

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

MEANITH HUON,

Plaintiff,

vs.

BREAKING MEDIA, et al.,

Defendants.

Docket No. 11 C 3054

Chicago, Illinois
January 10, 2013
9:00 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - STATUS
BEFORE THE HONORABLE JOHN J. THARP, JR.

APPEARANCES:

For the Plaintiff:

HUON LAW FIRM
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(312) 405-2789

For the Defendants
Breaking Media, Inc.,
David Lat, Elie
Mystal, John Lerner,
And David Minkin:

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1 For Defendants
2 Gawker Media,
3 Jezebel.com,
4 Elizabeth Denton,
5 Irin Carmon, and
6 Gabby Darbyshire:

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7 AND

8 GISKAN, SOLOTARTOFF ANDERSON & STEWART
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09:22:10 1 (The following proceedings were had in open court:)

09:22:10 2 THE CLERK: 11 C 3054, Huon v. Breaking Media.

09:07:53 3 MR. HUON: Good morning, your Honor. Meanith,
09:07:57 4 M-e-a-n-i-t-h, Huon, H-u-o-n, for the plaintiff.

09:07:58 5 THE COURT: Good morning.

09:08:09 6 Counsel in court, could you enter your appearances,
09:08:12 7 please.

09:08:12 8 MS. MLINARCIK: Amanda Mlinarcik on behalf of Gawker
09:08:17 9 Media, Jezebel.com, Nick Denton, Irin Carmon, and Gabby
09:08:21 10 Darbyshire, local counsel.

09:08:22 11 MR. MANDELL: Good morning, your Honor. Steve
09:08:25 12 Mandell on behalf of Breaking Media, Inc., David Lat, Elie
09:08:32 13 Mystal, John Lerner, and David Minkin.

09:08:35 14 MR. FEIGE: And by telephone, Judge, David Feige on
09:08:41 15 behalf of Gawker Media, Gawker Media, Inc., Entertainment
09:08:42 16 Technologies, Elizabeth Denton, Irin Carmon, and Gabby
09:08:46 17 Darbyshire.

09:08:46 18 THE COURT: Okay. And, Mr. Huon, you already...

09:08:49 19 MR. HUON: I have seen their motion, Judge. There is
09:08:50 20 a couple, two items, housekeeping items. One is attached to
09:08:55 21 their motion to dismiss is a truncated trial transcript and
09:08:59 22 it's part of their exhibit. I had brought a prior motion
09:09:02 23 before a magistrate judge to redact the name of the
09:09:05 24 complaining witness and their home town. That motion was
09:09:08 25 granted. As part of that motion, I also asked for them to

09:09:11 1 produce the entire transcript. The reason being -- and they
09:09:14 2 have the entire trial transcript. The reason being is if they
09:09:18 3 are going to assert the reporter privilege, the reporter
09:09:20 4 privilege only applies -- it doesn't apply if they don't fully
09:09:24 5 disclose everything that took place in the original
09:09:26 6 proceedings. The other thing is most of these articles were
09:09:28 7 about the consent defense. The consent defense never went to
09:09:32 8 the jury. That's in the trial transcript.

09:09:33 9 The magistrate judge at the time recommended that I
09:09:36 10 issue discovery to get that. Now, since you have denied my
09:09:39 11 motion to conduct limited discovery and since I can't get the
09:09:42 12 parties to do a 26(f) conference, I have an issue with
09:09:45 13 discovery. I need that trial transcript in order to respond
09:09:49 14 to the motion to dismiss. That's one of the first issues.

09:09:51 15 THE COURT: All right. We will get to that in just a
09:09:54 16 second.

09:09:56 17 With respect to the motion -- let me -- just
09:10:04 18 preliminarily, where do we stand on service?

09:10:07 19 MR. HUON: That's the second issue. You had ordered
09:10:10 20 the defendants to answer -- to disclose under 7.1 or what
09:10:16 21 their affiliates are which is the reason we are back here
09:10:19 22 because I had to identify the issues of citizenship. Breaking
09:10:24 23 Media, I acknowledge when they were served or in the suit,
09:10:26 24 they appeared correctly as Breaking Media, L.L.C. Now they
09:10:29 25 appear as Breaking Media, Inc.

09:10:30 1 Gawker has waived service as Gawker Media, and they
09:10:33 2 have appeared as Gawker Media. It's very difficult -- we know
09:10:36 3 that there are several Gawker entities. There's Gawker Media,
09:10:40 4 Inc., Gawker Technologies, Gawker, L.L.C. It's very difficult
09:10:44 5 to tell who they are responding for and they have not answered
09:10:46 6 the 7.1 disclosure. Breaking Media has.

09:10:52 7 THE COURT: Hold on. Hold on.

09:10:53 8 MR. FEIGE: Sure. Sorry, Judge.

09:10:55 9 MR. HUON: I think that they should be ordered to
09:10:58 10 state who they're responding for because that would allow me
09:11:01 11 to move forward as to whether I am going to default the ones
09:11:04 12 who I think that they have already appeared for by appearing
09:11:07 13 as Gawker, and that would also allow me to identify who I need
09:11:10 14 to serve. I have sent waiver of service of summons to Gawker.
09:11:14 15 But by appearing as Gawker Media, it's difficult to tell who
09:11:18 16 they're here for.

09:11:19 17 THE COURT: All right. Mr. Feige.

09:11:22 18 MR. FEIGE: Yes, if I could just respond. The 7.1
09:11:26 19 disclosures, I'm sorry, that should be filed within the hour.
09:11:29 20 They're done and should be being filed now. I can just answer
09:11:33 21 those fairly simply.

09:11:35 22 Gawker Media Group, Inc., owns Gawker Media, L.L.C.,
09:11:41 23 which has one member, that being Gawker Media Group, Inc.
09:11:45 24 Gawker Media, L.L.C., is the sole member of Gawker
09:11:50 25 Entertainment, L.L.C., Gawker Sales, L.L.C., and Gawker

09:11:53 1 Technology, L.L.C. I am appearing for all of them and, of
09:11:57 2 course, the individual defendants.

09:11:59 3 THE COURT: All right.

09:12:00 4 MR. FEIGE: I think that's sufficiently clear. I
09:12:05 5 know there's a lot of Gawkers in there.

09:12:07 6 THE COURT: I think it is. Mr. Huon.

09:12:09 7 MR. HUON: I didn't have time to catch all of that,
09:12:11 8 Judge. If he could put it in a letter and send it to us.
09:12:15 9 Last time the magistrate judge ordered him to put something in
09:12:17 10 a letter.

09:12:17 11 THE COURT: Will your disclosure that's going to be
09:12:22 12 filed --

09:12:23 13 MR. FEIGE: It will contain all of that, yes, and it
09:12:24 14 should be there within the hour.

09:12:25 15 THE COURT: You will get the disclosure. If you have
09:12:27 16 any further questions, it doesn't sound like there's any issue
09:12:31 17 there that we should have a problem cooperating identifying
09:12:36 18 exactly who is represented.

09:12:37 19 MR. FEIGE: No, I don't expect so.

09:12:39 20 THE COURT: All right. Now, with respect to the
09:12:43 21 trial transcript, do either of the defendants have or groups
09:12:47 22 of defendants have a response?

09:12:50 23 MR. MANDELL: I don't frankly recall what counsel is
09:12:55 24 talking about that happened in front of the magistrate.
09:12:58 25 Obviously, he was the defendant in the proceeding. We have

09:13:04 1 spent money to obtain the transcript. You know, I am not
09:13:10 2 opposed to sharing the transcript with him. It would be nice
09:13:13 3 if he shared the cost of the transcript.

09:13:17 4 THE COURT: Is there any reason, Mr. Huon, you can't
09:13:20 5 obtain the transcript yourself?

09:13:21 6 MR. HUON: Well, when I called the court reporter,
09:13:24 7 the entire trial transcript is \$5,000. The other thing is,
09:13:28 8 you know, I am pro se. They're relying on this, so as
09:13:35 9 officers of the court, they have a duty to disclose the whole
09:13:37 10 facts. They can't just disclose selective things.

09:13:40 11 THE COURT: Sure, they can. If you think that they
09:13:44 12 have not provided something they are required to provide, you
09:13:47 13 have to raise that point, but they certainly are entitled to
09:13:50 14 support their motion to dismiss with whatever it is that they
09:13:53 15 think is relevant. If you think there's some other portion of
09:13:58 16 a trial transcript that is relevant, the fact that they have
09:14:02 17 introduced it might give you an opening to include that in
09:14:04 18 your response, but it's not their responsibility to do that
09:14:07 19 for you.

09:14:09 20 MR. HUON: I could propose talking to counsel to find
09:14:12 21 out what his costs are. In the worst case scenario, he can
09:14:15 22 perhaps produce one page where the Court makes it clear that
09:14:19 23 the consent defense never went to the jury, and that one page
09:14:22 24 might be a dollar for the copy.

09:14:25 25 THE COURT: Why don't you all have a discussion about

09:14:27 1 that because I am not clear exactly what you're talking about.
09:14:31 2 See if you can work it out. I will tell you what I tell all
09:14:35 3 counsel. I expect counsel to cooperate and be reasonable so
09:14:38 4 we can get things done efficiently, and efficiency includes
09:14:45 5 economically, but having said that, the defendants don't have
09:14:48 6 any right to pay for your lawsuit here.

09:14:50 7 MR. HUON: I understand.

09:14:51 8 THE COURT: Now, with respect to the briefing on the
09:14:54 9 motions, what do you need to respond?

09:14:56 10 MR. HUON: Since they had 53 days to put it together,
09:15:00 11 Judge, I am just asking for 60. I got War and Peace and Anna
09:15:07 12 Karenina to respond to here. They are massive briefs. I am
09:15:08 13 asking for 60 days. I don't have three law firms working on
09:15:11 14 the file, and the original briefing schedule before the case
09:15:13 15 was transferred, I think we have similar times as well.

09:15:16 16 THE COURT: All right. It's your case. You are the
09:15:17 17 plaintiff. 60 days to respond.

09:15:20 18 THE CLERK: March 12th.

09:15:23 19 MR. HUON: Is there a way that you can move it by a
09:15:26 20 week so I can try to work out the trial transcript issue, just
09:15:30 21 give us a week to work out the trial transcript issue, 60 days
09:15:35 22 from a week from now?

09:15:35 23 THE COURT: No, 60 days. That's plenty of time.

09:15:38 24 On that score, the motions by both groups of
09:15:42 25 defendants for leave to file memoranda in excess of 15 pages

09:15:45 1 are granted. That's docket entries 176 and 181. Mr. Huon, I
09:15:51 2 will give you leave to file a consolidated response memoranda
09:15:55 3 to both motions of up to 35 pages. That's I think equal,
09:16:02 4 approximately, to the total number of pages in the two
09:16:04 5 motions, and then reply briefs will not exceed 15 pages.

09:16:09 6 MR. HUON: That's the last issue I wanted to address,
09:16:11 7 if I can have your indulgence.

09:16:13 8 The issue with the briefing schedule, this came up
09:16:17 9 with the original briefing schedule as well before it was
09:16:21 10 transferred to you. Breaking Media filed an 18-page brief and
09:16:25 11 then they filed a 17-page chart. I think that circumvents the
09:16:32 12 page requirements because I am responding to a 17-page chart.

09:16:39 13 Now, with respect to Gawker Media, the first couple
09:16:41 14 of pages they are talking about facts and allegations that are
09:16:44 15 very inflammatory that's not relevant. The Seventh Circuit
09:16:46 16 has said there is no such thing as a defamation outlaw. It
09:16:50 17 takes one sentence to cry fire in the theater; it takes pages
09:16:54 18 to explain that there is no fire. They have done that before.
09:16:56 19 What happened before the case was transferred to you, I had
09:16:58 20 responded to them separately. I have no problems responding
09:17:00 21 to them separately, but the Court actually gave me 30 pages.
09:17:04 22 I am not saying I am going to use 30 pages, but if he's got a
09:17:07 23 17-page chart plus an 18-page brief and Gawker Media has a
09:17:13 24 22-page response brief and two pages are devoted to name
09:17:17 25 calling where they are moving from lawyers' advocate --

09:17:20 1 THE COURT: How many pages do you think you need?

09:17:22 2 MR. HUON: I wanted to have the option of a 30-page
09:17:25 3 response for each side.

09:17:26 4 THE COURT: I will give you -- you can do it one of
09:17:28 5 two ways. I will give you up to 50 pages in a combined brief
09:17:35 6 or 30 pages individually.

09:17:38 7 MR. HUON: Thank you, Judge.

09:17:39 8 THE COURT: That should be more than adequate. You
09:17:41 9 have 60 days. That should be more than adequate.

09:17:44 10 MR. HUON: That is, Judge.

09:17:44 11 THE COURT: In light of the expanded pages, I will
09:17:47 12 give each of the defense groups 20 pages for reply.

09:17:52 13 Anything else we need to address?

09:17:54 14 MR. HUON: Do you want us to hold off on a 26(f)
09:17:56 15 conference?

09:17:57 16 THE COURT: Yes. We are going to get straight -- we
09:18:00 17 are going to get at issue before we start talking about moving
09:18:03 18 ahead with discovery.

09:18:06 19 MR. MANDELL: I don't want to quibble, but our chart
09:18:07 20 is 10 pages, and it really is just for the benefit of the
09:18:12 21 Court because he has allegations against Breaking Media alone
09:18:17 22 of over 50 alleged defamatory statements.

09:18:21 23 MR. HUON: Sorry. I misspoke.

09:18:23 24 THE COURT: That's fine. I will give you -- both
09:18:26 25 sides should have ample pages to make your points, and we will

09:18:31 1 take them under advisement. We will try to address things
09:18:36 2 expeditiously, so if the case is able to move forward, we can
09:18:39 3 get started on that.

09:18:41 4 MR. MANDELL: One more thing, your Honor. I may have
09:18:43 5 missed it, but did we set a deadline for the reply briefs?

09:18:50 6 MR. FEIGE: I don't believe so.

09:18:50 7 THE COURT: I don't think we set a schedule. We
09:18:52 8 should definitely do that. How long -- well, we gave Mr. Huon
09:18:55 9 60 days. How long do you need for the reply?

09:19:01 10 MR. MANDELL: I will say subject to what Mr. Feige
09:19:05 11 says, 21 days.

09:19:06 12 MR. FEIGE: I was going to say 30, but I am fine -- I
09:19:10 13 am okay with either.

09:19:11 14 THE COURT: Well, to avoid coming back in, I will
09:19:15 15 give you 28 days on the reply in light of the extended period
09:19:18 16 for the plaintiff's response.

09:19:21 17 MR. FEIGE: Great. That's great.

09:19:22 18 MR. MANDELL: Thank you.

09:19:23 19 THE COURT: Thank you all very much.

20 (Which were all the proceedings had in the above-entitled
21 cause on the day and date aforesaid.)

22 I certify that the foregoing is a correct transcript from
23 the record of proceedings in the above-entitled matter.

24 _____
Carolyn R. Cox
Official Court Reporter
25 Northern District of Illinois

Date