

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 19 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JONATHAN TALLMAN,

Plaintiff - Appellant,

v.

DILLON SPENCER,

Defendant - Appellee.

No. 25-4506

D.C. No.

2:23-cv-01773-HL

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon

Michael H. Simon, District Judge, Presiding

Argued and Submitted September 15, 2026
Portland, Oregon

Before: FRIEDLAND and DE ALBA, Circuit Judges, and LASNIK, District
Judge.**

Jonathan Tallman appeals from the district court's judgment dismissing with
prejudice Tallman's First Amended Complaint ("FAC"). Tallman alleged that
online statements by Dillon Spencer constituted defamation, defamation per se,

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The Honorable Robert S. Lasnik, United States District Judge for the
Western District of Washington, sitting by designation.

and false light. The district court dismissed Tallman’s claims pursuant to Or. Rev. Stat. § 31.150(1), Oregon’s anti-SLAPP law, because the court concluded that the actual malice standard applied to Tallman’s claims and that Tallman failed to make the required showing of actual malice, even after being granted leave to amend his complaint. “We review the granting of [a] defendants’ motion to strike under [an] anti-SLAPP statute de novo.” *See Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1102 (9th Cir. 2003). In addition, whether the actual malice standard applies is a legal question we review de novo. *See Planet Aid, Inc. v. Reveal*, 44 F.4th 918, 923–24 (9th Cir. 2022) (citing *Manzari v. Associated Newspapers Ltd.*, 830 F.3d 881, 888 (9th Cir. 2016)). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964), actual malice standard applies to defamation claims brought by candidates for public office so long as the statements at issue are related to their “fitness for office.” *See Monitor Patriot Co. v. Roy*, 401 U.S. 265, 271–73 (1971); *Ocala Star-Banner Co. v. Damron*, 401 U.S. 295, 299 (1971). Here, Tallman was effectively still a candidate at the time of the alleged defamation because his most recent campaign ended just three months prior and he appeared likely to run for office again given that he had done so in each of the past four years. And because the allegedly defamatory statements here involved sexual harassment allegations, those statements were

related to Tallman's fitness for office. The district court was thus correct to apply the actual malice standard to Tallman's claims. *Ocala Star-Banner*, 401 U.S. at 299; *see also Partington v. Bugliosi*, 56 F.3d 1147, 1152 n.8 (9th Cir. 1995) (noting that when applying the actual malice standard to cases involving limited purpose public figures, "it appears that every court of appeals that has specifically decided this question has concluded that the passage of time does not alter an individual's status as a limited purpose public figure.").

On appeal, Tallman does not challenge the district court's conclusion that he failed to make a prima facie showing of actual malice. Therefore, the district court correctly entered judgment dismissing with prejudice Tallman's amended complaint pursuant to Oregon's anti-SLAPP law.

AFFIRMED.