for people with AIDS to not feel stigmatized is recognition that they do,” said Judge Angela Mazzarelli. She clarified that this ruling doesn’t imply that HIV or other diseases are in fact loathsome but that large parts of society have been slow to understand the rights of people with HIV.

When POZ wrote about the 2015 court ruling, readers offered an array of comments, including:

- “Loathsome disease” is a legally operative term in slander/libel/defamation law. This judge said that HIV fell within the category of “loathsome disease,” insofar as it affected the plaintiff’s ability to seek damages. So does venereal disease generally. This story is playing as if the judge somehow branded HIV as generally loathsome within society, but the judge is only saying HIV meets the LEGAL definition of “loathsome disease.”

- I consider this judge to be loathsome. What a douche for making a statement like that.

- The model herself was perfectly rational to sue, as this could be a career killer for her. In a rare turnabout, we are not witnessing stigma, but a reflection of stigma.

© 2026 Smart + Strong All Rights Reserved.
http://beta.docker.poz.com/article/loathsome-reason-model-can-sue-image-appeared-hiv-ads