UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS – EASTERN DIVISION

MEANITH HUON, Plaintiff, v. ABOVETHELAW.COM, DAVID LAT, ELIE MYSTAL, BREAKINGMEDIA.COM, JOHN LERNER, DAVID MINKIN, BREAKING MEDIA, JOHN DOES 1 to 100, GAWKER MEDIA a/k/a GAWKER.COM, JEZEBEL.COM, NICK DENTON, IRIN CARMON, GABY DARBYSHIRE, JOHN DOES 101 to 200, LAWYERGOSSIP.COM, JOHN DOE NO. 201, NEWNATION.ORG a/k/a NEWNATION.TV a/k/a NEW NATION NEWS, and JOHN DOE NOS. 401, 402, and 403, Defendants.	)	Case No. 11-cv-03054 Judge Aspen Magistrate Judge Gilbert

MEMORANDUM IN SUPPORT OF ABOVE THE LAW DEFENDANTS' MOTION TO DISMISS PURSUANT TO RULE 12(b)(6)

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Plaintiff has brought a voluminous multi-count complaint against a web-based publication, AboveTheLaw.com, and related parties because the website publicized Plaintiff's acquittal on sexual assault charges. Plaintiff essentially claims that the websites defamed him because they referred to a neutral news report of his trial rather than presenting Plaintiff's own view of the case. Plaintiff's defamation and related claims fail because such reporting on government proceedings is privileged from liability under the First Amendment. Further, Above The Law's commentary on the news article is also protected from liability as an expression of opinion. Plaintiff's defamation claim also fails because he has alleged only defamation per quod and not defamation per se, and has not alleged special damages. These doctrines and numerous other legal principles bar Plaintiff's frivolous claims.

I. COMPLAINT

Plaintiff Meanith Huon ("Plaintiff") alleges six claims against the ATL Defendants[1] based on a May 6, 2010, post ("Post")[2] on the website AboveTheLaw.com, a blog that covers topics of interest to lawyers and law students.[3]

Among other things, the Post quotes from and provides commentary on a newspaper article concerning the first day of Plaintiff's trial on sexual assault charges and also includes the

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[1] The ATL Defendants are Breaking Media, LLC (erroneously sued as AboveTheLaw.com, BreakingMedia.com, and Breaking Media), David Lat, Elie Mystal, John Lerner, and David Minkin. John Lerner, the CEO of Breaking Media, LLC, was not with the company at the time when the Post was published.

[2] Portions of the Post are attached to the Second Amended Complaint ("Complaint") as Exhibit A. Attached hereto as Exhibit A is a complete and more easily readable version of the Post's text, but it differs from the version attached to the Complaint in that it includes an "update" at the end of the post noting Plaintiff's acquittal; the ATL Defendants are not relying on that update in this motion.

[3] The Second Amended Complaint is the current version of the complaint. Plaintiff twice amended the complaint before any defendants filed a response.

commentary of the Post's author, Elie Mystal. The Post links to and quotes from an article about the first day of Plaintiff's trial on the website of the Belleville News-Democrat.

Plaintiff claims that the Post is actionable because it both omits and misstates information about the trial. Plaintiff's allegations in this regard, which are mainly listed in Paragraphs 24 and 25 of the Second Amended Complaint, are voluminous and will be discussed in further detail in the Argument section below and in the chart at the end of this brief.

Plaintiff alleges not only defamation and false-light invasion of privacy but also cyberstalking (under Illinois's criminal law, 720 ILCS 5/12-7.5) and conspiracy. The alleged conspiracy apparently includes Jezebel.com, a blog whose current tagline is "Celebrity, Sex, Fashion for Women"; LawyerGossip.com, an apparently defunct website whose last post is dated March 1, 2010; and NewNation.org, an explicitly racist website that collects news stories concerning crimes perpetrated by members of ethnic minority groups.

II. ARGUMENT

A. Plaintiff's Defamation And False Light Claims Fail As A Matter Of Law

1. The Post provides a fair report of judicial proceedings.

The information in the Post that Plaintiff claims is defamatory is protected from liability by the First Amendment as a fair and accurate report of his trial.

Accurate reports of court proceedings are privileged against liability by the First Amendment, even if the information stated in those proceedings is otherwise false or defamatory. O'Donnell v. Field Enters., Inc., 145 Ill. App. 3d 1032, 1036 (1st Dist. 1986). "The fair report privilege . . . promotes our system of self-governance by serving the public's interest in official proceedings, including judicial proceedings." Solaia Tech., LLC v. Specialty Publ'g Co., 221 Ill. 2d 558, 585 (2006). "If the news media cannot report what it sees and hears at governmental and public proceedings merely because it believes or knows that the information is

false, then self-censorship by the news media would result." O'Donnell, 145 Ill. App. 3d at 1036. Thus, "the fair report privilege overcomes allegations of either common law or actual malice." Solaia, 221 Ill. 2d at 587. A report need not be a "complete report of the proceedings" to be privileged "so long as it is a fair abridgment" or "substantially correct account" of the proceedings. Id. at 589 (quoting Restatement (Second) of Torts § 611, cmt. f, at 300 (1977)); O'Donnell, 145 Ill. App. 3d at 1036.

To evaluate the fair report privilege, the Court may take judicial notice of the transcript of the first day of Plaintiff's trial, the relevant portions of which are attached hereto as Exhibit B.[4] See Ray v. City of Chicago, 629 F.3d 660, 665 (7th Cir. 2011) ("[D]istrict courts may take judicial notice of certain documents—including records of administrative actions—when deciding motions to dismiss."); Venture Assocs. Corp. v. Zenith Data Sys. Corp., 987 F.2d 429 (7th Cir. 1993) ("Documents that a defendant attaches to a motion to dismiss are considered part of the pleadings if they are referred to in the plaintiff's complaint and are central to her claim."); United States v. Hope, 906 F.2d 254, 260 (7th Cir. 1990) (taking judicial notice of state court hearing transcript). If the Court finds that such a procedure is not proper, the ATL Defendants respectfully request that the Court convert this motion to a summary judgment motion under Rule 12(d), because this is a simple legal issue that can resolve this case at an early stage and because no further evidence will be relevant to evaluate the fair report privilege.

The trial transcript establishes that the fair report privilege applies to the Post, and it demonstrates that Plaintiff takes a broad view in the Complaint of what information should be deemed defamatory. For example, the newspaper report quoted in the Post accurately states Plaintiff's attorney argued in his opening statement that the Plaintiff's involvement with the

[4] Exhibit B omits voir dire at pages 7 through 125 but is otherwise a complete transcript of proceedings on May 4, 2010.

alleged victim was consensual, and the trial transcript demonstrates that to be true. (See Ex. A at 2-3; Ex. B at 156 (Plaintiff's attorney states, "You are going to hear and see that all of those sex acts were consensual.").) Plaintiff alleges that the Post "intentionally omitted" that "[t]he jury was not allowed to consider the consent defense," but it is clear that the actual statements of the Post reflect an accurate report of what occurred at the trial. (Compl. ¶ 24(b).) Similarly, the quoted newspaper account states that the alleged victim had responded to a Craigslist ad that Plaintiff posted seeking promotional models, and again the trial transcript confirms that. (See Ex. A at 1; Ex. B at 196-200.) Plaintiff alleges that "[t]here was no evidence of a Craigslist ad for a job for promotional modeling," apparently intending some narrow meaning of the word "evidence" that is unrelated to the statements in the Post.

Further, the Post's commentary on the newspaper report is non-actionable opinion or rhetorical hyperbole. Only statements of fact, not opinion, can be defamatory; "[t]here is no such thing as a false idea or opinion." O'Donnell, 145 Ill. App. 3d at 1039-40 (affirming dismissal of defamation claim based on editorial concerning criminal investigations and arrests because "it is clear that the ideas and opinions in the editorial do not imply undisclosed defamatory facts as their bases" and "[t]o the extent that the editorial makes disclosed factual statements, the statements are privileged" under the fair report privilege.); see, e.g., Horowitz v. Baker, 168 Ill. App. 3d 603 (3d Dist. 1988) (affirming dismissal of a defamation claim, holding that statements in a newspaper article describing a previously-reported transaction as a "cozy little deal" and a "rip off" were "rhetorical hyperbole" and "an average reader would not regard the statements as factual reporting"). Many of the statements that Plaintiff claims are defamatory fall into this category – discussion of the newspaper report on the trial that does not assert any additional facts about the trial. (See Ex. A at 1 ("Our next story from the files of the wanton and depraved";

"Huon's potentially harmless lies allegedly turned dastardly, pretty quickly").) Such statements are protected opinion or mere rhetorical hyperbole.

2. The Post is not defamatory per se and Plaintiff has not alleged special damages.

Plaintiff's defamation claim also fails because he has alleged only defamation per quod, not per se, and has not alleged special damages.

A plaintiff alleging defamation per se need not allege special damages. Five categories of statements are defamatory per se: "(1) words that impute a person has committed a crime; (2) words that impute a person is infected with a loathsome communicable disease; (3) words that impute a person is unable to perform or lacks integrity in performing her or his employment duties; (4) words that impute a person lacks ability or otherwise prejudices that person in her or his profession; and (5) words that impute a person has engaged in adultery or fornication." Solaia, 221 Ill. 2d at 579-80.

Plaintiff has not alleged defamation per se, although that is how he designates Count IV of the Complaint. In that count, Plaintiff does not specify which of the defamation per se categories the statements fall under, but he presumably relies on the first category listed above – that the Post "impute[s] that [he] committed a crime." In fact, however, Plaintiff does not deny that he was charged with multiple counts of sexual assault and cyberstalking and went to trial; he only claims that it was inaccurate to state or suggest that those charges stemmed from complaints from more than one woman. (Compl. ¶ 24(a).) This claimed inaccuracy is not defamatory per se. See Hahn v. Konstanty, 684 N.Y.S.2d 38 (N.Y. App. Div. 1999) (holding that alleged inaccuracies in reporting of criminal proceedings were not defamatory per se, where plaintiffs were in fact charged with a crime); Schaefer v. Hearst Corp., 5 Media L. Rep. (BNA) 1734, 1736 (Md. Super. Ct. 1979) (same).

Because Plaintiff has not alleged defamation per se, he must allege defamation per quod, which requires that he plead and prove special damages. "[U]nderlying the strict pleading rule in libel per quod cases is the need of the courts to be able to dismiss groundless defamation cases at an early stage of the litigation." Spelson v. CBS, Inc., 581 F. Supp. 1195, 1201-02 (N.D. Ill. 1984). This rule applies in federal court pursuant to Rule 9(g). See Spelson, 581 F. Supp. at 1201 ("[T]he allegation of special damage must be explicit.") (quotation omitted).

Plaintiff has not met his pleading burden for a claim of defamation per quod because he has not alleged special damages. "General allegations, such as damage to an individual's health or reputation, economic loss, and emotional distress, are insufficient to support an action per quod." Schaffer v. Zekman, 196 Ill. App. 3d 727, 733 (1st Dist. 1990). Plaintiff generally states that he has incurred "special damages," "damage to business, trade, profession and occupation . . . in a sum to be determined at time of trial," and "the loss of his professional reputation." (Compl. Count I ¶ 114, Count III ¶¶ 115, 119.) Such general statements are not sufficient allegations of special damages. See Brown & Williamson Tobacco Corp. v. Jacobson, 713 F.2d 262, 270 (7th Cir. 1983). Because Plaintiff has not alleged defamation per se and has not alleged special damages to support a claim of defamation per quod, the Court should dismiss his defamation claims against the ATL Defendants.

3. Plaintiff cannot base his claim on statements that could not be harmful, are not about him, or are not actually contained in the Post.

Many of Plaintiff's allegations concerning the Post cannot support a claim for defamation or any other theory of recovery. First, many of the statements that Plaintiff identifies clearly would not "tend[ ] to cause such harm to [Plaintiff's] reputation . . . that it lowers [Plaintiff] in the eyes of the community or deters third persons from associating with him." Parker v. House O'Lite Corp., 324 Ill. App. 3d 1014, 1020 (1st Dist. 2001). (See, e.g., Compl. ¶ 25(c)

(complaining that the Post identifies Plaintiff as a St. Louis-area lawyer when his address is in Chicago).) Additionally, several of the statements that Plaintiff identifies clearly are not about Plaintiff. See Barry Harlem Corp. v. Kraff, 273 Ill. App. 3d 388, 391-92 (1st Dist. 1995) (affirming dismissal where statements could be construed to refer to someone other than plaintiff). (See, e.g., Compl. ¶ 25(f) (inaccurately stating that the Post's author's self-deprecating joke was a statement of fact about Plaintiff).)

Finally, many of Plaintiff's allegations do not accurately reflect the statements in the Post. Specifically, Plaintiff largely does not acknowledge that the Post describes and comments on the testimony of Plaintiff's alleged victim. (Compare, e.g., Compl. ¶ 25(k) (claiming that the Post "[f]alsely report[s] that [Plaintiff and the alleged victim] agreed to meet at the downtown St Louis bar Paddy O's"), with Ex. A at 1 ("The two agreed to meet at the downtown St. Louis bar Paddy O's, the victim testified.") (emphasis added).)

4. The attached chart addresses each of Plaintiff's allegations.

Because of the volume of statements at issue, for ease of reference, the ATL Defendants are providing a summary chart at the end of this brief that indicates which of the above arguments apply to the various allegations in the Complaint. As the chart demonstrates, none of Plaintiff's allegations states a claim for defamation, and the Court should dismiss the defamation claims pursuant to Federal Rule of Civil Procedure 12(b)(6).

B. Plaintiff's False Light Claim Fails For The Same Reason As His Defamation Claim

Plaintiff's claim for false-light invasion of privacy fails for same reason as his defamation claims. The protection for reports on government proceedings and statements of opinion described above springs from the First Amendment and is not limited to defamation claims. See Imperial Apparel v. Cosmo's Designer Direct, 227 Ill. 2d 381, 393 (2008) (opinion); Eubanks v.

Northwest Herald Newspapers, 397 Ill. App. 3d 746 (2d Dist. 2010) (fair report). The requirement of pleading special damages also applies to false-light claims. Muzikowski v. Paramount Pictures Corp., 322 F.3d 918, 927 (7th Cir. 2003) ("If the action is based on statements that are not defamatory per se, special damages too must be pleaded."). The Court should dismiss Plaintiff's false-light claim.

C. Plaintiff Has Not Alleged Intentional Infliction Of Emotional Distress

Plaintiff's claim for intentional infliction of emotional distress (IIED) is barred by the First Amendment and also fails to state a claim. The First Amendment protections for fair reports of government proceedings and statements of opinion that bar Plaintiff's defamation and false light claims apply equally to his IIED claim. See Hustler Magazine v. Falwell, 485 U.S. 46, 53-56 (1988).

Further, to the extent that the statement in the Post are not protected from liability by either constitutional doctrine, the claim should nevertheless be dismissed because Plaintiff has not alleged IIED. Plaintiff has not alleged conduct that is so extreme and outrageous as to exceed all possible bounds of decency, as is required to state a claim for IIED. See Berkos v. Nat'l Broad. Co., 161 Ill. App. 3d 476, 496-97 (1st Dist. 1987) (listing elements of IIED claim). Courts routinely dismiss claims based on publications for failure to allege extreme and outrageous conduct. See, e.g., Muzikowski v. Paramount Pictures Corp., 477 F.3d 899 (7th Cir. 2007) (allegedly false portrayal of plaintiff in movie not extreme and outrageous); Cook v. Winfrey, 141 F.3d 322, 330-31 (7th Cir. 1998) (affirming dismissal of IIED claim based on statements that the court held properly stated a claim for defamation). The Court should dismiss Plaintiff's IIED claim.

D. Illinois's Criminal Statute Concerning Cyberstalking Does Not Apply Here

Plaintiff alleges a claim of cyberstalking, citing Illinois's criminal stalking law, 720 ILCS 5/12-7.5. The Court should dismiss this claim because the statute does not provide a private cause of action, the statute does not apply to the Post, and fair reports of governmental proceedings are constitutionally protected.

This Court should not allow a private cause of action under this cyberstalking statute. "[T]he judiciary by implying causes of action is assuming policy-making authority, a power more properly exercised by the legislature. The court should exercise such authority with due caution." Galinski v. Kessler, 134 Ill. App. 3d 602, 605-06 (1st Dist. 1985) (refusing to allow private cause of action for barratry, a petty offense under Illinois law). The ATL Defendants have been unable to locate any cases involving private claims for cyberstalking or the related criminal offense of stalking. See id. at 605 (noting that the court could locate no cases involving private claims for criminal offense at issue in that case). In light of the stiff criminal penalties the cyberstalking statute provides and the availability of other causes of action for the type of conduct Plaintiff claims, there is no need for a civil remedy under the law. See 720 ILCS 5/12-7.5(b) (Cyberstalking is a Class 4 felony.); Lane v. Fabert, 178 Ill. App. 3d 698, 702-03 (4th Dist. 1989) (holding no need for a private remedy under the Illinois Pawnbrokers' Act where the statute already provides large criminal penalties and because many civil causes of action address the same type of conduct).

Additionally, the cyberstalking statute does not apply to the Post. The statute criminalizes "a course of conduct using electronic communication directed at a specific person" when the actor "knows or should know that [it] would cause a reasonable person to: (1) fear for his or her safety or the safety of a third person; or (2) suffer other emotional distress." 720 ILCS

5/12-7.5(a). The Post was published on a website and is not an "electronic communication directed at a specific person."

Plaintiff also attempts to allege a claim under subsection (a-5)(2) of the statute, alleging that the ATL Defendants created and maintained a website that "contain[ed] harassing statements" and "place[d] [Plaintiff] in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint." (Compl. ¶ 108.) This section of the statute does not apply, as the Post does not "harass" Plaintiff, nor would any apprehension of bodily harm caused by the Post be "reasonable." 720 ILCS 5/12-7.5(a-5)(2); see 720 ILCS 5/12-7.5(c)(4) (definition of harass is "to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person") (emphasis added).

Finally, the cyberstalking statute should not be applied to grant Plaintiff a private right of action in this case because it would controvert the First Amendment protections of fair reports of governmental proceedings and statements of opinion explained above. See Desnick v. Am. Broad. Cos., Inc., 44 F.3d 1345 (7th Cir. 1995) (Speech "is entitled to all the safeguards with which the Supreme Court has surrounded liability for defamation . . . regardless of the name of the tort . . . ."); O'Donnell, 145 Ill. App. 3d at 1036 (cautioning against "self-censorship by the news media" if it "cannot report what it sees and hears at governmental and public proceedings"). Plaintiff's interpretation of the cyberstalking statute would effectively prevent the press from reporting on criminal investigations and charges – just the sort of liability that the fair report privilege is intended to prevent.

E. Plaintiff Does Not Adequately Allege A Conspiracy

Finally, the Court should dismiss Plaintiff's claim of conspiracy. As an initial matter, the claim of conspiracy cannot stand because Plaintiff has not properly alleged any other tort. See Hurst v. Capital Cities Media, Inc., 323 Ill. App. 3d 812, 823 (5th Dist. 2001) ("Conspiracy is

not a separate and distinct tort in Illinois. . . . There is no cause of action unless an overt, tortious, or unlawful act is done that, in absence of the conspiracy, would give rise to a claim for relief.").

Further, the allegations of this count are so vague as to fail to state a claim under Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), and Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009). Plaintiff alleges that each of the twelve named defendants (and, presumably, the numerous "John Does") "agreed with another Defendant to participate in an unlawful act of cyberstalking, cyberbullying, defaming [sic] Mr. Huon" and "performed an overt act . . . in furtherance of the common scheme." (Compl. ¶¶ 106-07.) That allegation simply states elements for a claim of conspiracy and does not apprise the ATL Defendants of any specific conduct that Plaintiff asserts gives rise to his claim. "A pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.' Nor does a complaint suffice if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.'" Iqbal, 129 S. Ct. at 1949 (citing Twombly, 550 U.S. at 555, 557). This type of vague pleading fails to state a claim. The Court should dismiss Plaintiff's conspiracy claim.

III. CONCLUSION

WHEREFORE, the ATL Defendants respectfully request that the Court dismiss the claims against them in Plaintiff's Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) with prejudice, and provide such further relief as is just.

Dated: September 21, 2011

Respectfully submitted,

BREAKING MEDIA, LLC (erroneously sued as AboveTheLaw.com, BreakingMedia.com, and Breaking Media), DAVID LAT, ELIE MYSTAL, JOHN LERNER, AND DAVID MINKIN

By: /s/ Steven P. Mandell
One of their attorneys

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This chart lists each of Plaintiff's allegations of defamatory statements, then indicates which of the ATL Defendants' arguments applies to that allegation. The key at the bottom of each page explains the abbreviations. Where applicable, the chart quotes the portion of the Post to which the allegation refers to demonstrate that the Complaint does not accurately describe the Post, or cites to pages of the transcript of Plaintiff's trial that demonstrate the applicability of the fair report privilege.

Paragraph	Allegation (emphases in original)	F	O	P	R	OC	X	The Post actually states...	Trans.
24(a)	Omitted that "[t]he complainant that is the subject of all the news articles is the same woman."			✓	✓				
24(b)	Omitted that "[t]he jury was not allowed to consider the consent defense and, thus, the jury found that no sexual contact took place. The trial judge had barred the consent defense."	✓		✓	✓				156
24(c)	Omitted that "[t]he complainant sustained minor injuries from walking or running in a cornfield."	✓		✓					
24(d)	Omitted that "[t]here was no evidence of a Craigslist ad for a job for promotional modeling. There was no evidence that Mr. Huon represented himself as a talent scout."	✓		✓	✓				196
24(e)	Omitted that "[t]he video evidence at trial showed Mr. Huon, dressed in shorts, on a Sunday afternoon with the complainant, in a bar."	✓		✓	✓				
24(f)	Omitted that "[t]here was no DNA evidence of semen and the complainant never went to the hospital."	✓		✓	✓				

Key:

F = Fair report
O = Opinion / rhetorical hyperbole
P = Not per se
R = Not tending to harm Plaintiff's reputation
OC = Not of and concerning Plaintiff
X = Not stated in the Post

Paragraph	Allegation (emphases in original)	F	O	P	R	OC	X	The Post actually states...	Trans.
24(g)	Omitted that "[t]he police never interviewed witnesses at the scene who testified at trial that the complainant gave different versions of the alleged incident."	✓		✓	✓				
24(h)	Omitted that "[t]he police asked the complainant to call Mr. Huon to arrange a private meeting and to ask for money."	✓		✓	✓				
24(i)	Omitted that "[t]he complainant had gone drinking with Mr. Huon at several bars for hours."	✓		✓	✓				
24(j)	Omitted that "[t]here was no evidence presented that the complainant jumped out of a moving car."	✓		✓	✓				231-32
24(k)	Omitted that "[t]here was no evidence of force presented at trial. The police report stated that complainant alleged that Mr. Huon raised his voice but that Mr. Huon never threatened the complainant."	✓		✓	✓				e.g., 224, 231
24(*l*)	Omitted that "[t]he photograph of the complainant showed no injuries (besides from her walking in a cornfield barefoot) and showed her clothes to be completely intact with no tears."	✓		✓	✓				233-36
25(a)	"Falsely identifying Mr. Huon as an **attorney rapist** near you on the day of his acquittal."	✓					✓	"We cover the rape allegations of the rich and famous, as well as any alleged attorney rapists near you…"	
25(b)	"Falsely labeling Mr. Huon as **wanton and depraved**."	✓	✓				✓	"Our next story from the files of the wanton and depraved is a little more in our wheelhouse."	

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Paragraph	Allegation (emphases in original)	F	O	P	R	OC	X	The Post actually states...	Trans.
25(c)	"Falsely identifying Mr. Huon as a **St. Louis-area lawyer**. Mr. Huon's address in the news article is in Chicago and he was a financial advisor at the time of the alleged incident."			✓	✓				
25(d)	"Falsely reporting that Mr. Huon came up with an excellent little **game to meet women**."	✓	✓	✓					
25(e)	"Falsely reporting that Meanith Huon allegedly **listed Craigslist ads** where he claimed to be a **talent scout for models**."	✓		✓					194-200
25(f)	"Falsely suggesting that Mr. Huon was targeting "**bubble gum princesses** at a **BU party**." The alleged complainant was 26 years old at the time of the alleged incident."					✓	✓	"I once pretended to be an Ostrich rancher from sub-Saharan Africa because I was trying to impress bubble gum princesses at a BU party."	
25(g)	"Falsely reporting that Mr. Huon told **lies**."	✓		✓			✓	"But Huon's potentially harmless lies allegedly turned dastardly, pretty quickly"	194-200
25(h)	"Falsely calling Mr. Huon's actions as **dastardly.**"	✓	✓	✓			✓		
25(i)	"Falsely reporting the complainant as a "**victim"** of Mr. Huon."	✓						Quoting Belleville News-Democrat website: "The victim said she responded to a Craigslist ad posted by Huon in late June, seeking promotional models, sending her resume, her phone number and two pictures of herself…"	
25(j)	"Falsely reporting that the complainant **responded to a Craigslist ad posted by Huon** in late June, seeking **promotional models**.	✓		✓					194-200
25(k)	"Falsely reporting that the two agreed to meet at the **downtown St Louis bar Paddy O's**."	✓		✓	✓		✓	Quoting Belleville News-Democrat website: "The two agreed to meet at the downtown St. Louis bar Paddy O's, the victim testified."	201

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Paragraph	Allegation (emphases in original)	F	O	P	R	OC	X	The Post actually states...	Trans.
25(*l*)	"Falsely reporting that Mr. Huon told complainant to meet him at certain bars."	✓		✓	✓			Quoting Belleville News-Democrat website: "But the next day, the victim was running late and called Huon. He told her to meet him at another bar, but when she got there, he told her the other promotional models left, and so he was going to interview her, the victim said."	e.g., 201, 204
25(m)	"Falsely reporting that Mr. Huon told complainant that **'other promotional models left**' and that Mr. Huon ' was going to **interview** her.'"	✓		✓	✓				207
25(n)	"Falsely reporting that if the complainant had Googled Mr. Huon, she would have found other stories in the Madison County Record and Lawyer Gossip."			✓					
25(o)	"Falsely reporting that Mr. Huon was **posing as a supervisor for a company that sets up promotions for alcohol sales at area bars**."	✓		✓					e.g., 208
25(p)	"Falsely calling Mr. Huon a **potential rapist** and a **depraved dude walking around that are potential rapist**."	✓	✓	✓		✓	✓	"Of course, women shouldn't have to assume that every guy they meet is a potential rapist. But apparently there are a lot of depraved dudes walking around out there that are potential rapists."	
25(q)	"Falsely reporting that Mr. Huon **asked the complainant if she wanted to go to Pop's in Sauget** to **meet the other models.**"	✓		✓	✓				215
25(r)	"Falsely reporting that the complainant said she **didn't have enough gas in her car**, so she went with him."	✓		✓	✓				216
25(s)	"Falsely reporting that '**This is gonna end badly**.'"	✓	✓						

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Paragraph	Allegation (emphases in original)	F	O	P	R	OC	X	The Post actually states...	Trans.
25(t)	"Falsely reporting that Mr. Huon '**fondled the woman, then forced her to perform oral sex on him**.'"	✓					✓	Quoting Belleville News-Democrat website: "As the car was moving, Huon fondled the woman, then forced her to perform oral sex on him, the victim said."	222-25
25(u)	"Falsely stating that Mr. Huon **'force' the complainant to perform oral sex** and that the complainant jumped out of the car for that reason. Defendants write: 'Oh, come on. If somebody was driving and tried to **"force" me to perform oral sex** on them, I'd just get out of the stupid car. Which is to say, **I'd do *exactly* what the victim did in this case**.'"	✓	✓	✓					222-25
25(v)	"Falsely reporting that the photograph of the woman showed **bruised knees, skinned feet and cut toes**."	✓		✓					233-36
25(w)	"Falsely reporting that the issue of consent was an issue before the jury: '**Damn. If you can't get a woman to consensually stay in a moving vehicle, can you really get her to consensually agree to sex (insofar as lying to her about your job and your intentions to get her into the car counts as consensual in the first place)? Obviously, Huon sees things differently**.'"	✓	✓				✓		156

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X = Not stated in the Post

Paragraph	Allegation (emphases in original)	F	O	P	R	OC	X	The Post actually states...	Trans.
25(x)	"Falsely reporting that Mr. Huon lied about his intentions or that he tried to get complainant into the car."	✓	✓					"If you can't get a woman to consensually stay in a moving vehicle, can you really get her to consensually agree to sex (insofar as lying to her about your job and your intentions to get her into the car counts as consensual in the first place)?"	
25(y)	"Falsely reporting that complainant hurled herself out of a moving car."	✓	✓					"So we're not denying that she hurled herself out of a moving vehicle, we're contending that she jumped out of the car to make it look like she was raped?"	231-32
25(z)	"Falsely reporting that Mr. Huon 'raped' the complainant: '**It seems to me that there is entirely too much (alleged) raping going on in this country**.'"		✓						
25(aa)	"Falsely inventing a fiction that the issue of consent was submitted to the jury. The issue of consent was never submitted to the jury and, thus, the jury had to have found no sexual contact."	✓					✓		156
28-29	Alleges that mock consent form at the end of the Post "suggests that he has 'chronic loneliness,' was seeking a 'brief interruption' for a 'hot body' from anyone other than a 'barnyard' animal," and "he is intimated as a rapist [sic] who needs to use a consent form."		✓			✓	✓		

Key:

F = Fair report
O = Opinion / rhetorical hyperbole
P = Not per se
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OC = Not of and concerning Plaintiff
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