

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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FRANCESCA GINO,		)	
		)	
Plaintiff,		)	
		)	
v.		)	C.A. No. 23-cv-11775-MJJ
		)	
PRESIDENT AND FELLOWS OF		)	
HARVARD COLLEGE, SRIKANT		)	
DATAR, URI SIMONSOHN,		)	
LEIF NELSON, JOSEPH SIMMONS,		)	
JOHN DOES 1-10 AND JANE DOES 1-10,		)	
		)	
Defendants		)	
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**MOTION TO DISMISS OF URI SIMONSOHN,  
LEIF NELSON, AND JOSEPH SIMMONS**

Defendants Uri Simonsohn, Leif Nelson, and Joseph Simmons (the “Data Colada Defendants”) hereby move to dismiss all claims against them pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff Francesca Gino, a professor at Harvard Business School, has sued the Data Colada Defendants for defamation based on their criticism of her published research. (Amended Complaint, Counts VII-X). Gino’s claims are barred by constitutional and common law protections for free speech, and otherwise fail to state a claim upon which relief may be granted.

The Data Colada Defendants’ allegedly defamatory statements are protected by the First Amendment, which immunizes the publication of conclusions or opinions based on disclosed, non-defamatory facts. Simonsohn, Nelson, and Simmons fully disclosed (and even provided hyperlinks to) the non-defamatory facts on which they based their conclusion that the data supporting four studies by Gino showed evidence of manipulation. Further, the allegations in the Amended Complaint conclusively establish that Gino is a public figure, yet she has failed to

allege facts showing that the Data Colada Defendants made the allegedly defamatory statements with the required “actual malice,” meaning knowledge of their falsity or reckless disregard for the truth. Finally, Gino’s claims for interference with contract and “conspiracy” are based on the same allegations as her defective libel claims and therefore they fail for the same reasons, and because Gino has not pleaded facts satisfying the elements of those claims.

In support of this motion, the Data Colada Defendants submit the accompanying Memorandum of Law and Affidavit of Jeffrey J. Pyle.

WHEREFORE, defendants Uri Simonsohn, Leif Nelson, and Joseph Simmons request that the Court allow this motion and dismiss Counts VII, VIII, IX and X with prejudice.

Respectfully Submitted,

URI SIMONSOHN, LEIF NELSON, AND  
JOSEPH SIMMONS,

By their attorney,

/s/ Jeffrey J. Pyle  
Jeffrey J. Pyle (BBO #647438)  
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Date: November 8, 2023

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1**

I hereby certify that on Friday, November 3, 2023, I conferred with counsel for the plaintiff by telephone in a good faith attempt to narrow or resolve the issues addressed in this motion.

/s/ Jeffrey J. Pyle  
Jeffrey J. Pyle

**CERTIFICATE OF SERVICE**

I hereby certify that the within document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and by first-class mail to any non-registered participants.

*/s/ Jeffrey J. Pyle* \_\_\_\_\_  
Jeffrey J. Pyle