
Court Dismisses Drake’s Defamation Suit Based On Kendrick Lamar’s ‘Not Like Us’ – Justin Kelton Article in New York Law Journal

FEATURED ATTORNEY



Justin T. Kelton
Partner

The decision adds to the Second Circuit’s growing body of law on defamation claims involving rap lyrics, and offers a thorough analysis of how “rap battles” are interpreted under the law.

By **Justin T. Kelton**, Abrams Fensterman, LLP

In spring 2024, superstar rappers Drake and Kendrick Lamar launched what U.S. District Judge Jeannette A. Vargas later called “perhaps the most infamous rap battle in the genre’s history.” Over the span of two weeks, the artists released eight diss tracks, escalating in intensity and culminating in Lamar’s megahit “Not Like Us,” which accused Drake of being a pedophile.

Background: ‘War of Words’

In April 2024, Drake released a diss track directed at Lamar called “Push Ups.” A few days later, Drake released “Taylor Made Freestyle.” Lamar responded with “Euphoria” on April 30, 2024. On May 3, 2024, Lamar released “6:16 in LA,” and later the same day, Drake released “Family Matters.” Soon thereafter, Lamar released “Meet the Grahams,” and the next day, on May 4, 2024, Lamar released “Not Like Us.” These songs included increasingly heated and pointed rhetoric, with each artist aggressively insulting the other. *Graham v. UMG Recordings, Inc.*, S.D.N.Y. Case No. 25-cv- 00399-JAV, at Dkt. No. 43.

“Not Like Us” was by far the most popular of these songs. As of April 2025, it had been streamed more than 1.4 billion times on Spotify alone. “Not Like Us” was nominated for several Grammy Awards, and it won Record of the Year. Lamar performed “Not Like Us” during the Super Bowl Halftime Show, which Drake alleges was the most-watched Super Bowl Halftime Show of all time, with over 133.5 million views.

The Lawsuit, and Decision

In “Not Like Us,” Lamar repeatedly asserts that Drake is a pedophile. Based on that claim, Drake filed a lawsuit in early 2025 for defamation and other related claims. The defendant filed a motion to dismiss, and on Oct. 9, 2025, Vargas issued a detailed opinion analyzing Drake’s claims and the defendant’s arguments for dismissal.

The court began its analysis by recounting the elements of a cause of action for defamation, and explaining that “[a] defamatory statement is one that exposes an individual to public hatred, shame, obloquy, contumely, odium, contempt, ridicule, aversion, ostracism, degradation, or disgrace, or induces an evil opinion of one in the minds of right thinking persons, and deprives one of confidence and friendly intercourse in society.” The court then explained that “[t]he issue in this case is whether ‘Not Like Us’ can reasonably be understood to convey as a factual matter that Drake is a pedophile or that he has engaged in sexual relations with minors.”

To distinguish fact from opinion, the court applied the three factors articulated by the New York State Court of Appeals in *Brian v. Richardson*: (1) whether the language has a precise, readily understood meaning; (2) whether it can be proven true or false; and (3) whether the full or broader social context signals opinion rather than fact. 87 N.Y.2d 46, 52 (1995). Under this standard, “even accusations of criminal behavior are not actionable if, understood in context, they are opinion rather than fact.”

Judge Vargas found that the first two *Brian* factors were met, because Lamar’s accusation “has a readily understandable meaning” and “is capable of being proven true or false.” The court focused the majority of its analysis on the third *Brian* factor, which turns on the social context for the challenged statement.

Judge Vargas first reviewed the nature of rap “diss tracks,” and held that such songs “are much more akin to forums like YouTube and X, which encourag[e] a freewheeling, anything-goes writing style.” Vargas found that the average listener of a diss track is not under the impression that the song “is the product of a thoughtful or disinterested investigation, conveying to the public factchecked verifiable content.”

Next, Vargas looked at the surrounding circumstances. She noted that “[t]he fact that the Recording was made in the midst of a rap battle is essential to assessing its impact on a reasonable listener.”

Additionally, the court found that it was appropriate to review the other songs that led up to the release of “Not Like Us,” even though not all listeners of “Not Like Us” would be familiar with the rap battle, or the broader context.

Judge Vargas held that the “factual context is the insults and trash talking that took place via these diss tracks in the days and weeks leading up to the publication of ‘Not Like Us.’ The songs released during this rap battle are in dialogue with one another. They reference prior songs and then respond to insults and accusations made by the rival artist.”

Moreover, the court noted that “[w]hile ‘Not Like Us’ may be the most popular of the diss tracks, the other songs were hits in their own right, with streams in the tens of millions or hundreds of millions.” Further, it found that “it was not just the recording which gained a cultural ubiquity, but the rap battle itself.”

Finally, the court noted that “‘Not Like Us’ is replete with profanity, trash-talking, threats of violence, and figurative and hyperbolic language, all of which are indicia of opinion.” Thus, Vargas held that the “tone and language” used in the song reinforced the conclusion that the statement in “Not Like Us” can only be reasonably understood as opinion, rather than fact.

Conclusion

Ultimately, Vargas held that, given the full context of the battle, no reasonable listener would view “Not Like Us” as conveying objective facts about Drake. While the court agreed with Drake that the accusation of pedophilia was undeniably serious, it emphasized that in the charged atmosphere of a rap battle marked by incendiary language and mutual insults, no reasonable listener would take the lyrics as statements of verifiable fact. It therefore found that the challenged statement in “Not Like Us” is nonactionable opinion, and dismissed Drake’s defamation claim.

Justin T. Kelton is a partner and Co-Chair of the litigation department at [Abrams Fensterman, LLP](#). His practice focuses on complex commercial litigation and high-stakes defamation matters. He can be reached at (718) 215-5300 or jkelton@abramslaw.com.

Reprinted with permission from the October 22, 2025 edition of *The New York Law Journal*, © 2025 ALM Media Properties, LLC. All rights reserved. Further duplication without permission is prohibited. ALMReprints.com – 877-257-3382 – reprints@alm.com.