

# **Exhibit 5**

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
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For the Defendant:	JOHN UMANA, ESQ. 6641 32nd Street, NW Washington, D.C. 20015 202-244-7961
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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
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Proceedings reported by machine shorthand, transcript produced  
by computer-aided transcription.

1 one-year statute of limitations, if there's a one-year statute  
2 of limitations.

3 Now, a couple of different points to be made. I conclude  
4 that there is a one-year statute of limitations with respect to  
5 all three of these things. And the plaintiff relies in part on  
6 a case from the District of Maryland, Smith v. Esquire, 494 F.  
7 Supp. 967. And we have at least two extremely relevant D.C.  
8 cases from this court. One is Southeastern University, Doe v.  
9 Southeastern University, Judge Harris's decision in 732 F. Supp.  
10 7, and the other more recent one by Judge Kessler, Grunseth v.  
11 Marriott, 872 F. Supp. 1069.

12 And in Grunseth Judge Kessler points out, as I have today,  
13 that there are actually four different theories for an invasion  
14 of privacy claim. And she says that -- and the one that was  
15 involved in the case before her was the primary one involved  
16 here, public disclosure of private facts. And she says that  
17 there is a one-year statute of limitations for libel, slander,  
18 assault and other similar intentional torts, and that this  
19 limitation has been applied to invasion of privacy claims, under  
20 the rationale that invasion of privacy is essentially a type of  
21 defamation. She said it's just Harris's approval in Doe v.  
22 Southeastern.

23 She rejects the plaintiff's argument that the three-year  
24 statute applies, and says that -- and then goes through the  
25 elements of the third of the four theories under Wolf v.

1 Regardie, so it's clear that that's the one she's talking about.  
2 So she has concluded the one-year statute applies to the third  
3 of the four theories. In the restatement it's conceded that it  
4 applies to the fourth of the four theories in the restatement.

5 And with respect to the intentional infliction of emotional  
6 distress -- and so I agree with her. And with respect to the  
7 intentional infliction of emotional distress, it's clear that  
8 the question is whether it's -- I can't remember the exact  
9 language, but whether it's officially intertwined with the  
10 underlying violation, then the same statute of limitations  
11 applies.

12 And by the nature of the complaint I think the allegations  
13 are that the intentional infliction of emotional distress claim  
14 is very much intertwined with the invasion of privacy claims,  
15 and therefore seems to me that it follows from my finding or  
16 conclusion that it's a one-year statute of limitations for the  
17 invasion of privacy claims, the same will be true with the  
18 intentional infliction of emotional distress claims. Thomas v.  
19 News World Communications, 681 F. Supp. 55, and Dooley v. United  
20 Technology Corporation, 1992 Westlaw 167053, a 1992 case.

21 But when does the one year start to run, is the question.  
22 Mr. Umana argued that, you know, multiple publication rule and  
23 once you publish it once it runs from that date. The Mullin  
24 case that he mentions, Mullin v. Washington Free Weekly, 785 A.  
25 2d 296, is essentially, Judge Steadman's opinion there is