IN THE U.S. DISTRICT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

MEANITH HUON,	**)**	
Plaintiff,	**)**	
v.	**)**	**CIVIL ACTION NO.: 1: 11-cv-3054**
	)	
ABOVETHELAW.COM, et. al.,	**)**	
Defendants	**)**	

MR. HUON'S SUR-REPLY OPPOSING THE JEZEBEL DEFENDANTS' MOTION TO DISMISS

Plaintiff, Meanith Huon, for his Sur-Reply opposing the Motion to Dismiss of Defendants Irin Carmon, Gabby Darbyshire, Nick Denton, Gawker Media, Jezebel.com (the "Jezebel Defendants" or "Defendants"), states as follows:

ARGUMENT

The Jezebel Defendants avoid the issue in this case—does Mr. Huon's complaint state a cause of action—and focus on matters not connected with this litigation. That is because Defendants do not have a meritorious argument to dismiss Mr. Huon's complaint. So they spend pages of their briefs arguing what a bad person Mr. Huon is. Even prisoners—sex offenders convicted of felonies-- have a right to exercise their free speech claim by seeking redress in the court system. Bridges v. Gilbert, 557 F.3d 541, 553 (7th Cir. Wis. 2009). Mr. Huon has never been convicted of a felony or misdemeanor and has no pending charges. But Defendants and its attorneys treat him as sex offender who has to be tracked and reported.

Defendant bloggers exercise their free speech by using the platform the bloggers are most comfortable with, namely, websites, including pornographic sites. Mr. Huon has a right to exercise his free speech using the platform he is most comfortable with: the Federal Courts.

As an officer of the court, a licensed attorney, Mr. Huon is held to a higher standard than a typical litigant. He has to observe the Rules of Professional Responsibility. His conduct is regulated by the Illinois Attorney Registration and Disciplinary Commission. He may be subject to discipline for being viewed as being "too litigious." He can be sanctioned by the courts before which stands before. Every time Mr. Huon exerts his right to seek redress under the law, he risks being viewed as "litigious" and perhaps being sanctioned.

The Jezebel Defendants are not governed by any canons of professional responsibility or canons of journalism. They are not journalists. They are not news reporters. They are website operators, bloggers, and pornographers. They make their money by disseminating smut and defaming individuals to create web traffic and advertising revenue.

Defendants and its attorneys continue to call Mr. Huon a serial plaintiff. However, Mr. Huon is not trying to win this lawsuit based on the number of times Gawker Media has been sued as a defendant (numerous). Mr. Huon does not call the Defendants' attorney, David Feige, a serial Class Action Plaintiff. On information and belief, David Feige, has appeared as a Class Action Plaintiff in 1:07-cv-08539-AKH (S.D.N.Y); 1:00-cv-02621-WHP (S.D.N.Y.); 1:00-cv-04729 (N.D.Ill.). Mr. Feige has filed approximately the same number of lawsuits as Mr. Huon, except Mr. Huon stands up for himself and Mr. Feige represents perhaps thousands of plaintiffs as class plaintiff in class action litigation that can bankrupt a business.

The Jezebel Defendants explore Mr. Huon's employment with Johnson and Bell, Ltd. more than 3 years ago. Of course, Defendants omit that Mr. Huon's lawsuit against Johnson and Bell, Ltd. in the Northern District of Illinois is pending in case No. 09-cv-7877. Mr. Huon disclosed that won his appeal *pro se* before the Seventh Circuit against Johnson and Bell, Ltd.

Defendants omit excerpts from the decision in Huon v Johnson and Bell, Ltd. stating that "The court was probably misled by the defendants' . . ." and that, as a result, "Huon's federal case has been languishing for almost two years". Huon v. Johnson and Bell, Ltd., et.al. 657 F.3d 641 (7th Cir.).

Mr. Huon does not explore the relationship of Mr. Feige serving as a Class Action Plaintiff in 1:00-cv-02621-WHP (S.D.N.Y.) and being represented in the case by the same firm that Mr. Feige serves counsel to, Giskan, Solotaroff & Anderson, LLP. Mr. Huon does not try to guess the motive behind the unprofessional attacks on Mr. Huon by Mr. Feige—who, on information and belief, was sued for defamation by an attorney for calling the attorney "looney". http://www.nydailynews.com/news/loony-lawyer-a-bronx-courtroom-article-1.273400. These matters are not connected with this litigation and have no place here. They serve as a distraction from the real issue at hand: do Defendants have notice of Mr. Huon's claim?

The Jezebel Defendants argue that putting the word "Acquitted" before calling someone a "**Rapist**" or a "murderer" or a "pedophile" somehow makes the statement not defamation. Defendants posted a blog stating that Mr. Huon was upset for being called a "serial" rapist since he was just a "rapist". Mr. Huon never conceded to being a "rapist." Defendants argue that the number of words make a statement less defamatory; however, profanity consists of four-letter words and crying the one-word "Fire!" in crowded theatre does not make the act less tortious.

The Defendants its attorneys in this case knew or should have known before Defendants filed its novel-length brief that there would be questions of fact on whether the reporter's privilege was abused (if it applies) and on the incremental harm doctrine (if it applies) and that Mr. Huon would be entitled to limited discovery on whether the statements were not genuinely

aimed at procuring government action under The Citizen Participation Act, 735 ILCS 110/1 *et seq.*,(if it applies). Brown & Williamson Tobacco Corp. v. Jacobson, 713 F.2d 262, 272 (7th Cir. 1983); Maple Lanes, Inc. v. News Media Corp., 322 Ill.App.3d 842 (2nd Dist. 2011); Desnick v. American Broadcasting Companies, Inc., 44 F.3d 1345, 1351 (7th Cir. 1995); Doctor's Data, Inc. v. Barrett, 2011 WL 5903508 (N.D.Ill.,2011). Defendants knew a FRCP 12(b)(6) motion would not have disposed of these issues but yet filed their novel-length briefs and exhibits.

Defendants and its attorneys know or should know that the attorney litigation privilege does not cover the publication of defamatory matter that has no connection whatsoever with the litigation. Restatement (Second) of Torts § 586 comment. Kurczaba v. Pollock, 318 Ill.App.3d 686, (1st Dist. 2000). The Jezebel Defendants and its attorneys know or should know making defamatory statements about Mr. Huon that have no connection with this litigation would create a new cause of action.

A. MR. HUON NEVER CONCEDED TO BEING A "RAPIST."

Mr. Huon never conceded that he was a "rapist" or that he had been charged with "rape". More than a year after Mr. Huon was acquitted of sexual assault, Defendants called Mr. Huon a "**Rapist**" who was upset that he was called a "serial" rapist as opposed to just a "rapist" and posted his outdated mugshot. On the date of the posting, the FBI's definition of rape did not include digital penetration or rape. Mr. Huon has been unable to locate an Illinois case that defines "rape" in the context of the sexual assault statute in Illinois. Prior to its repeal, the offense of rape was defined as having occurred when "[a] male person of the age of 14 years and upwards . . . has sexual intercourse with a female, not his wife, by force and against her will." Ill. Rev. Stat. 1983, ch. 38, par. 11-1(a). Sexual intercourse was defined as having occurred when

there was "any penetration of the female sex organ by the male sex organ." Ill. Rev. Stat. 1983, . . . ch. 38, par. 11-1(b). People v. Lieberman (in Re Lieberman), 319 Ill. App. 3d 1020, 1022 (Ill. App. Ct. 1st Dist. 2001). On information and belief, the FBI's definition of rape was "carnal knowledge of a female forcibly and against her will", "carnal knowledge" meaning sexual intercourse. Mr. Huon had not been charged with forcible sexual intercourse. People disagree on whether "rape" includes oral sex, digital penetration, or forcible sexual intercourse. In the official proceedings, the complainant alleged that Mr. Huon yelled "suck my dick" in a moving vehicle at highway speed and the complaining witness attempted to perform oral sex.

B. THE JEZEBEL DEFENDANTS AND ITS ATTORNEYS REPRESENTED TO THE COURT THAT MR. HUON HAD PENDING CRIMINAL SEX CHARGES WHEN THEY KNEW THAT THE BATTERY CHARGES HAD BEEN NOLLE PROSSE.

In its Motion to Dismiss, Defendants and its attorneys falsely accused Mr. Huon of stalking two women on at least two occasions, when Defendants knew that there was one complaining witness in the Madison County criminal case and that cyberstalking charge was dismissed:

> There is certainly a public interest in knowing about alleged sex crimes, and indeed, there has been a great deal of legislative effort and attention to **tracking and reporting on sex offenders** . . .
>
> Huon has targeted for his harassing lawsuits are those who publish on the internet—precisely the place he has used as a **stalking ground on at least two occasions**, and the very tool he has used in the past for bullying . . .
>
> It is understandable that Plaintiff is familiar with the "cyberstalking" statute. He has, after all been criminally charged with violating it (emphasis supplied) (Defendants' Memorandum, pages 12, 16).

On September 30, 2011, the Jezebel Defendants filed its Motion to Dismiss. (Docket

No. 57.) On page 2 of the Defendants Memorandum, Defendants state, "At the root of this lawsuit is a serial plaintiff who has repeatedly been **charged with crimes relating to the sexual abuse of women**. (emphasis supplied)." Defendants knew or should have known that on September 7, 2011, the State *nolle prosse* all of Mr. Huon's charges. Exhibit "A". Even after Mr. Huon disclosed that the misdemeanor charges had been *nolle prosse*, Defendants continued to file documents and pleadings without advising the Court that the charges had been dismissed. (Docket Nos. 109 and 117.) Defendants knew or should have known that the charges that were dismissed were for battery for contact of an "insulting nature", not for sexual battery. Defendants produced copies of the misdemeanor complaint. See Exhibit "A" to the Jezebel Defendants' Reply Brief. On information and belief, Counsel for Defendants, David Feige is a former Trial Chief of the Public Defender's Office, and would appreciate the significant difference between a battery based on sexual contact and batter based on contact of an "insulting nature."

C. THE JEZEBEL DEFENDANTS AND ITS ATTORNEYS MISREPRESENTED TO THE COURT THAT MR. HUON WANTED STEPHANIE ANDREWS'S ADDRESS.

After Mr. Huon stated that there were pending charges against him, Defendants and its attorneys posted Mr. Huon's Social Security Number, date of birth, photo, address, Illinois driver's license number online in Pacer, in violation of FRCP 5.2. Defendants' attorneys would have seen the following notice on Pacer:

> IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer-identification numbers; dates of birth; names of minor children; financial account numbers; and, in criminal cases, home addresses, in compliance with Fed. R. Civ. P. 5.2 or Fed. R. Crim. P. 49.1. This requirement applies to all documents, including attachments.

Defendants' attorney or the person filing had certified that, "I understand that, if I file, I must comply with the redaction rules. I have read this notice."

Mr. Huon filed a Motion to Strike but later withdraw the request for sanctions, as a professional courtesy. He received a voice message from Judge Gilbert's deputy to file an amended motion to strike and that a letter withdrawing the request for sanctions was not sufficient. After Mr. Huon withdrew his request for sanctions, the Jezebel Defendants and its attorneys filed its "Response to Plaintiff's Amended Request to Strike and Motion to Disclose the Name and Address of the Victim in the Criminal Case Against Him" (emphasis supplied) (Docket No. 124.) Defendants argued in bad faith that Mr. Huon was seeking the "address" of the "victim", continuing to paint Mr. Huon as a criminal and a stalker. Defendants knew or should have known that the unredacted police report never contained the "address" and that Stephanie Andrews was not a "victim"—the charges were *nolle prose* at the second court date. Mr. Huon obtained the unredacted police report after Defendants' posted its copy online. Exhibit "B". On information and belief, Ms. Andrews' address was never on the copy disseminated to the public, including Defendants. (Mr. Huon had already been provided with an address for Ms. Andrews from another document and was not seeking her address. He wanted an unredacted copy of what the Defendants had filed, since Defendants never obtained leave of Court to redact the exhibit.)

D. THE DOCTRINE OF INCREMENTAL HARM DOES NOT APPLY.

As Mr. Huon previously argued in his Response brief, the doctrine of incremental harm doesn't apply at the pleading stage. The Seventh Circuit then reversed the trial court for applying the doctrine at the pleading stage and dismissing the defamation count. Desnick v.

American Broadcasting Companies, Inc., 44 F.3d 1345, 1350 (7th Cir. 1995). Defendants devote an entire section to argue that **"PLAINTIFF'S SELF-PROCLAIMED VICTIM STATUS DOES NOTHING TO UNDERMINE THE DOCTRINE OF INCREMENTAL HARM"** but argues matters that have no connection with this lawsuit?

E. GAWKER MEDIA AND NICK DENTON ARE PORNOGRAPHERS.

Defendants describe Mr. Huon's Response brief as "pornography obsessed but Mr. Huon was correcting Defendants' misrepresentation to the Court. Defendants' Motion to Dismiss states that " Gawker Media a/k/a Gawker.com operates news and information websites which report on a wide variety of topics including media and politics." This is a misrepresentation. Gawker Media is one of the largest publisher of pornography on its website Fleshbot.com, branding itself as "Pure Filth" and "the world's foremost blog about sexuality, porn, and adult entertainment . . ." On information and belief, Gawker Media was originally incorporated in Budapest, Hungary, one of the world's leading capital of pornography. http://en.wikipedia.org/wiki/Gawker_Media. Foreigners like Nick Denton pioneered the porn industry in Budapest, Hungry.http://en.wikipedia.org/wiki/Pornography_in_Hungary The relatively poor economic conditions in the country force many young girls from the provinces to seek work in the porn industry. Gawker Media is the product of the exploitation of women in the pornography industry. On information and belief, Nick Denton, through one of his companies or websites, disseminates porn via Fleshbot.com. Defendants have provided no affidavit to rebut these allegations.

F. A CHART IS NOT A COGENT LEGAL ARGUMENT.

Defendants have notice of Mr. Huon's claims and "confusing allegations" because Defendants responds by lifting each word or sentence out of context and charting them. But this is not a proper, cogent legal argument. Defendants disregard the Illinois Supreme Court's holding that all of the defamatory statements must be viewed in their entire context. Tuite v. Corbitt, 224 Ill. 2d 490, 503 (Ill. 2007). Defendants violate the Illinois Supreme Court's admonishment against straining to find an unnatural innocent meaning for a statement when an innocent construction is clearly unreasonable and a defamatory meaning was more probable—Defendants take the words and sentences out of context and chart them. Id. Federal notice pleading requires the Plaintiff to set out, in a Complaint, a short and plain statement of the claim which will provide the Defendant with fair notice of the claim. Scott v. City of Chicago, 195 F.3d 950, 951 (7th Cir. 1999). Plaintiff need not spell out every element and can plead conclusions so long as Defendants are provided minimal notice of the claim so Defendants are able to understand the basis of Plaintiff's claims. McCormick v. City of Chicago, 230 F.3d 319, 324 (7th Cir. 2000); Walker v. Braes Feed Ingredients, Inc., 2003 U.S. Dist. LEXIS 25108 (N. Dist. Ill. 2003). Here, Defendants do not even attempt to make a cogent legal argument about the innocent construction rule. Defendants' chart is unavailing because the chart do not explain the source of Defendants' calling Mr. Huon a "**Rapist**" or posting his outdated mug shot to give the false impression that charges were pending against him or the story that Mr. Huon was upset for being called a "serial" rapist versus being called a "rapist."

G. THE JEZEBEL DEFENDANTS AND ITS ATTORNEYS PLAGIARIZE THE BRIEFS OF THE ATL DEFENDANTS.

The Jezebel Defendants do not even attempt to argue that the fair report privilege applies but basically plagiarizes the argument from the ATL Defendants. From page 4 of the Jezebel Defendants' Reply Brief:

> Plaintiff misstates the law relating to the fair report privilege in several respects. Much of Plaintiff's argument relating to his defamation claim concerns the reporter's privilege, the procedural protection that prevents courts from requiring journalists to reveal their sources in certain situations. No such issue exists in this case, and the Court should disregard these irrelevant arguments.
>
> Plaintiff further asserts that his allegations of actual malice overcome the fair report privilege. Plaintiff is flat wrong on this. The Illinois Supreme Court has held that "the fair report privilege overcomes allegations of either common law or actual malice." Solaia Tech., LLC v. Specialty Publ'g Co., 221 Ill. 2d 558, 587, 852 N.E.2d 825, 843 (Ill. 2006); see also Restatement (2d) of Torts, § 611 cmt. a ("[T]he privilege exists even though the publisher himself does not believe the defamatory words he reports to be true and even when he knows them to be false."). Moreover, a "flippant" or "'smart alecky' style of writing . . . to create reader interest" does not cause a publication to lose the fair report privilege. Sellers v. Time, Inc., 299 F. Supp. 582, 585 (E.D. Pa. 1969), aff'd 423 F.2d 887 (3d Cir. 1970) ("Even such a respected periodical as United States Law Week, sometimes adds 'color' to enliven an otherwise routine and dull account of a legal decision.").

From pages 3, 4 and 5 of the ATL Defendants' Reply brief:

> Plaintiff misstates the law relating to the fair report privilege in several respects. Much of Plaintiff's argument relating to his defamation claim concerns the reporter's privilege, the procedural protection that prevents courts from requiring journalists to reveal their sources in certain situations. (See Response at 2-4 (citing In re Grand Jury Subpoena, Judith Miller, 438 F.3d 1141 (D.C. Cir. 2005), and Too Much Media, LLC v. Hale, 20 A.3d 364 (N.J. 2011)).) No such issue exists in this case, and the Court should disregard these irrelevant arguments.3 See Restatement (2d) of Torts, § 611 cmt. a (The fair report privilege is "one of general publication and is not limited to publication to any person or group of persons.").
>
> Plaintiff asserts that his allegations of actual malice overcome the fair report privilege. (Response at 10.) Plaintiff is flat wrong on this. The Illinois Supreme Court has held that "the fair report privilege overcomes allegations of either common law or actual malice." Solaia, 221 Ill. 2d at 587, 852 N.E.2d at 843; see also Restatement (2d) of Torts, § 611 cmt. a ("[T]he privilege exists even though the publisher himself does not believe the defamatory words he reports to be true and even when he knows them to be false.").

> A "flippant" or "'smart alecky' style of writing . . . to create reader interest" does not cause a publication to lose the fair report privilege. Sellers v. Time, Inc., 299 F. Supp. 582, 585 (E.D. Pa. 1969), aff'd 423 F.2d 887 (3d Cir. 1970) ("Even such a respected periodical as United States Law Week, sometimes adds 'color' to enliven an otherwise routine and dull account of a legal decision.").

Plagiarism, which is "[t]he deliberate and knowing presentation of another person's original ideas or creative expressions as one's own," Black's Law Dictionary (8th ed. 2004), is a form of misrepresentation. Shodeen v. Petit (In re Burghoff), 374 B.R. 681, 684 (Bankr. S.D. Iowa 2007).

Like the Jezebel Defendants republishing the ATL Defendants' defamatory post without investigating the official proceedings, the attorneys for the Jezebel Defendants plagiarize the ATL Defendants' arguments without properly researching the law. Mr. Huon incorporated and adopts his Sur-Reply brief to the ATL Defendants' Motion to Dismiss. In deciding if the fair report privilege applies, the court compares "the official report with the news media account . . . If the defamatory matter does not appear in the official record or proceedings, the privilege of fair and accurate reporting does not apply. Myers v. The Telegraph, 332 Ill.App.3d 917, 922 (5th Dist. 2002). Where in the official proceedings is it established that Mr. Huon is a serial rapist? Or that the bartender's testimony was the strength of the case? Or that consent was sent to the jury for deliberation? Defendants' improper use of a chart does not help the Defendants, because it doesn't chart the mugshot of Mr. Huon along with the bold headlines calling him a **"Rapist."**

Both the Seventh Circuit and Illinois courts have held that it is question of fact for a jury as to whether the fair reporting privilege was abused. Brown & Williamson Tobacco Corp. v. Jacobson, 713 F.2d 262, 272 (7th Cir. 1983); Maple Lanes, Inc. v. News Media Corp., 322

Ill.App.3d 842 (2nd Dist. 2011) (genuine issue of material fact as to whether newspaper correctly quoted sheriff).

H. THE JEZEBEL POST WAS AND IS DEFAMATORY PER SE.

More than a year after he was acquitted of sexual assault, Defendants posted a picture of Mr. Huon's mugshot with the title in large bold letters "**Acquitted Rapist**" and encouraged readers to stalk and contact Mr. Huon. Defendants warned its readers that Mr. Huon was the rapist who got away with rape of multiple women and was a potential danger to women at large and contended that Mr. Huon lured women to meet him by posing as a talent scout. Defendants' warning to its mostly female readers is: "And this, people, is why God invented Google," . . . **The lesson learned: Google only takes you so far.** (Emphasis supplied.)."

Defendants invented the facts. Defendants contended that Mr. Huon was acquitted because of the testimony of a bartender, when the strength of Mr. Huon's case was overwhelming in his favor. Defendants omitted that the complainant was caught lying on the stand, that there was no evidence of an advertisement found on Mr. Huon's computers, etc. Defendants invented the fact that Mr. Huon was suing Above The Law for implying that he was a serial rapist—as if he was just a rapist. This comment in conjunction with the headlines **"Acquitted Rapist Sues Blog For Calling Him Serial Rapist"** just reinforces the idea that Mr. Huon is a rapist. Defendants then promoted comments that defamed Mr. Huon further and encouraged readers to contact him and stalk him. Apparently, it worked, because Mr. Huon was subsequently arrested on baseless allegations that the Cook County State's Attorney's Office promptly dismissed.

The Jezebel Defendants knew about the ATL post that falsely reported Mr. Huon as

being a serial rapist and knew that Mr. Huon was acquitted more than a year ago but insisted on calling Mr. Huon a "RAPIST". Defendants' attorneys inadvertently admitted Defendants' motives:

> There is certainly a public interest in knowing about alleged sex crimes, and indeed, there has been a great deal of legislative effort and attention to tracking and reporting on sex offenders . . .
>
> Huon has targeted for his harassing lawsuits are those who publish on the internet—precisely the place he has used as a stalking ground on at least two occasions, and the very tool he has used in the past for bullying . . .
>
> It is understandable that Plaintiff is familiar with the "cyberstalking" statute. He has, after all been criminally charged with violating it (emphasis supplied) (Defendants' Memorandum, pages 12, 16).

Defendants' motive was to treat Mr. Huon like a sex offender who had to be tracked and reported.

Defendants disregarded the complaints from several readers that the article defamed Mr. Huon:

> a. BringerofthePain: No, but it does mean that you can't call them rapists without being sued. It's merely the difference between what they are and what they can be identified as in public. You can think he's a rapist to your hearts content, but you can't print it.
>
> b. taylvie3: No, but someone found not guilty is innocent in the eyes of the law. Calling them differently on a blog opens you up to a libel suit. Truth would be a defense in a libel suit, but that would mean retrying a criminal case in a civil libel lawsuit to prevent paying $50M.
>
> c. the.schwartz.is.not.with.me: Excuse me, but can we not call this guy an "acquitted rapist"? He was acquitted, so he's not guilty. He is not a rapist, end of story. He is a man acquitted of rape, but he is most definitely not a rapist, modifying adjective or not.
>
> d. lavenderstain: you know, I really dislike this man as much as the next (maybe even more given that he tarnishes the repute of my profession) BUT he WAS acquitted, meaning you could have at least used "Alleged" before the rapist acquitted. if anyone

deserves to be sued for defamation...

e. SubvertAParadigm: "Acquitted Rapist Sues Blog For Calling Him Serial Rapist" WTF? Last time I checked, when a person is acquitted, he is legally not guilty. It doesn't matter if you like it or not - he went through the same processes that we're all subject to.

f. enjulie: If I were writing a blog post about a blog getting sued for multiple millions of dollars over incorrectly labeling a person a rapist, I would be pretty damn careful not to incorrectly label him a rapist myself. Apparently Jezebel feels differently.

g. Andrew_in_Seattle: Yeah, incredibly inept headline writing.

h. SubvertAParadigm: You can object to the minutiae of the statement all you want. The truth is, justice is a public value and therefore all justice systems are unfair and will never be truly fair to x, y, or z. It doesn't change the fact that legally if you are going to write a blog about someone who wrote a blog and is being sued for libel, you shouldn't actually write false statements in the title. That is a lie, and that is just another perpetuation of prejudices based on a system of "guilty until proven innocent," which is just as unfair. The guy was acquitted and whether or not we believe that is true is irrelevant to the material fact that he is currently, legally exonerated.

i. thePrototype: I know someone that is prepping his libel case. His criminal case has not yet started, but he has a tort lawyer on speed dial, and from the sounds of it his case might get dropped before it gets to a judge.

j. mohamedzv2001: So now to Jezebel, even if someone was acquitted, they're still a rapist, because ya know, an accusation is 100% true 100% of the time

k. zegota: Regardless of the statistics, calling someone an "acquitted [thing they were acquitted for]" is kind of stupid. Unless it's OJ, cause fuck him

l. zegota: "Acquitted Rapist" . Um, is my understanding off, or is this man not (legally) a rapist? It seems calling him an "acquitted rapist" paints a target on Jezebel's back. Might wanna change that heading.

m. Pär Larssona: Nah. This is Jez, man. Men are presumed guilty of original sin, until proven otherwise due to gayness or having been previously a woman - alongside some actually noteworthy news and commentary.

"Alleged rapist..." or "Aquitted man..." would have been, you know, responsible almost-journalism. Can't have that around here. People will get their unmentionables all in a twist.

Defendants seem to think that calling someone "Acquitted" before calling him a "**Rapist**" makes it less defamatory. What if Defendants had called Mr. Huon an Acquitted Murderer? Defendants could have referred to Mr. Huon as "man", "person", "individual," "defendant". Defendants intended to call Mr. Huon a "**Rapist."** There is no immunity for the number of words you call someone, which is why profanity and fight words are usually 4-letter words. Does shouting "fire" in a crowded theatre make it less a crime cause the sentence was a 4-letter word? Moreover, the story was about a "**Rapist**" who was upset for being called a "**Serial Rapist**". Defendants made that point clear by including that in the headlines in bold letters.

Defendants hyperlinked the post to the Abovethelaw.com article containing defamatory statements regarding Mr. Huon. The hyperlink continues to remain even though Abovethelaw.com has removed its defamatory article.

Defendants control, block, edit and promote the comments that users can leave regarding the article. Defendants promote some comments and do not publish other comments. Defendants can promote certain comments by users, placing the comments at the top of the page or in a prominent location for all readers to view. Defendants have "Featured" and "Promoted Discussion" Comments, stating on its website that it is the policy of the Defendants to only post comments that Defendants "love".

Defendants promoted the comment: "Two seconds of proper Googling will get you to Mr. Huon's firm webpage, complete with his phone number, should you want to call and offer any critiques."

Defendants promoted the following comments, too:

a. Defendant, John Doe No. 102 a/k/a SarahMc, wrote:

Just because a man is acquitted of rape does not mean he did not commit rape. That a jury would decide "not guilty" does not magically erase what he did--if he did, in fact, rape someone. The vast majority of rapists are never convicted of rape. Does that make them not rapists?

b. Defendant, John Doe No. 103 a/k/a Dinosaurs and Nachos, girlfriend!, wrote: Innocent until proven guilty is a widely misunderstood concept. It basically means that the mere fact that someone is charged with a crime is not itself evidence that the person committed a crime.

Then you go to court. In court, there will be evidence presented. This evidence is where an actual, legal determination is made. Nobody is declared "innocent" in a court of law, they are found guilty or not guilty.

"Not guilty" is absolutely not the same thing as "innocent" from a legal standpoint. Those words do not mean the same thing in the world of law. "Innocent until proven guilty" is merely a concept for laymen to try to keep their non-lawyer brains from jumping to (non-legal) conclusions.

c. Defendant, John Doe No. 104 a/k/a SorciaMacnasty, wrote: Nevermind "serial rapist," he sounds like a foreal crazy person.

d. Defendant, John Doe No. 105 a/k/a deafblindmute, wrote: According to the link under "strength" he traveled to another city, used a false name, and then pretended to be a representative of a liquor company and advertised a job for a model. Now, that doesn't mean that he did/didn't rape her, but it is a goddamn shady way to start off an evening. He must have had some damn good lawyers to push that out of the jury's mind.

My big question is, if she tried to run from him that night and he acknowledges that they were together and there was some sexual interaction going on, what was his defense? I don't care how drunk you are, in the middle of a wanted sexual encounter you don't jump out of a moving car and run through a cornfield barefoot (fun fact: the bristly hair on corn leaves feel like thousands of needles when you run through it). I mean, it's sort of his word against hers for what was happening in the car, but we know that a third person saw her after she ran from him.

Any more legally knowledgeable people know how a jury is supposed to treat this type of evidence? Does the fact that its word vs. word in the car disqualify her claims to being assaulted even though she ran away from him and said she was assaulted that night? How can any sexual assault case be tried if that counts as reasonable doubt?

Arg this is more perplexing the more I think about it. Everything points to rape (his shady actions and lies earlier in the night; her running from him to a stranger), but there is no conclusive evidence I have heard speak of that proves he did/didn't do it.

God, it's almost as if our legal system is imperfect or something :/

e. Defendant, John Doe No. 106 a/k/a CassandraSays, writes:

Thanks, bartender and lawyer, for reminding me that since I have a vagina I'm not allowed to go out in public and attempt to engage in any sort of enjoyable activity unless I'm willing to have sex. With anyone who asks - my presence in a bar gives blanket permission to any guy who happens to find me attractive. I mean, if I didn't want to be raped I'd just stay at home, right?

f. Defendant, John Doe No. 107 a/k/a lanboyo, writes: So he is actually upset about the "Serial" rapist part, actually he is just a one time accused rapist.

g. Defendant, John Doe No. 108 a/k/a JadeSays, writes:

Weird. I didn't know "where do I go to have fun" meant the same thing as "where do I go to get raped." It's great that that jury made that clear to me, otherwise I could get myself in some sticky situations like apparently accidentally begging to be raped.
AWE. SOME.

h. Defendant, John Doe No. 109 a/k/a rachel723, writes:
you know it's women like you who don't understand the rules that make the rest of us ladies look bad.

I=m glad you learned before you actually got raped not to complain now if you do, you were asking for it!!

/sarcasm

i. Defendant, John Doe No. 110 a/k/a vikkitikkitavi, writes:

She jumped out of a moving car, leaving her shoes and purse behind and ran barefoot through a cornfield and pounded on a stranger's door to help her?

Fuck this "he's been acquitted" noise. He's a rapist alright, so we may as well call him one.

j. Defendant, John Doe No. 111 a/k/a tomsomething, writes:

I know you're going to get a million comments like hits, but the phrase "acquitted rapist" probably won't fly for a person who has already demonstrated his letigiousitousnicity.

k. Defendant, John Doe No. 112 a/k/a cool_as_KimDeal, writes:

> Well shit! I didn't know kicking back at a bar and asking where I should go to have fun meant that I hereby consent to any and all sexual activity, with anybody, with this bartender here as my witness. Can I sign away my right to consent here on my bar tab? Okay, great.

l. Defendant, John Doe No. 113 a/k/ HeartRateRapid, writes:

> Yea, all those crazy bitches going to the cops and lying about being raped. Except that false reports for stolen cars are more common. False rape reports make up less than 3% of all reported rapes, and as I'm sure you know, it horrendously underreported.

Defendants then blocked Mr. Huon from posting a comment using his own name.

The fair report privilege has two requirements: (1) the report must be of an official proceeding; and (2) the report must be complete and accurate or a fair abridgement of the official proceeding. Solaia Technology, LLC v. Specialty Pub. Co., 221 Ill.2d 558, 588 (Ill. 2006). A blog post of a blog post is not a "report" of an official proceedings. Where in the official proceedings is their support for all of the aforesaid defamatory statements? Defendants' chart is unavailing.

I. DEFENDANT DO NOT RESPOND TO MR. HUON' ARMENTS REGARDING SECTION 230 OF THE CDA.

Defendants do not respond to Mr. Huon's arguments on this issue—just like Defendants dropped its meritless argument that The Citizen Participation Act, 735 ILCS 110/1 et seq. applies-- and, thus, concedes this issue. Gawker Media is an "information content provider" and, thus, is not immune from liability arising from publication of that content under Section 230 of the Communications Decency Act 47 U.S.C. § 230(c)(1) (the "CDA"). Roommates.com, 521 F.3d 1157, 1162 (9th Cir.2008); Ben Ezra, Weinstein, & Co., Inc. v. Am. Online Inc., 206 F.3d 980, 985 n. 4 (10th Cir.2000).

Defendants rely on Zeran v. America Online, Inc., 129 F.3d 327 (4th Cir. 1997). "In Doe v. GTE Corp., 347 F.3d 655, 659-60 (7th Cir. 2003) . . . the Seventh Circuit called Zeran's holding into doubt." Chi. Lawyers' Comm. for Civ. Rights Under the Law, Inc. v. Craigslist, Inc., 461 F. Supp. 2d 681, 690 (N.D. Ill. 2006). Zeran doesn't apply because the Jezebel Defendants are not an internet service provider like the defendant AOL in Zeran. Defendants are not AOL or Comcast or ATT. On information and belief, Defendants are content providers, whose origins begin in the porn industry in Budapest, Hungary and Nick Denton's apartment in New York City. Defendants admit that it "operates news and information websites which report on a wide variety of topics including media and politics" and that it created the offending content on Mr. Huon—that Defendants are information content providers.

J. THE COURT SHOULD CREATE A PRIVATE CAUSE OF ACTION FOR "CYBERSTALKING".

Mr. Huon adopts his argument in his Sur-Reply to the ATL Defendants' Motion to Dismiss. There is no effective deterrent for the cyber-bullying and cyberstalking by bloggers. As is evident from the reaction of the Defendants via its attorneys, Defendants have more resources than the typical man or woman on the street. Defendants' response to any challenge of its writings is an onslaught of personal attacks and investigations into the life of any person who dare challenge Defendants' defamatory posts.

The only party who has tried to chill free speech—and who have the resources--are Defendants who have retained two sets of prominent law firms and have filed novel length briefs and have called Mr. Huon every name possible, threatening him with sanctions. Imagine if Mr. Huon were not a lawyer? If Mr. Huon is unable to get his day in court, how would the average person fare?

K. THE JOHN DOES ARE NOT AGENTS OF THE JEZEBEL DEFENDANTS.

It is apparent that the Jezebel Defendants and its attorneys are plagiarizing excerpts from the ATL Defendants' Reply Brief. On pages 6 and 7 of the Jezebel Defendants' Reply brief, Defendants argue:

> For the first time in his response, Plaintiff elaborates on the specifics of his conspiracy theory. Having done so, it is even more manifest that Plaintiff's conspiracy claim fails as a matter of law. In addition to the reasons stated in Defendants' Memorandum, Plaintiff's claim fails because he alleges a conspiracy only between individuals who are agents of the same principal, which is not valid under Illinois law. See Buckner v. Atlantic Plant Maintenance, Inc., 182 Ill. 2d 12, 24, 694 N.E.2d 565, 571 (Ill. 1998) ("[B]ecause the acts of an agent are considered in law to be the acts of the principal, there can be no conspiracy between a principal and an agent."; Van Winkle v. Owens-Corning Fiberglass, 291 Ill. App. 3d 165, 173, 683 N.E.2d 985, 991 (Ill. 4th Dist. 1997) ("[A] civil conspiracy cannot exist between a corporation's own officers or employees."). (See Complaint ¶¶ 14-15 alleging agent/principal/employee relationships among Gawker Defendants).

On pages 10-11 of the ATL Defendants, the ATL Defendants argue:

> Plaintiff's conspiracy claim fails as a matter of law. In addition to the reasons stated in the Memorandum, Plaintiff's claim fails because he apparently alleges5 a conspiracy between individuals who are agents of the same principal, which is not valid under Illinois law. See Buckner v. Atlantic Plant Maintenance, Inc., 182 Ill. 2d 12, 24, 694 N.E.2d 565, 571 (Ill. 1998) ("[B]ecause the acts of an agent are considered in law to be the acts of the principal, there can be no conspiracy between a principal and an agent."); Van Winkle v. Owens-Corning Fiberglass Corp., 291 Ill. App. 3d 165, 173, 683 N.E.2d 985, 991 (Ill. 4th Dist. 1997) ("[A] civil conspiracy cannot exist between a corporation's own officers or employees."). (See Complaint ¶¶ 9-10 (alleging principal/agent relationships between the ATL Defendants).)

Mr. Huon alleges in his Second Amended Complaint that the John Does 1 to 100 conspired with the Defendants. Due to page limitations, Mr. Huon inadvertently omitted reference to the John Does in his Response brief when he revised his brief but the allegations of

the John Does 1 to 100 conspiring with the ATL and Jezebel Defendants are in the Second Amended Complaint. Defendants have produced no affidavit that the John Does 1 to 100 are not its agents. Mr. Huon can amend his complaint to make this clearer in his complaint.

L. PLAINTIFF'S STATE CLAIMS AGAINST NICK DENTON AND GABY DARBYSHIRE.

Mr. Huon has a good faith basis to sue Nick Denton and Gaby Darbyshire. On information and belief, Nick Denton found and owns, controls, or operates Gawk Media and all of its related blogs and websites, including Jezebel.com. Defendants do not deny these allegations. Defendants do not even reply with affidavits from Mr. Denton and Ms. Darbyshire.

Managing officers of a corporation are liable when the officer acts willfully and knowingly--that is, when he or she personally participates in acts or when he or she uses the corporation as an instrument to carry out his own willful and deliberate acts , or when he or she knowingly uses an irresponsible corporation with the purpose of avoiding personal liability--that officers are held jointly with the company. Drink Group v. Gulfstream Communs., 7 F. Supp. 2d 1009, 1010 (N.D. Ill. 1998).

Mr. Huon contacted Ms. Darbyshire via email and advised her of the defamatory comment. Ms. Darbyshire who, on information and belief, is Chief Operating Officer of Jezebel.com, replied back via email and refused to remove the offending content and continue to republish it. Ms. Darbyshire uses the corporation to carry out her own willful and deliberate acts by republishing the defamatory content, On information and belief, Mr. Denton is the founder of the Gawker Media empire, including Jezebel.com. On information and belief, Mr. Denton knowingly uses an irresponsible corporation that disseminates porn and defame

individuals with the purpose of avoiding personal liability. Mr. Denton is the individual and face closely associated and identified with Gawker Media. Mr. Huon never conceded that the Defendants are not " marred by insolvency, commingling of funds, and in general corporate disrepair." No discovery has been conducted in the case. Defendants are trying the case at the pleading stage by writing War and Peace. Mr. Huon didn't raise the issue of sanctions. He stated that Defendants need to follow the rule of law and FRCP 11. Federal court pleading is notice pleading. Mr. Huon can just allege these facts in the complaint, if necessary.

M. THE REPUBLICATION RULE APPLIES TO INTERNET POSTINGS.

This issue is not relevant since Defendants have not raised the statute of limitations defense. The republication rule applies to internet postings. Davis v. Davis (In re Davis), 334 B.R. 874 (Bankr. W.D. Ky. 2005); Momah v. Bharti, 144 Wn. App. 731 (Wash. Ct. App. 2008). As one court explained, 'To apply the single publication rule in this context. . . would allow an alleged defamer the opportunity to republish his libelous statements at will on a multitude of web sites on the Internet without fear of added liability. We decline to do so." Momah v. Bharti, 144 Wn. App. 731, 754 (Wash. Ct. App. 2008). The Firth Court was "asked to determine whether causes of action arise continuously as a result of a web site posting for the purposes of the statute of limitations." Momah v. Bharti, 144 Wn. App. 731, 754 (Wash. Ct. App. 2008).

N. PLAINTIFF SHOULD BE GIVEN LEAVE TO ALLEGE SPECIAL DAMAGES.

Mr. Huon's complaint has never been dismissed by the Court. Prior amendments were voluntarily made by Mr. Huon. The number of docket entries--caused in part by the Jezebel Defendants objecting to motions for extensions of time and disclosing Mr. Huon's personal

information on line and by the ATL Defendants requesting unopposed extensions of time and disclosing the complainant's and witness' information and addresses in the Madison County criminal case—has nothing to do with allowing Mr. Huon leave to amend. Defendants' decision to file lengthy briefs and exhibits on a FRCP 12(b)(6) motion—when Defendants knew that these issues could not be disposed of on a motion to dismiss-- should not be rewarded by dismissing a complaint at this stage. Dismissal would result in an appeal leading to potentially piecemeal litigation.

The attorney litigation privilege does not cover the publication of defamatory matter that has no connection whatsoever with the litigation. The defamatory statements made by the Jezebel Defendants and its attorneys and personal attacks on Mr. Huon on matters having no connection to this litigation occurred after Mr. Huon filed his Second Amended Complaint.

Mr. Huon filed his Second Amended Complaint in July of 2011. The charges brought by Stephanie Andrews were not dismissed until the second court date in September of 2011. Mr. Huon has sustained special damages by hiring a defense attorney to defend Ms. Andrews' complaint and sitting in jail waiting to post an I-bond, as a result of Defendants' defamatory posting. Fleck Bros. Co. v. Sullivan, 385 F.2d 223 (7th Cir. 1967). The charges have been dismissed by the State. However, Mr. Huon should be given leave to amend his defamation *per quod* count by alleging special damages.

The Court should not dismiss this case with prejudice but should give Mr. Huon an opportunity to amend, in the event that the Court agrees with the Defendants' arguments.

O. MR. HUON HAS STATED A CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.

For brevity sake, Mr. Huon had adopted his arguments in his Response Brief to the ATL Defendants' Motion to Dismiss. Defendants just disregard Mr. Huon's argument and the Illinois Supreme Cour's holding in Kolegas v. Heftel Broadcasting Corp. Mr. Huon will make the argument again: Contrary to the assertions of the Defendants, several cases around the country have held that the publication of a defamatory statement constitute extreme and outrageous conduct. Kolegas v. Heftel Broadcasting Corp., 154 Ill.2d 1, (Ill.,1992); Hatfill v. New York Times Co., 416 F.3d 320 (4th Cir. 2005); Russell v. Thomson Newspapers, Inc., 842 P.2d 896 (Utah,1992); Moss v. Wallace, 2009 WL 4683553 (Conn.Super.,2009). In Kolegas v. Heftel Broadcasting Corp., defendants, radio disc jockeys, made defamatory statements about the plaintiff, who was organizing a festival to benefit neurofibromatosis, a serious neurological disorder, which is commonly known as Elephant Man disease. Defendants stated on the air that plaintiff was "not for real", that plaintiff was just "scamming" them, that there was "no such show as the classic cartoon festival". The Illinois Supreme Court held that these statements supported a claim for extreme and outrageous conduct, because defendants "had access to channels of communication" and "the power of the media cannot be denied. More importantly, the plaintiffs had no similar access to the public . . ."Kolegas v. Heftel Broadcasting Corp.,154 Ill.2d at 22.

In this case, the facts are more egregious. Mr. Huon had been wrongfully been prosecuted by Madison County and was exonerated. More than a year after his acquittal, Defendants called Mr. Huon a "**Rapist**", posted his outdated mugshot, painted him as someone who got away with rape, and made it sound as if his grudge was that the ATL blog reported him as a serial rapist as opposed to a rapist. Defendants use the power of the world wide web to gain

access to more channels of communications than Mr. Huon, because Defendants have access to the thousands, if not millions, of potential readers. Mr. Huon has no similar access, much less a forum to rebut the outrageous conduct. Out of 30 million websites, Abovethelaw.com ranks no. 814 in the US—much higher than the ATL site. On information and belief, Defendants republished the ATL article by hyperlinking the article and disseminated it worldwide. http://www.alexa.com/search?q=jezebel.com&r=site_siteinfo&p=bigtop

WHEREFORE, Plaintiff, Meanith Huon, requests that this Honorable Court deny The Jezebel Defendants' Motion to Dismiss.

/s/Meanith Huon

Meanith Huon

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CERTIFICATE OF SERVICE

Under penalties of law, I attest the following documents or items have been or are being electronically served on all counsel of record for all parties on January 29, 2011:

MEANITH HUON'S SUR-REPLY OPPOSING THE JEZEBEL DEFENDANTS' MOTION TO DISMISS

/s/ Meanith Huon

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