

MINERVA BROWN, Respondent, v. PARAMOUNT PUBLIX CORPORATION, Appellant.

Third Department, March 22, 1934.

Libel and slander — libel — complaint based on talking motion picture need not allege actual words, scenes and incidents — description of objects portrayed on screen in form of facts and conclusions of fact sufficient — complaint alleging fraudulent production of picture entitled “An American Tragedy,” and stating among other things that plaintiff is untruthfully portrayed as having permitted her daughter to carry on clandestine relations with man, sufficient — allegation that picture was misrepresentation of plaintiff’s own life sufficient compliance with Rules Civ. Prac. rule 96.

In an action for libel, based on the exhibition of a talking motion picture, the plaintiff need not plead the actual words, scenes and incidents claimed to be libelous. It is sufficient to set forth a description of the objects portrayed on the screen in the form of facts and conclusions of fact.

A complaint in such an action is sufficient which alleges the distribution and exhibition by the defendant of a talking motion picture entitled “An American Tragedy,” based on the indictment, trial and conviction and execution of a character therein for the murder of plaintiff’s daughter, and that the defendant portrayed libelous matter, to the effect that the plaintiff had neglected her daughter, both educationally and morally, that she had permitted her to carry on clandestine relations with the murderer, or others, and that plaintiff was made to appear as poor-white-trash and a disreputable, untidy product of the hills.

An allegation that the exhibition of the picture was an alleged misrepresentation of the plaintiff’s own life was a sufficient compliance with rule 96 of the Rules of Civil Practice.

McNAMEE and CRAPSER, JJ., dissent, with opinion.