

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Robert Steinbuch	:	Index No.: 1:05-CV-970 (PLF)
Plaintiff,	:	Judge Paul L. Friedman
	:	
-v-	:	
	:	
Jessica Cutler & Ana Marie Cox,	:	
Defendants.	:	

FIRST AMENDED COMPLAINT

I. Introductory Statement

1. This civil action for invasion of privacy for public revelation of private facts and false light arises from the dissemination, on the World Wide Web, of an X-rated blog by describing in graphic detail the intimate amorous and sexual relationship between Cutler and the Plaintiff and by making false statements about Plaintiff.
2. Defendant Cutler outrageous actions, setting before anyone in the world with access to the Internet intimate and private facts regarding Plaintiff, constituted a gross invasion of his privacy, subjecting him to humiliation and anguish beyond that which any reasonable person should be expected to bear in a decent and civilized society.
3. Cutler and Cox worked together to invade Plaintiff's privacy.

II. The Identity of the Parties

4. Plaintiff was an attorney employed on the staff of United States Senate Judiciary Committee.
5. The Defendant Jessica Cutler was employed as a member of the staff of Senator Dewine.

6. The Defendant Ana Marie Cox spread gossip on the Internet on a website named “Wonkette.”
7. The parties are diverse.

III. Jury Trial

8. Plaintiff demands a jury trial.

IV. Jurisdiction and Venue

9. Jurisdiction is founded on diversity of citizenship and amount in controversy.
10. Plaintiff was a citizen of the state of Maryland.
11. The Defendants are citizens of other states, none of them Maryland.
12. The matter in controversy far exceeds, exclusive of interests and costs, the sum of \$75,000.
13. Venue is proper in this Court because acts giving rise to the claims and the residence of the Defendant Cutler was at the time in the District of Columbia.

V. Factual Allegations

14. Cutler created and maintained a “blog,” an internet site, on which she disclosed private facts of Plaintiff and portrayed Plaintiff in false light.
15. In her blog, Cutler identified herself as the “Washingtonienne.”
16. Cutler chose this name due to its similarity to the “Wonkette” blog’s name, which belonged to Defendant Ana Marie Cox.
17. Blogs and other internet sites may be “password protected,” permitting only authorized users to have access. Cutler, however, declined the option of password protection, instead intentionally making her blog publicly available to anyone who hit upon the site on the Internet.

18. Cutler's Washingtonienne blog was accessible and open to the public.
19. Cutler intended her Washingtonienne blog to be accessible and open to the public.
20. Cutler's Washingtonienne blog was searchable and discoverable on the internet.
21. Cutler intended her Washingtonienne blog to be searchable and discoverable on the internet.
22. In the public blog, Cutler maintains ongoing conversations with strangers, explicitly recognizing the public nature of her blog.
23. Any part of a blog can be altered at any time.
24. Cutler routinely edited all aspects of he blog, up an until May 18, 2004.
25. The dates and times accompanying different statements in he blog do not refer to the last time that those specific parts of the whole blog were written or edited, because Cutler changed those parts of the complete blog thereafter.
26. Cutler explicitly informed others of her public X-rated blog.
27. Cutler discussed with friend(s) commercializing her blog.
28. Cutler's friends told other people about Cutler's X-rated blog.
29. Cutler approved of her friends informing others about her X-rated blog.
30. Regardless of the number of people that Cutler explicitly informed (both known and unknown to her) about her X-rated blog, she made the blog available to the public at large by her putting it directly on the internet and not seeking any password protection or other security or using email instead.
31. Cutler readily granted permission for her friend(s) to direct other person(s) completely unknown to Cutler to read Cutler's public X-rated blog.
32. Cutler wanted as many people as possible to read her blog.

33. Cutler wanted to make money from her blog.
34. Cutler maintained no privacy of her blog. She freely let anyone read it and wanted to gain additional readers.
35. The blog was available on the internet for anyone to read.
36. People unknown to Cutler read her blog.
37. Cutler's public blog described in graphic detail her ongoing sexual relationships with six men, including Plaintiff. At the time of his relationship with Cutler, Plaintiff did not know that Cutler was simultaneously engaged in sexual relationships with another man, let alone with five other men, and let alone that she was prostituting herself to some of them; and Plaintiff did not know that Cutler was recording the details of her relationship with Plaintiff on a public blog, making those details available to the public.
38. At the time of Plaintiff's relationship with Cutler, Cutler was simultaneously engaged in sexual relationships with five other men, and prostituting herself to some of them.
39. At the time of Plaintiff's relationship with Cutler, Cutler never disclosed that she was recording the details of her relationship with Plaintiff on a public blog, making those details available to the public. Indeed, Cutler claimed that she would never do such a thing.
40. Cutler's public blog provides cumulatively identifying characteristics of Plaintiff, culminating with the disclosure of Plaintiff's name at the very end of the blog.
41. Plaintiff was ultimately clearly identifiable to a substantial segment of the community as one of the sexual partners of Cutler described in her public blog.

42. Cutler referred to Plaintiff by his first name in her publicly available blog.
43. Cutler referred to Plaintiff by his initials, "R.S." in her publicly available blog.
44. Cutler identified Plaintiff in her public blog through his religion, Jewish; his job, Committee Counsel to the Senate Committee on the Judiciary; his place of residence, Bethesda; the fact that he has a twin; his general appearance; and details of Cutler's intimate relationship with Plaintiff that Cutler had previously disclosed to colleagues and co-workers.
45. Plaintiff's identity became clear upon the reading of the complete blog.
46. Cutler's public blog contained, *inter alia*, the following passages of and concerning Plaintiff:

Item!

A new contender for my fair hand. He works in one of the Committee offices. We will call him RS.

To answer The Question, no, RS and I did not fuck. (It is my "week off," if you recall.)

BUT...

RS looks just like George Clooney when he takes off his glasses. I am serious.

Has a great ass.

Number of ejaculations: 2

He likes spanking. (Both giving and receiving.)

I put the moves on HIM. That is, I brought him back to MY place, I was the one

who jumped on HIM.

I was drunk, but he was totally sober. (At least I have an excuse for my behavior!)

So I'm seeing ANOTHER person on the Hill. At least this one is counsel, and not an aide.

OMG. RS just came in here to say hi.

But I got nervous and acted weird.

Shit!

I told my coworkers about the spanking over lunch, but left out the nasty parts. (We were eating.)

So they were shocked. Not sure I should have told them.

One of them told me that RS wore a purple turtleneck with a bright blue fleece over it at a recent staff retreat. Now I wonder if he's crazy or what.

Then she mentioned that RS is very discrete, so I am taking that as a hint to keep quiet.

RS just e-mailed me: Hey, had a nice time yesterday. going to NY tonight, but let's get some dinner or something next week. interested?

I said yes.

What am I getting myself into?

Yes, I like him, but am I attracted to him or the impending drama??

I really don't get myself sometimes.

I take weekends off from this blog. So before I go, this is the plan:

Take cab over to W's place in Georgetown. Fuck. Get dinner someplace expensive.

W drives me home to Cap Hill.

Go to keg party at coworker's house. (RS will not be there. Maybe fuck somebody else?)

I told MD I had some news, so he sat down with me in the cafeteria and I told him about RS.

So I leave the cafeteria and start walking back to the office, and I see RS. We stopped and talked in the hall and he asked me out for a drink tonight. (Except he doesn't drink?) I look really good today, so I'm glad I hit two birds with one stone during my lunch hour.

I am so busted.

Went out w/ RS after work yesterday. He took me out for drinks, took me back to my place, and we fucked every which way. THEN he tells me that he heard I've been spreading the spanking rumor around the office!

But last night was fun. He's very up-front about sex. He likes talking dirty and stuff, and he told me that he likes submissive women. Good, now I can take it easy in bed. Just lay back and watch him do freaky shit.

By popular demand, I have finally created a key to keeping my sex life straight.

In alpha order:

AJ=The intern in my office whom I want to fuck.

F=Married man who pays me for sex. Chief of Staff at one of the gov agencies, appointed by Bush.

J=Lost my virginity to him and fell in love. Dude who has been driving me crazy since 1999. Lives in Springfield, IL. Flies halfway across the country to fuck me, then I don't hear from him for weeks.

MD=Dude from the Senate office I interned in Jan. thru Feb. Hired me as an intern. Broke up my relationship w/ MK (see below).

MK=Serious, long-term boyfriend whom I lived with since 2001. Disastrous break up in March, but still seeing each other.

R=AKA "Threesome Dude." Somebody I would rather forget about.

RS=My new office bf with whom I am embroiled in an office sex scandal. The current favorite.

W=A sugar daddy who wants nothing but anal. Keep trying to end it with him, but the money is too good.

Shit. I'm fucking six guys. Ewww.

Oooh, RS just called me. He asked me out again tonight, but I have plans w/ MK @ 9pm. (We're watching the ANTM special together.)

Two nights in a row. I like him, but WTF?

RS just called again. Bad news: the rumor has spread to other offices. This is bad.

We went to his house after dinner, a four bedroom in Bethesda. Needs work, but v. cute.

So it turns out that RS cannot finish with a condom on. He can barely stay hard. So he ends up taking it off and humping away at me. Maybe I forgot to tell him that I'm on the Pill. Note to self...

I also learned that he was a cop, so he has scary police shit like handcuffs in his closet. He implied that we would be using them next time, which is intriguing, but I know I'm going to get scared and panicky. (Which would probably turn him on.)

I like this crazy hair-pulling, ass-smacking dude who wants to use handcuffs on me. Shit.

So my friend AS met up with me at RR and I had two genius ideas:

- 1. We should go to Saki.*
- 2. AS should meet RS.*

So I called RS and told him to come over so AS could get a look at him. This morning she says (via IM), "He does look like George Clooney, but he's totally Woody Allen."

She also said, "He will do anything to make you happy."

Isn't that sweet? And it's true: he stood in line with us at Saki for 1 1/2 hours!

When Saki closed, we got some nasty Pizza Mart slices that tasted really good at the time. Then AS went home and RS took me back to his place for the second night in a row. I passed out as soon as I lay down, so we didn't do anything.

I woke up with an awful hangover and barfed up my Pizza Mart. (I'm losing weight!) Then RS drove me home and made me promise to call him again today.

So I called RS after MK left in a huff. I ended up sleeping over in Bethesda for the third night in a row.

He wants us to get tested together so we can stop using condoms. Isn't that sweet? Hope I don't have anything!

He's Jewish, I'm not. And we have nasty sex like animals, not man and wife.

I really just want to be a Jewish housewife with a big rock on my finger.

Going to see the movie Troy tonight. RS told me to call him afterwards. Wants sex. We've only been dating a week, and we already have a routine.

Oh, I forgot: I learned that RS has a twin! (Unf, nobody finds this as fascinating as I do.)

Getting involved in a new relationship really just means ruining your nightlife. I resolve not to let this happen to me: I got bored and restless in my last relationship, and look what happened. Call it Madame Bovary Syndrome. Going out and getting trashed at least three times a week is the only cure.

RS called last night. He had a visitor flying in from NYC who was stuck in a holding pattern over DC for an hour. (Who flies from NY to DC anymore? Take the train! Or the \$10 Chinatown bus.)

He was bored, so he picked me up and took me back to his house. His friend arrived around 11:30pm, and was exhausted from his hellish plan ride. So Rob and I went upstairs and got ready for bed.

Warning: the following passage is extremely corny. Get ready to vom.

So I get into bed and by then, it's midnight.

"What time is it?" RS asks.

"Midnight," I reply.

"Do you know what that means?"

"Uh...no."

"That means it's your birthday." And he pulls out this pink and green package, and I just know it's a new Lilly dress.

And it was. Then we fucked missionary. And he came. With a condom on.

Then he was like, "Who the hell comes missionary anymore?!"

Is that the quote of the day or what?

47. At the same time that Cutler was posting her public blog, she was also writing on her Senate computer a journal on how to exploit men for financial and materialistic gain.

48. In her public blog Cutler admiringly referenced Anna Marie Cox's "Wonkette" blog.

49. In her public blog Cutler hyper-linked to Anna Marie Cox's "Wonkette" blog.

50. Cutler wanted to have Cox spread the word regarding Cutler's blog.

51. Sure enough, on May 18, 2004, the Wonkette described the Cutler blog's contents, republished excerpts on the Wonkette web site, and linked back to Cutler's public blog.

52. Cutler and Cox saw the X-rated Washingtonienne blog as their route to riches.

53. Cox admitted on her Wonkette blog that the material on Cutler's blog might "invade someone's privacy."

54. That notwithstanding, Cox linked to Cutler's Washingtonienne blog.
55. That notwithstanding, Cox republished parts of Cutler's blog.
56. Cutler's "Washintonienne" public blog became notorious throughout Washington, D.C. and the nation.
57. Cutler always wanted to have her blog gain notoriety.
58. Within days, the full identification of Plaintiff was repeated through other internet sites, through numerous mainstream newspapers and tabloid publications published in the United States and abroad, and through various broadcast and cable television media beginning immediately. The dissemination including stories published or broadcast by such mass media outlets at *The Washington Post*, *The New York Times*, the Cable News Network, Fox Television News, *The Scotsman*, *The Guardian*, *The India Times*, *The New York Post*, *The National Enquirer*, and *The Star*.
59. Within three days of Cox's linking back to Cutler's blog, Cutler called Cox and granted Cox permission to post on her website (Wonkette) that Cutler was the source of the Washingtonienne public blog.
60. Cox published Cutler's identity with Cutler's express permission – giving her the notoriety she coveted.
61. Cutler went out on a late-night drinking spree with Cox.
62. Cutler posed for sexually suggestive photos with Cox that Cox put on -- and later removed from -- her website.
63. Cutler spent the night at Cox's house in Arlington, Virginia.

64. Cutler and Cox used the private facts of Plaintiff for their personal profit and exploitation.
65. Cutler got an agent, with Cox's help.
66. Cox paid Cutler to write for her website.
67. Cox and Cutler went on television together.
68. Cutler and Cox discussed posing jointly for *Playboy Magazine*.
69. Cutler sought widespread public attention and publicity for herself; she further disseminated the contents of the public blog through the channels of mass media; she granted print, broadcast, and Internet interviews, capitalizing on her newfound fame and attention.
70. On June 2, 2004, Cutler authored an article in the Guardian Newspaper online, in which she linked to and republished the full contents of her Washingtonienne blog again.
71. Cutler signed a deal with *Playboy Magazine* which included a nude photo spread of Cutler posted on Playboy's Internet site, capitalizing on the publicity generated by her public blog and her relationship with Plaintiff.
72. Cutler signed a book contract, receiving a \$300,000 advance, with Hyperion Press, a division of the Disney Corporation, to write a book, of the roman a clef genre, based on her blog.
73. Cutler commented in the press that she feels sorry for those people that write public blogs for years and never obtain a book deal.
74. Cutler said: "With a blog, you can't expect your private life to be private anymore."

75. Cutler said: “Some people with blogs are never going to get famous, and they’ve been doing it for, like, over a year. I feel bad for them.”

VI. Causes of Action for Invasion of Privacy – Including Public Disclosure of Private Facts and False Light

76. Plaintiff repeats the previous paragraphs here.

77. Defendants’ actions constitute an invasion of Plaintiff’s privacy.

78. Defendants’ actions constitute the publication of private facts.

79. Defendants’ actions constitute false light.

80. Defendants caused widespread publication of private intimate facts concerning Plaintiff in a manner that would be deemed outrageous and highly offensive to an ordinary reasonable person of average sensibilities, subjecting Plaintiff to severe emotional distress, humiliation, embarrassment, anguish and other damages.

81. Defendants placed Plaintiff in a false light, subjecting Plaintiff to severe emotional distress, humiliation, embarrassment, anguish and other damages.

82. The private facts revealed include such facts as the number of times he ejaculated, his difficulty in maintaining an erection while wearing a particular condom provided by Cutler, spanking and hair pulling during their sexual activity (but conveniently leaving out Cutler’s request of both), his intimate personal conversations with Cutler during sexual activity and during the course of their relationship, physical descriptions of his naked body, the physical details of the sexual positions assumed by Cutler and Plaintiff during sexual activity, Plaintiff’s suggestion that he and Cutler be tested for sexually transmitted diseases so that they would not have to make use of a condom, statements made by Plaintiff

regarding sexual positions. Illustrative of these statements are passages in the Cutler public blog, *inter alia*, such as:

Has a great ass.

Number of ejaculations: 2

He likes spanking. (Both giving and receiving.)

I put the moves on HIM. That is, I brought him back to MY place, I was the one who jumped on HIM.

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I woke up with an awful hangover and barfed up my Pizza Mart. (I'm losing

weight!) Then RS drove me home and made me promise to call him again today. I need to take it easy tonight, which means I might not go out, and I am sitting out the taco contest for sure.

Going to see the movie Troy tonight. RS told me to call him afterwards. Wants sex. We've only been dating a week, and we already have a routine.

So I called RS after MK left in a huff. I ended up sleeping over in Bethesda for the third night in a row.

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And it was. Then we fucked missionary. And he came. With a condom on. Then he was like, "Who the hell comes missionary anymore?!" Is that the quote of the day or what?

Oh, I forgot: I learned that RS has a twin! (Unf, nobody finds this as fascinating as I do.)

83. Other private and personal facts were scandalized in Cutler's public blog, the Washingtonienne, to attract more attention; For example, Plaintiff's response to Cutler's question "am I too lazy in bed?" of "I don't mind passive" was presented as "*he told me that he likes submissive women.*"

84. Cutler's X-rated blog contained wholly apocryphal (false) statements about Plaintiff.

85. These statements were not made for any purposes relating to the dissemination of news or material published in the public interest. These statements were instead cruel and malicious exposures of the most intimate details of Plaintiff's life to a world-wide audience.

86. The disclosures of private facts would be highly offensive to any reasonable person. No reasonable person would want the intimate physical, verbal, emotional, and psychological details of his or her sexual life and romantic relationships life exposed against his or her will on the Internet for the entire world to read.

87. The invasion of privacy have caused Plaintiff to suffer economic damages, professional and personal harm, severe emotional distress, humiliation, embarrassment, anguish and other damages.

VII. Cause of Action for Intentional Infliction of Emotional Distress

88. Plaintiff repeats the previous paragraphs here.

89. Defendants' actions constitute outrageous conduct.

90. Plaintiff suffered severe emotional distress.

91. Defendants acted intentionally.

92. Defendants were reckless.

93. Defendants intended to cause Plaintiff to suffer damages.

94. Defendants' actions caused Plaintiff to suffer damages.

VIII. Prayer for Relief

Wherefore Plaintiff seeks compensatory damages in excess of ten million dollars, punitive damages in excess of ten million dollars, and such other declaratory and injunctive relief as the court shall deem appropriate, attorneys fees, costs and disbursements.

Dated: July 9, 2006

/s/ Jonathan Rosen
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