IN THE UNITED STATES DISTRICT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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

MEANITH HUON'S SUMMARY OF ARGUMENTS OPPOSING THE ABOVE THE LAW DEFENDANTS' MOTION TO DISMISS

Plaintiff, Meanith Huon, summarizes as follows:

ARGUMENT

I. The ATL Defendants disregard the Illinois Supreme Court's holding that all of the defamatory statements be viewed in their entire context. Tuite v. Corbitt, 224 Ill. 2d 490, 503 (Ill. 2007). The ATL Defendants violate the Illinois Supreme Court's Admonishment against straining to find an unnatural innocent meaning for a statement when an innocent construction was clearly unreasonable and a defamatory meaning was more probable—Defendants take the words and sentences out of context and chart them. Id.

II. The post is defamatory *per se*. The ATL Defendants wrote a series of stories back to back with large bold letters "**RAPE POTPOURRI**". The first story opens up with a 15 year old child bring raped—something the ATL Defendants find funny and amusing. The next story is described by the ATL Defendants is from the "files of the wanton and depraved." What can be more wanton and depraved than a story in a "**RAPE POTPOURRI**" series about raping a 15 year old girl? It's "breaking rape coverage" of "attorney rapists near you" who came up with a

"little game to meet women" by posing as "talent scout for models". The "game" turns "dastardly, pretty quickly". The "victim" is compared to "bubblegum princesses." Mr. Huon is described as suffering from "chronic loneliness" and is recommended to carry a consent form except when he is having sex with "barnyard" "animals".

III. The ATL Defendants waive the defense of the innocent construction rule.

IV. The ATL Defendants are website operators and bloggers who contend that they commented on a news article. Defendants argues Mr. Huon can't prove the existence of the hyperlinked news article and, thus, admit Defendants can't prove the existence of the news article either. For this reason, the ATL cannot prove the elements of the privilege.

V. The privilege applies to reports of an official proceeding, not a news article. Solaia Technology, LLC v. Specialty Pub. Co., 221 Ill.2d 558, 588 (Ill. 2006). 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). Defendants are bloggers, not journalists. A blog of a blog is not a report of an official proceeding.

VI. 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). Lowe v. Rockford Newspaper, Inc.,179 Ill.App.3d 592, 597 (2nd Dist. 1989). The official proceedings contain to no reference to other victims, Mr. Huon being a "rapist", Mr. Huon being a "serial rapist", Mr. Huon posing as a talent scout. The consent defense was barred by the trial judge before the case went to the jury.

VII. For the privilege to apply, a new media's summary must be "fair" for the privilege to

apply. A fair abridgment means that the report must convey to readers "a substantially correct account." Restatement (Second) of Torts § 611, Comment f, at 300 (1977);Solaia Technology, LLC, 221 Ill.2d at 589-590. In this case, the ATL Defendants omitted significant facts, invented numerous fiction, conveyed erroneous impressions to its readers, and imputed deviant motives to Mr. Huon. Calling a person acquitted of sexual assault—where the allegations are oral sex and digital penetration—a rapist and a serial rapist is not a fair summary.

VIII. The privilege does not permit the expansion of the official report by the addition of fabricated evidence designed to improve the credibility of the defamation. Snitowsky v. NBC Subsidiary (WMAQ-TV), Inc., 297 Ill.App.3d 314, 310 (1st Dist. 1988). In this case, the ATL Defendants abandoned any fair report privilege when it invented facts not found in the police report that—among other lies--there were other alleged rape victims and that Mr. Huon was a serial rapist. Defendants posted "breaking rape coverage" on the day of Mr. Huon's acquittal, without mentioning that Mr. Huon was acquitted. The ATL Defendants invented facts beyond any official report.

IX.. Defendants' own cited case, Cook v. Winfrey, held that the District Court committed reversible error by dismissing plaintiff's defamation claim on the grounds that the statements were privileged under Ohio law, because "the conclusion that the privilege applied to the allegedly defamatory statements in this case required the district court to resolve factual issues that should not be reached on a motion to dismiss under Rule 12(b)(6)." 141 F.3d 322, 330-31 (7th Cir. 1998). 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).

IX. Defendants know that 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. Defense counsel admitted in open court that she has the entire trial transcript but has chosen to file electronically selected excerpts from a truncated transcript. How is the Court supposed to do that when Defendants only filed the truncated transcript of the first day of a trial that lasted an entire week? Defendants argue that the fair report privilege only requires " summaries of public proceedings". How can the Court compare a summary when Defendants only produces excerpts of a truncated trial transcript from the first day of a 5 day trial?

X. Accusations of criminal activity, even in the form of opinion, are not constitutionally protected. Cianci v. New Times Pub. Co., 639 F.2d 54, 63 (C.A.N.Y., 1980). No First Amendment protection enfolds false charges of criminal behavior. Gregory v. McDonnell Douglas Corp. (17 Cal.3d 596, 604, 131 Cal.Rptr. 641, 646, 552 P.2d 425 (1976)). Almost any charge of crime, unless made by an observer and sometimes even by him, is by necessity a statement of opinion. It would be destructive of the law of libel if a writer could escape liability for accusations of crime simply by using, explicitly or implicitly, the words "I think". Cianci, 639 F.2d at 63-64.

XI. Defendants continue to disregard the U.S. Supreme Court's and the Illinois Supreme Court's rejection of the very same argument that expressions of opinions are not defamatory. Milkovich v. Lorain Journal Co. 497 U.S. 1, 13-15 (1990); Bryson v. News

America Publication, 174 Ill. 2d 77 (Ill. 1996). The test is whether the assertion is sufficiently factual to be susceptible to being proven true or false. Milkovich, 497 U.S. "Whether the statement was actually true or false is a question of fact for the jury". Bryson v. News Am. Publs., 174 Ill. 2d 77, 100 (Ill. 1996). The blog post made additional assertions of fact: Mr. Huon posed as a talent scout, there were other victims, Mr. Huon had been charged with other rape crimes, Mr. Huon was a serial rapist, Mr. Huon invented a game to meet women. All of these defamatory statements are assertions of facts that are subject to being proven true or false.

XII. Statements impugning a person's integrity, prejudicing his practice of law, and/or implying that he committed a crime is defamatory *per se.* Solaia Technology, LLC , 221 Ill.2d at 590; Myers, 332 Ill.App.3d at 922; Coursey v. Greater Niles Tp. Pub. Corp., 40 Ill.2d 257 at 239. On the date that Mr. Huon was acquitted of rape, the ATL Defendants posted a "breaking rape coverage" story that Mr. Huon, a wanton and depraved individual, posed as a talent scout and forced a woman to perform oral sex and that there were other female victims. Before the Huon story, Defendants wrote about a 15 year old girl being raped. Then the ATL Defendants wrote that the next story—the Huon story—was about the "wanton and the depraved". What could be more wanton and depraved than raping a 15 year old girl? Defendants than compare Mr. Huon's "victim" to a "bubblegum princess" and implied that he was having sex with barnyard animals. Defendants imputed that Mr. Huon committed a crime, that he lacks integrity by lying, that he fornicates with several women, that he is an "attorney rapists near you", that he is a pedophile who preys bubblegum princesses. As the ATL Defendants admit, this would fall into all the categories of defamation *per se*. Berkos v. National Broadcasting Co., Inc.,161 Ill.App.3d 476, (1st Dist.,1987), cited by Defendants, held that a judge stated a cause of action for

defamation and false light against NBC for identifying him as involved in judicial corruption under investigation. In this case, on the date that he was acquitted, Defendants falsely identified or implied that Mr. Huon was under investigation for being a serial rapist or rapist.

XIII The Illinois Supreme Court's decision in Kolegas v. Heftel Broadcasting Corp., 154 Ill.2d 1, (Ill.,1992), is controlling. In this case, the facts are more egregious. Mr. Huon had been wrongfully been prosecuted by Madison County and was exonerated. On the date of his acquittal, Defendants called Mr. Huon a scammer who lies to lure little girls and women to meet him, depraved and wanton, an attorney rapist, someone posing as a talent scout, a predator of bubble-gum princess, someone who came up with a game to meet women that turned dastardly, more wanton and depraved than a rapist of a 15 year old girl. The ATL 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.

XIV. The Court may and should imply a private cause of action for cyberstalking. Sawyer Realty Group, Inc. v. Jarvis Corp., 89 Ill.2d 379, 386 (Ill. 1982). In this case, (1) Mr. Huon is within the class of members for whom the statute was intended to protect; (2) The comments to the cyberstalking act indicates that the legislatures intended to protect people from harassment from websites; (3) implying a remedy is consistent with the legislative scheme to fight cyberbullying and cyberstalking; (4) the cause of action is traditionally allocated to state law. Illinois has an interest in stopping its citizens from being stalked and bullied online. Defendant, Abovethelaw.com has history of cyberstalking or cyberbulling Mr. Huon. On July 3, 2008, Defendants sarcastically called Mr. Huon "Lawyer of the Day" and linked the post with an article from the Madison County Record that contained false statements and defamed Mr. Huon.

On information and belief, Defendants‟ post and links continued to be republished on the Abovethelaw.com website and were made available worldwide on May 6, 2011. The post continued to be made available online to the world, including Illinois readers, after May 6, 2011. On May 6, 2010, after Mr. Huon was acquitted, Defendant Elie Mystal, posted the story calling Mr. Huon—who was previously "Lawyer of the Day"—a serial rapist.

XV. The John Does 1-100 Defendants are not agents of the ATL Defendants. The 30+ single space paged complaint alleges in sufficient factual detail the role of each conspirator from Breaking Media to the author Elie Mystal Defendants, John Does 1 to 100, including, John Doe No. 1 a/k/a LatherRinseRepeat, are registered users, writers, or editors of Abovethelaw.com who posted defamatory comments regarding Mr. Huon. Mr. Huon alleges in his Second Amended Complaint that the John Does 1 to 100 conspired with the Defendants. He has stated a cause of action for civil conspiracy.

XVI. Mr. Huon should be allowed to replead, if the Court dismisses his complaint. He should be allowed to plead special damages. Mr. Huon has not violated any pre-trial discovery orders. Any delay in this case was partly caused by the ATL Defendants filing unopposed motions for extensions of time (Docket Nos. 26 and 30), filing a novel-length brief on issues that cannot be decided on a FRCP 12(b)(6) motion, disclosing the complainant's and witness's personal information from the Madison County criminal case. Defendants made the decision to file a 192+ page document. The fact that Mr. Huon has to respond to Defendants' 192+ page document, explaining why Defendants' motion is meritless is not a basis for denying Mr. Huon's request to replead under FRCP 15, in the alternative, should the Court dismiss certain counts.

Respectfully submitted,

/s/Meanith Huon

Meanith Huon

Meanith Huon
The Huon Law Firm
PO Box 441
Chicago, Illinois 60690
1-312-405-2789
FAX No.: 312-268-7276
ARDC NO:6230996

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 30, 2012.

MEANITH HUON'S SUMMARY OF ARGUMENTS OPPOSING THE ABOVE THE LAW DEFENDANTS' MOTION TO DISMISS

/s/ Meanith Huon

Meanith Huon
The Huon Law Firm
PO Box 441
Chicago, Illinois 60690
Phone: (312) 405-2789
E-mail: huon.meanith@gmail.com
IL ARDC. No.: 6230996