

EXHIBIT 7

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROBERT STEINBUCH,	.	
	.	
Plaintiff,	.	
	.	CA No. 05-0970 (PLF)
v.	.	
	.	Washington, D.C.
JESSICA CUTLER,	.	Wednesday, April 5, 2006
	.	2:05 p.m.
Defendant.	.	
	.	
.....	.	

TRANSCRIPT OF MOTIONS HEARING
BEFORE THE HONORABLE PAUL L. FRIEDMAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:	JONATHAN S. ROSEN, ESQ. 1200 Gulf Boulevard Suite 1506 Clearwater, Florida 33767 908-759-1116
For the Defendant:	JOHN UMANA, ESQ. 6641 32nd Street, NW Washington, D.C. 20015 202-244-7961
Court Reporter:	BRYAN A. WAYNE, RPR, CRR Official Court Reporter U.S. Courthouse, Room 4808-B 333 Constitution Avenue, NW Washington, D.C. 20001 202-216-0313

Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

1 though other actions, linking the blog to Wonkette or otherwise,
2 that's clearly a fact question that we can't decide today.

3 The other thing that is a little bit complicated perhaps,
4 but I don't think I need to decide at this point, is the term
5 "publicity" in this tort, in this type of invasion of privacy
6 claim, the publication of a private matter, or the publicizing
7 of a private matter is different from publication as that term
8 is used in defamation, and that's made clear in the comment to
9 section 652D of the restatement.

10 So I think we need discovery on a lot of these things,
11 including specifically what role Ms. Cutler played in the
12 publicizing or the making public of these matters. I will say
13 this, that how many people have to be in the loop in order for
14 something to be made public may be certainly worth talking about
15 during discovery, but I do think the primary case on which the
16 plaintiff relies that publication, even to one or two people,
17 may be sufficient, McSurely v. McClellan 753 Fed. 2d. 88, is
18 kind of a unique case that is not applicable across the board
19 and does not generally stand for the proposition that
20 publicizing it to one or two or three people is sufficient to
21 satisfy the elements of this tort.

22 The argument that the defendant makes that there is a
23 public interest in this kind of information I just reject.
24 Normally you balance the public's right to a certain kind of
25 information against the individual's right to privacy. It seems

1 to me that the public has no such right to this kind of
2 information about a person; that the individual's entitled to
3 maintain it privately, and there's no legitimate logical nexus
4 between the private facts allegedly disclosed here and the
5 matters of public interest that are invoked; namely, people are
6 interested in politics and in government, and everybody's
7 interested in relationships, whether they're financial
8 relationships or sexual relationships on Capitol Hill.

9 Financial relationships, maybe there is a strong public
10 interest in, and some of the things that have been in the press
11 recently about relationships between lobbyists and politicians
12 are of legitimate interest, and if somehow sex is involved in
13 that, maybe there is a public interest in it.

14 None of that is what's involved in this case. It's just
15 a -- and I know that Mr. Umana did not write the brief, but the
16 argument -- I just want to make sure I have the right thing --
17 the argument that the blog was newsworthy "as a shocking and
18 disturbing portrayal of casual and even reckless sexual
19 encounters between young entry-level Capitol Hill staffers like
20 Cutler and more senior staffers like Steinbuch, more prominent
21 executive branch officials and older, married, powerful and
22 wealthy men is of interest to the public," and "the
23 interrelationship between youth, beauty, sex, money and power in
24 Washington has long been a matter of legitimate and sometimes
25 pressing public interest," I just don't think carries the day

1 here.

2 What's involved in this case is not the fact of a
3 relationship between two people, but the intimate details of
4 that relationship. As I said before, facts surrounding sexual
5 intimacy are regarded as a classic example of private facts that
6 deserve protection, and comment B to the restatement says that,
7 that sexual relationships are normally entirely private matters.
8 Even public figures who do not have the same expectation of
9 privacy have an interest of privacy in those matters.

10 And Mr. Steinbuch's not a public figure. So I just reject
11 the notion that the relationship between the two of them was a
12 matter of public concern or interest, particularly the details
13 of the sex act they performed is just -- just doesn't carry the
14 day at all. That's not a basis to dismiss.

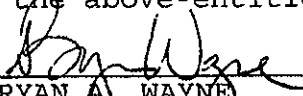
15 Intentional infliction of emotional distress -- I won't say
16 anything more about the other form of invasion of privacy that
17 is less explicitly alleged in paragraph 31 of the complaint,
18 which is publicity placing a person in a false light.

19 The restatement says one who gives publicity to a matter
20 concerning another that places the other before the public in a
21 false light is subject to liability to the other for invasion of
22 his privacy if A, the false light in which the other was placed
23 would be highly offensive to a reasonable person -- that kind of
24 parallels one of the elements of the other branch of this tort
25 we were just talking about -- and B, the actor had knowledge of

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CERTIFICATE

I, BRYAN A. WAYNE, Official Court Reporter, certify that the foregoing pages are a correct transcript from the record of proceedings in the above-entitled matter.


BRYAN A. WAYNE