

**COUNT THIRTEEN
AS AND FOR AN THIRTEENTH CAUSE OF ACTION
INJUNCTIVE RELIEF
(AGAINST ALL DEFENDANTS)**

The claim asserted in Paragraphs 366 - 378 has been dismissed, and Fox and DuJan are therefore not required to answer those allegations. To the extent an answer is deemed required, Fox and DuJan deny the allegations in Paragraphs 366 - 378.

GENERAL

379. Where conditions precedent are alleged, the Plaintiff avers that all conditions precedent have been performed or have occurred.

ANSWER: Denied.

380. The Plaintiff demands a jury trial.

ANSWER: Fox and DuJan deny each and every allegation in the Amended Complaint except as expressly admitted and qualified above. Fox and DuJan request that the Court find that Plaintiff is not entitled to any judgment or relief.

AFFIRMATIVE DEFENSES

Fox and DuJan assert the following affirmative defenses to Plaintiff's claims, without admitting the validity of any of Plaintiff's claims, and without assuming the burden of proof where the burden would otherwise be on Plaintiff or any other party.

Affirmative Defenses to All Claims

**First Affirmative Defense
(Illinois Anti-SLAPP Law)**

1. Plaintiff's claims are barred by the Illinois Citizen Participation Act as a Strategic Lawsuit Against Public Participation. *See* 735 ILCS 110/5, 110/15.

2. Fox and DuJan are writers and community activists who have openly criticized Orland Park Public Library (the "Library") practices and policies that have allowed child

pornography to be viewed on the Library's public-access computers and have resulted in a series of indecent exposures occurring in the Library's public computer room.

3. Fox and DuJan have also spoken publicly about the Orland Park Public Library Board's repeated failure to comply with the Illinois Open Meetings Act, as determined in three opinions from the Illinois Attorney General's Public Access Bureau responding to complaints from Fox and/or DuJan.

4. Likewise, Fox and DuJan have publicly criticized the Library for repeatedly failing to comply with the Illinois Freedom of Information Act, as also determined in numerous Illinois Attorney General Public Access Bureau opinions.

5. Fox and DuJan's actions and statements that are the subject of Plaintiff's claims were in furtherance of their right to petition, speak, associate, or otherwise participate in government to obtain a favorable government action—changes in the Orland Park Public Library's policies and practices regarding Internet usage and compliance with transparency laws.

6. To inform members of the public about events occurring at the Library and to further their campaign to change Library policies and practices, Fox and DuJan maintain the Fans of Megan Fox Facebook Page and the Story Time with Megan Fox YouTube channel.

7. Various statements at issue in this case, including the July 8 Video and captions, the Police Report Statement, and the Google Photo Statement were posted by DuJan on the Fans of Megan Fox Facebook Page, the Story Time with Megan Fox YouTube channel, or both, in order to inform the public about the actions of the Library Board and staff.

8. Fox and DuJan also discuss other issues not related to the Library on the Fans of Megan Fox Facebook Page and the Story Time with Megan Fox YouTube channel.

9. Plaintiff's claims are solely based on, and were brought in response to, Fox and DuJan's actions in furtherance of their First Amendment rights.

10. Plaintiff's claims are meritless.

11. Plaintiff's claims were filed in retaliation against Fox and DuJan's legitimate exercise of their First Amendment rights and in order to deter Fox and DuJan from further exercising those rights.

12. Here, Plaintiff is not genuinely seeking relief for damages for alleged defamation or other acts, and indeed, Plaintiff will be unable to prove any damages whatsoever from any of Fox and DuJan's alleged conduct.

13. Instead, Plaintiff is bringing claims not intending to win but instead to chill Fox and DuJan's speech and discourage any opposition to Plaintiff or the Library's policies through delay, expense, and distraction.

14. Plaintiff's claims were filed against Fox and DuJan in the midst of Fox and DuJan's campaign to change Library policy.

15. In late 2013 and throughout 2014, Fox and DuJan attended Library Board meetings and spoke publicly, both at the meetings and online, about the Library's Internet usage policies, the Library's failure to report illegal activities occurring at the Library, including the viewing of child pornography, and the Library's failure to comply with transparency laws.

16. Indeed, Fox and DuJan uncovered numerous examples of the Library violating the Illinois Open Meetings Act, a statute designed to protect the public's right to participate in and stay informed about state and local government.

17. Plaintiff filed her complaint against Fox and DuJan after being encouraged to do so by an Orland Park Public Library Board member during a public Board meeting.

18. During the August 18, 2014 Library Board meeting, Board member Diane Jennings discussed the July 8 video and accompanying captions and then stated, “I wish that Bridget would hire an attorney and sue them for defamation.”

19. Two months later, on October 20, 2014, Plaintiff organized for Fox and DuJan to be served with the Complaint during a Library Board meeting, shortly after they made public comments critical of the Library’s practices, including the Library’s failure to comply with Fox and DuJan’s FOIA requests.

20. Deciding to publicly serve Fox and DuJan with the Complaint during a public Board meeting was designed not only to chill Fox and DuJan’s criticism of the Library but also to serve as a warning to other members of the public who might be considering speaking out against the actions of a public body.

21. Fox and DuJan are entitled to their costs and attorney’s fees, as provided under the Illinois Citizen Participation Act. 735 ILCS 110/25.

Second Affirmative Defense
(Unclean Hands)

22. Plaintiff’s claims are barred by the doctrine of unclean hands.

23. Plaintiff’s history of dishonest, illegal, unfair, defamatory, and improper conduct over the last 20 months is too lengthy to fully recount in detail here.

24. For example, on or about July 9, 2014, Plaintiff made false statements to an Orland Park Police Officer concerning the events of July 8, 2014.

25. On July 9, 2014, Plaintiff falsely told Orland Park Police Officer James Grimmett that she did not call DuJan a “fruit.”

26. Plaintiff has called DuJan a “fruit” numerous times, including on July 8, 2014.

27. Further, Plaintiff approached Fox and DuJan on July 8, 2014, in an effort to provoke a confrontation or fight.

28. Plaintiff has improperly called the Orland Park Police Department to falsely accuse Fox and DuJan of disorderly conduct and/or disrupting Library Board meetings, including on May 19, 2014.

29. Plaintiff has misused copyright law by orchestrating the transfer to herself of the alleged copyright interests in photographs Plaintiff did not take in order to punish Fox and DuJan for the criticisms of Plaintiff and the Library and to prevent Fox and DuJan's further speech on this issue.

30. Fox and DuJan do not admit that Plaintiff has any valid copyright interests in the photographs at issue in this case.

31. Plaintiff intentionally made numerous false and defamatory statements about Fox and DuJan, including those described in Fox's counterclaims.

32. For example, on or about November 4, 2013, Plaintiff falsely told reporters, including Donna Vickroy and/or Mike Nolan, that Fox's story "changes over time" regarding the events of October 4, 2013.

33. Plaintiff knows Fox has not changed her story about the events of October 4, 2013, but falsely stated this to members of the media to harm Fox and destroy her credibility as a writer and journalist.

34. Likewise, on or about November 4, 2013, Plaintiff falsely told reporters, including Donna Vickroy and/or Mike Nolan, that Fox did not have her children with her at the Library on October 4, 2013.

35. Plaintiff knew Fox had her children with her at the Library on October 4, 2013, but made this false statement to members of the media to harm Fox and destroy her credibility as a writer and journalist.

36. Upon information and belief, Plaintiff has collaborated with the Library Board and other Library employees to avoid compliance with government transparency laws, including the Illinois Freedom of Information Act and the Illinois Open Meetings Act.

37. Upon information and belief, Plaintiff has worked with other Library employees to improperly withhold documents requested under FOIA, including documents related to a December 2013 Crisis Communications Workshop during which Plaintiff gave a presentation that discussed the Library's response to criticism from Fox and DuJan.

38. Plaintiff's lawsuit constitutes a strategic lawsuit against public participation because Plaintiff has brought meritless claims in an attempt to punish and chill public criticism of Plaintiff and the Orland Park Public Library, and impede Fox and DuJan's efforts to change Library policies and practices.

39. Each of these examples of Plaintiff's misconduct was directed at either Fox, DuJan, or both.

40. Each of these examples of Plaintiff's misconduct constitutes fraud and/or bad faith.

41. Each of these examples of Plaintiff's misconduct involves the very events and transactions at issue in this case, including but not limited to the events of July 8, 2014; the use of photographs of Bittman on the Sassy Plants Facebook page; Fox and DuJan's public campaign to change Library policies and practices; and Plaintiff's efforts to chill criticism and public debate about the Library and Plaintiff.

42. Each of these examples of Plaintiff's misconduct has harmed Fox and/or DuJan.

43. The misconduct described in Paragraphs 22 through 42 is meant by way of example only. Plaintiff has committed numerous other acts of misconduct, fraud, and bad faith directed toward Fox and DuJan and related to the events at issue in this litigation.

Affirmative Defense to ECPA Claim (Count 3)

Third Affirmative Defense
(Consent)

44. Plaintiff's claim is barred because DuJan was a party to any communications sent to the Sassy Plants Facebook Page and consented to any alleged interception. 18 U.S.C. § 2511(2)(d).

45. DuJan created the Sassy Plants Facebook Page as a parody, protest and satire to respond to anonymous Internet commenters, to parody the Orland Park Public Library's motto and thematic connections to plant life, and to parody the activity of public bodies who use social media such as Facebook in ways that are unintentionally comical.

46. DuJan is a participant in any communication sent to the Sassy Plants Facebook page, since any such communication is sent to DuJan, and only DuJan.

47. Any alleged interception of messages sent to the Sassy Plants Facebook page was not done for the purpose of committing any criminal or tortious act.

Affirmative Defenses to Copyright Claim (Count 4)

Fourth Affirmative Defense
(Fair Use)

48. Plaintiff's cause of action is barred by the doctrine of fair use, 17 U.S.C.A. § 107, including, but not limited to, because such use constituted parody, satire, and/or social commentary.

49. Kevin DuJan created the Sassy Plants Facebook Page as a parody, protest and satire to respond to anonymous Internet commenters, to parody the Orland Park Public Library's motto and thematic connections to plant life, and to parody the activity of public bodies who use social media such as Facebook in ways that are unintentionally comical.

50. By posting the allegedly copyrighted works in context with other posts on the Sassy Plants Facebook Page, adding captions and comments, and in some cases combining photographs or adding cartoons, DuJan added his own creative expression to the allegedly copyrighted photographs.

51. Sassy Plants is not a commercial venture and neither Fox nor DuJan earned any money from use of the allegedly copyrighted works.

52. Any copying or use constituted fair use, as it was used only to the extent necessary to serve the parody, protest, or satire function of the webpage.

53. The allegedly copyrighted photographs appear to be casual snapshots with a minimal amount of creative expression.

54. Upon information and belief, there is no market for the allegedly copyrighted photographs.

55. DuJan's use of the allegedly copyrighted photographs on Sassy Plants is a parody that does not affect the marketability or value of the original photographs or any derivatives, even if such a market existed.

Fifth Affirmative Defense
(No Valid Copyright)

56. Plaintiff is barred from instituting or maintaining a cause of action for copyright infringement against Fox and DuJan because Plaintiff does not own a valid copyright for the work allegedly infringed, including because, upon information and belief, there was not a valid

transfer of copyright ownership and/or the application Plaintiff submitted to the Copyright Office contained misrepresentations.

Sixth Affirmative Defense
(Failure to Timely Register Copyright)

57. Plaintiff is barred from recovering statutory damages and attorney's fees under the Copyright Act by her failure to timely register her copyright in the work either prior to the commencement of the alleged infringement or within three months after the first publication of the work. 17 U.S.C.A. § 412.

Seventh Affirmative Defense
(Misuse Doctrine)

58. Plaintiff's copyright claim is barred because Plaintiff is misusing copyright law in violation of the purposes of the Copyright Act, including, but not limited to, Plaintiff's attempts to stifle Fox and DuJan's speech on a public issue.

59. Plaintiff filed a lawsuit against Fox and DuJan in October 2014 in order to discredit Fox and DuJan and stifle public debate and criticism on matters relating to the policies and practices of the Library.

60. In January 2015, Plaintiff filed an amended complaint that added a claim of copyright infringement.

61. Upon information and belief, and without admitting the validity of any such ownership or transfer of ownership, Plaintiff has stated that the ownership interests in several casual snapshots were transferred from the previous copyright owner to Plaintiff.

62. Upon information and belief, Plaintiff caused this transfer to occur in order to bring a claim for copyright infringement for the purpose of chilling debate about public issues and to punish Fox and DuJan for their criticisms of Orland Park Public Library policies and practices.

63. Upon information and belief, Plaintiff did not bring this infringement action for any proper purpose of protecting copyright interests, but instead to harass, oppress, and damage Fox and DuJan.

64. Upon information and belief, Plaintiff's purpose in bringing these claims for copyright infringement contradicts the purposes of the Copyright Act, including encouraging creative expression.

Eighth Affirmative Defense
(Express or Implied Authorization/License)

65. Plaintiff is barred from instituting or maintaining a cause of action for copyright infringement against Fox and DuJan because Plaintiff or the alleged previous copyright owner expressly or impliedly gave consent, license, and/or authorization for the public, including Fox and DuJan, to use the allegedly copyrighted work.

66. Plaintiff provided express or implied authorization for DuJan to use the photograph, including but not limited to when Plaintiff allegedly publicly posted the photographs on Facebook.

67. By publicly posting the content on Facebook, Plaintiff consented to allowing everyone, including people outside of Facebook, to access and use that information.

Ninth Affirmative Defense
(Innocent Infringer)

68. Plaintiff's claims for certain copyright infringement remedies or damages should be barred, limited, and/or reduced because any alleged infringement was innocent. 17 U.S.C. §§ 405, 504.

69. DuJan had a good faith belief that the allegedly copyrighted photographs had been publicly distributed by authority of the alleged copyright owner.

70. DuJan was not aware of and had no reason to believe that any of his actions constituted an infringement of copyright, and he does not hereby admit that any of his actions constituted copyright infringement.

71. Upon information and belief, Plaintiff and any alleged prior copyright owners failed to attach notices of their alleged copyrights to the photographs.

Affirmative Defenses to Defamation and False Light Claims (Count 5, 6, 8, and 9)

Tenth Affirmative Defense
(Truth)

72. Plaintiff's claims are barred because the allegedly false and defamatory statements are substantially true.

73. The "gist" and "sting" of the allegedly defamatory material is true.

74. Even if the statements are not technically accurate in every detail, no reasonable jury could find that the statements are not substantially true.

75. Plaintiff has thrust herself to the forefront of a public controversy to influence the resolution of the issues involved.

76. Plaintiff is generally well-known in the community and pervasively involved in local society.

77. Plaintiff holds a public position that invites public scrutiny and discussion of the person holding it.

78. Plaintiff, as a Library employee with significant responsibility for local government affairs, is a public official.

79. Plaintiff, as a Library employee responsible for public relations and a high-profile person who deliberately entered the public eye in an area of public debate, is a public figure.

80. Plaintiff, as a Library employee who has publicly responded to Fox and DuJan's campaign to change Library policies, is at least a limited purpose public figure.

81. The statements were made concerning matters of public interest.

Eleventh Affirmative Defense
(Absence of Malice)

82. Plaintiff's claims are barred because Fox and DuJan did not act with malice in making any statements disputed by Plaintiff's claims.

83. Plaintiff has thrust herself to the forefront of a public controversy to influence the resolution of the issues involved.

84. Plaintiff is generally well-known in the community and pervasively involved in local society.

85. Plaintiff holds a public position that invites public scrutiny and discussion of the person holding it.

86. Plaintiff, as a Library employee with significant responsibility for local government affairs, is a public official.

87. Plaintiff, as a Library employee responsible for public relations and a high-profile person who deliberately entered the public eye in an area of public debate, is a public figure.

88. Plaintiff, as a Library employee who has publicly responded to Fox and DuJan's campaign to change Library policies, is at least a limited purpose public figure.

89. The statements were made concerning matters of public interest.

90. Fox and DuJan did not make any statements disputed by Plaintiff's claims with knowledge that the statements were false.

91. Fox and DuJan did not make any statements disputed by Plaintiff's claims with reckless disregard of whether the statements were false.

92. Fox and DuJan did not make any statements disputed by Plaintiff's claims with serious doubts as to the truth of the statements.

Twelfth Affirmative Defense
(Innocent Construction)

93. Plaintiff's claims are barred because the allegedly false and defamatory statements are reasonably capable of innocent construction.

94. In context, giving the statements their natural and obvious meaning, the statements are capable of a reasonable non-defamatory meaning.

95. These statements are reasonably capable of innocent construction as parody, hyperbole, opinion, fair comment, and innocuous social media postings.

Thirteenth Affirmative Defense
(Opinion)

96. Plaintiff's claims are barred because the allegedly false and defamatory statements are protected by the First Amendment as statements of opinion.

97. The statements do not have a precise and readily understood factual meaning.

98. The statements are not objectively verifiable.

99. The context of the statements signals that the statements are opinion.

100. The statements could not reasonably be understood as stating actual facts.

101. The statements are protected under the First Amendment because they are opinion, parody, hyperbole, fair comment, and innocuous social media postings.

Fourteenth Affirmative Defense
(Rhetorical Hyperbole and Imaginative Expression)

102. Plaintiff's claims are barred because the allegedly false and defamatory statements are protected by the First Amendment as rhetorical hyperbole and imaginative expression.

103. The statements contain loose, figurative language not capable of having a precise literal definition.

104. The statements do not have a precise and readily understood factual meaning.

105. The statements are not objectively verifiable.

106. The context of the statements signals that the statements are hyperbole.

107. The statements could not reasonably be understood as stating actual facts.

Fifteenth Affirmative Defense
(Parody)

108. Plaintiff's claims are barred because the allegedly false and defamatory statements are protected by the First Amendment as parody.

109. A reasonably reader would understand that the statements were mere parody and were not intended to convey false assertions of fact.

110. The statements do not purport to be a statement of fact but rather are expressions of criticism or opinion.

111. The context of the statements signals that the statements are parody.

112. The statements could not reasonably be understood as stating actual facts.

Sixteenth Affirmative Defense
(Fair Comment)

113. Plaintiff's claims are barred by the fair comment privilege.

114. The statements were made on commentary pages often used for posting opinions.

115. The statements were made concerning matters of public concern.

116. The statements were based on true facts.

117. The statements represent the actual opinions of Fox and DuJan.

118. The statements were not made solely for the purpose of causing harm.

Seventeenth Affirmative Defense
(Qualified Privilege)

119. Plaintiff's claims are barred because the allegedly false and defamatory statements are protected by qualified privilege.

120. The statements were made in situations concerning recognized public interests.

121. The statements were made about a public figure in the context of a public controversy regarding the policies of the Orland Park Public Library and the conduct of its employees.

122. Fox and DuJan did not make any statements disputed by Plaintiff's claims with knowledge that the statements were false.

123. Fox and DuJan did not make any statements disputed by Plaintiff's claims with reckless disregard of whether the statements were false.

124. Fox and DuJan did not make any statements disputed by Plaintiff's claims with serious doubts as to the truth of the statements.

RESERVATION OF RIGHTS TO ASSERT ADDITIONAL DEFENSES

Fox and DuJan have not knowingly or intentionally waived any applicable defenses, and they reserve the right to assert and rely upon other applicable defenses that may become available or apparent during discovery in this matter. Fox and DuJan reserve the right to amend or seek to amend their answer and/or affirmative defenses.

COUNTERCLAIMS

1. Pursuant to Rule 13, Federal Rule of Civil Procedure, Defendant and Counterclaimant Megan Fox counterclaims against Plaintiff and Counterdefendant Bridget Bittman as follows:

SUMMARY

2. Megan Fox brings counterclaims against Bridget Bittman for defamation *per se*, defamation *per quod*, and false light.

3. By this action, Fox seeks compensatory and punitive damages, and all other relief to which she may be entitled and as deemed appropriate by this Court.

PARTIES

4. Megan Fox is a citizen of the State of Illinois and a resident of Will County, Illinois.

5. Bridget Bittman is a citizen of the State of Illinois and a resident of Cook County, Illinois.

JURISDICTION AND VENUE

6. This Court has supplemental jurisdiction over the subject matter of Counterclaimant Fox's state law claims pursuant to 28 U.S.C. § 1367.

7. This Court may exercise personal jurisdiction over Counterdefendant Bridget Bittman because she is a citizen and resident of Illinois.

8. Venue in this district is proper pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this district. Further, Bittman directed her conduct toward Fox in this district.

9. Bittman has engaged in intentional conduct with actual malice that has harmed Fox.

10. Fox has been injured by Bittman's conduct and has suffered damages resulting therefrom.

FACTS

Events of October 4, 2013 and Early Public Involvement

11. On October 4, 2013, Megan Fox, Kevin DuJan, and Fox's two minor children went to the Orland Park Public Library (the "Library").

12. Fox went to the children's area with her two children to use a computer.

13. DuJan sat at a table next to them.

14. Fox was informed by an Orland Park Public Library librarian that she was required to use the computers in the upstairs adult computer area because Fox was over 18.

15. The librarian told Fox she had to take her two minor children with her to the adult computer area, despite Fox's protests that she and her daughters were using the children's computer together as a family.

16. Fox went upstairs to the Library's adult computer area.

17. While using a computer in the adult section of the Library, Fox noticed that a man sitting nearby was looking at online pornography.

18. Fox went back downstairs to the children's area and informed DuJan about what she had seen.

19. Then, DuJan went upstairs to look at the Library patrons using the computers in the adult section, while Fox stayed with her children downstairs in the children's area.

20. DuJan walked down the aisle of adult computers and saw three men looking at pornographic videos or photographs.

21. Before leaving the Library, Fox reported to a Library employee that she had seen a man viewing pornography on one of the Library's computers.

22. This Library employee made a statement to the effect of “we have a lot of those,” meaning people coming to the Library to view pornography, and informed her that nothing would be done about the man viewing pornography.

23. On October 5, 2013, Fox sent a letter to Library Director Mary Weimar and various other Orland Park officials informing them of what had occurred on October 4, including that her two young children were with her on October 4, 2013.

24. On October 5, 2013, Fox also sent a Freedom of Information Act (“FOIA”) request to the Library asking for incident reports related to instances of sexual activity occurring in the Library and the viewing of pornography in the Library.

25. Fox and DuJan decided to attend the October 21, 2013 Library Board meeting.

26. Bittman also attended the October 21 Library Board meeting.

27. Bittman is the Public Information Officer for the Orland Park Public Library.

28. Bittman filmed video of Fox and DuJan throughout the October 21 Board meeting, including while Fox and DuJan spoke to the Board.

29. At the October 21 Board meeting, Fox spoke publicly about her experiences at the Library on October 4, including the fact that her two young children were present with Fox at the Library that day.

30. At the October 21 Board meeting, DuJan spoke publicly about witnessing Fox and her two children being asked to use the adult computers upstairs, rather than the computers in the children’s area.

31. At the October 21 Board meeting, DuJan also spoke publicly about personally witnessing three adult men viewing pornography in the Library on October 4, 2013.

Child Pornography and Other Illegal Activities Discovered

32. At some point after October 21, but before November 4, 2013, the Library produced the incident reports Fox requested in her October 5 FOIA request.

33. Incident reports are internal documents written by the Library to document events that occur at the Library.

34. A March 8, 2011 incident report states that a Library patron reported a man viewing child pornography on a Library computer.

35. The incident reports also show numerous incidents of public masturbation and indecent exposure occurring at the Library.

36. For example, an incident report from August 20, 2009, reports that “a young man was seen masturbating at computer station fully exposed.”

37. In another incident report from October 23, 2008, it was reported that a man was “fondling himself at the computer station,” and the female patron who complained was moved to another computer.

38. Fox and DuJan notified the public about these incident reports, including by writing about the issue online, handing out flyers in front of the Library on November 4, 2013, and speaking publicly at the November 4, 2013 Board meeting.

Bittman Speaks to the Press

39. The controversy about pornography and illegal activities at the Library generated interest from the local media, who began interviewing people about the issue, including Fox and Bittman.

40. Fox is a writer and journalist who relies on her reputation for honesty and credibility to make a living.

41. In an attempt to downplay the reports of illegal activities occurring at the Library, Bittman began to make false statements to the press in an effort to destroy Fox's credibility.

42. Bittman's crusade to harm Fox's reputation was successful.

43. Bittman's false and defamatory statements have severely damaged Fox's reputation as an honest and credible writer.

44. A November 4, 2013 article by Donna Vickroy and Mike Nolan in *Southtown Star* states as follows:

Fox says she had her two children with her. Bittman, however, said records contradict Fox's account and show she did not have any youngsters with her that day.

45. Upon information and belief, Bittman told a reporter for the *Southtown Star* that Fox did not have her children with her at the Library on October 4, 2013.

46. Fox had her two children with her at the Library on October 4, 2013.

47. Bittman knew that Fox had her two children with her at the Library on October 4, 2013 when Bittman spoke with reporters on or about November 4, 2013.

48. Internal Library documents show Fox had her children with her on October 4, 2013.

49. The same November 4, 2013 article by Donna Vickroy and Mike Nolan in *Southtown Star* states as follows:

Bittman said the library staffer told library officials that Fox's original story was that one man was accessing pornography. "Her story changes over time," Bittman says.

50. Bittman told a reporter for the *Southtown Star* that Megan Fox's "story changes over time" concerning the October 4, 2013 incident.

51. Fox's story about the October 4, 2013 incident has not changed over time.

52. Bittman knew Fox had not changed her story regarding the October 4, 2013 incident.

53. These same false statements were republished by CBS Local on November 5, 2013, at the following url: <http://chicago.cbslocal.com/2013/11/05/battle-of-librarys-internet-porn-policy-heats-up/>.

54. The November 5, 2013 CBS Local article states as follows:

Fox says she had her two children with her. Bittman, however, said records contradict Fox's account and show she did not have any youngsters with her that day.

55. The November 5, 2013 CBS Local article also states as follows:

Bittman said the library staffer told library officials that Fox's original story was that one man was accessing pornography. "Her story changes over time," Bittman says.

56. Upon information and belief, Bittman has repeated these and other false statements to other members of the media, including Taylor Anderson from the *Chicago Tribune*.

57. On or about November 6, 2013, Ben Feldheim of the *Orland Park Patch* called Fox to discuss the controversy involving the Library.

58. Feldheim stated he had just spoken with Bridget Bittman and had some questions for Fox.

59. Feldheim then asked Fox if she was responsible for a number of recent incidents at the Library, including a false police report, impersonating an *Orland Park Patch* reporter, and making harassing telephone calls to a Library attorney.

60. Upon information and belief, Bittman told Feldheim that Fox falsely reported on October 31, 2013 that a man was masturbating in the Library and then changed her story.

61. Fox did not make any reports about a man masturbating in the Library on October 31, 2013.

62. Fox was not at the Orland Park Public Library on October 31, 2013.

63. Upon information and belief, Bittman knew that it was not Fox who had made this October 31, 2013 report.

64. Upon information and belief, Bittman told Feldheim that Fox had impersonated an *Orland Park Patch* reporter.

65. Fox did not impersonate an *Orland Park Patch* reporter.

66. Upon information and belief, Bittman knew Fox had not impersonated an *Orland Park Patch* reporter.

67. Upon information and belief, Bittman told Feldheim that Fox had made harassing telephone calls to a Library attorney.

68. Fox did not make any harassing telephone calls to a Library attorney.

69. Upon information and belief, Bittman knew Fox did not make any harassing telephone calls to a Library attorney.

70. Each of these false statements damaged Fox's reputation for honesty and credibility as a writer within the journalism community in Chicago, even where the media chose not to print Bittman's false statements.

Impact on Megan Fox's Writing Career

71. Megan Fox and Kevin DuJan are both writers and community activists.

72. Fox and DuJan maintain a YouTube channel of news and entertainment videos they have created that, among other things, review children's books and audit museums and other cultural attractions for propaganda and bias.

73. Fox has been a writer for over ten years and has had an extensive collection of articles published on sites like David Horowitz's NewsRealBlog and PJ Media.

74. In October 2013, Fox was pursuing an opportunity to become a paid writer for TheBlaze.

75. On October 17, 2013, Mike Opelka, editor of FireWire Newsletter at TheBlaze, stated as follows:

I know and enjoy your work on PJ too. We regularly cross-post items on TheBlaze, and, if you'd be interested - I would like to send your opinion piece...to our Contributor's editor.

76. Following this October 17 email, Fox spoke with Opelka numerous times on the telephone to discuss what work Fox would do for TheBlaze. During these calls, Opelka said to Fox, in words or substance, "Let's see what we can do together."

77. TheBlaze pays its contributing writers.

78. On October 22, 2013, Fox emailed Opelka about her experiences at the Library.

79. On October 23, 2013, Opelka emailed Fox and said he had "reached out to the library staff and have not heard back from them."

80. On October 24, 2013, Opelka emailed Fox again to inform her that he was "speaking with the Library's Public Info officer today."

81. On or about October 24, 2013, Opelka spoke with Bridget Bittman, the Library's Public Information Officer.

82. Upon information and belief, Bittman told Opelka that Fox did not have her children with her at the Library on October 4, 2013.

83. Bittman knew Fox had her children with her at the Library on October 4, 2013.

84. On October 29, 2013, Fox emailed Opelka to ask if he had "any news" on the Library issue.

85. On October 30, 2013, Opelka emailed Fox and said, “I have had some contact with the library and if some of the issues they claim are true, it casts a pall on some of your arguments.”

86. In this October 30, 2013 email, Opelka said, “They (the library) claim that you were trying to use their children’s computers without a child present and that (according to their rules) is not permitted. Was this the case?”

87. In this October 30, 2013 email, Opelka also said, “In my opinion, this library needs more supervision and oversight. I am still looking into it, but there are some problems with the story. Can you shed any additional light on the questions the library raised?” That same day, Fox emailed a response to Opelka.

88. This October 30, 2013 email was the last communication Opelka had with Fox.

89. After Opelka spoke with Bittman, Opelka stopped taking Fox’s telephone calls.

90. After Opelka spoke with Bittman, Fox’s freelance work was not picked up by TheBlaze.

91. After Opelka spoke with Bittman, TheBlaze did not hire Fox to do paid writing work about the Library or any other topic.

92. Fox was denied that opportunity to write for TheBlaze due to Bittman’s false and defamatory statements.

Harm and Damages

93. Fox has a reputation in the community as an honest, credible, and well-respected writer and journalist.

94. Bittman’s statements, as outlined in Paragraphs 39 through 92 above, constitute false and defamatory statements (“False and Defamatory Statements”).

95. Bittman's False and Defamatory Statements harmed Fox's reputation as an honest and credible writer and journalist.

96. Upon information and belief, Bittman's False and Defamatory Statements resulted in Fox losing the opportunity to do paid writing work for TheBlaze.

97. Upon information and belief, Bittman's False and Defamatory Statements have caused Fox to lose other opportunities to do paid writing or broadcasting work.

98. Bittman's False and Defamatory Statements to other members of the media damaged Fox's reputation for honesty and integrity as a writer and journalist.

99. Since the publication of the False and Defamatory Statements, any individual hearing or reading the statements would wrongly believe that Fox is a liar.

100. Since the publication of the False and Defamatory Statements, any individual hearing or reading the statements would wrongly believe that Fox lacks credibility as a writer and journalist.

101. Since the publication of the False and Defamatory Statements, any individual hearing or reading the statements would wrongly be prejudiced against Fox in her profession.

102. A significant number of Fox's colleagues in the media have become aware of, heard, or read the False and Defamatory Statements.

103. Upon information and belief, a significant number of potential employers have become aware of, heard, or read the False and Defamatory Statements.

104. The False and Defamatory Statements have caused Fox to suffer and continue to suffer from damaged reputation, embarrassment, and emotional distress.

FIRST CLAIM FOR RELIEF
DEFAMATION *PER SE*

105. Counterclaimant Fox hereby incorporates by reference Paragraphs 1 through 104 above in this First Claim for Relief as though fully set forth herein.

106. The False and Defamatory Statements constitute the publication of false and defamatory statements of fact by Bittman about Fox.

107. The False and Defamatory Statements falsely imply that Fox is a liar or makes up stories.

108. The False and Defamatory Statements falsely impute a lack of honesty, integrity, and professionalism in Fox's work as a writer and journalist.

109. The False and Defamatory Statements prejudice Fox in her employment, including by damaging her credibility as a writer and journalist.

110. Bittman presented the False and Defamatory Statements as fact.

111. The False and Defamatory Statements made by Bittman about Fox are and would be highly offensive to a reasonable person.

112. The False and Defamatory Statements constituted unprivileged publication of the defamatory statements by Bittman to third parties.

113. Bittman caused these False and Defamatory Statements to be published to a wide audience via media, including but not limited to print newspapers and online news websites.

114. Bittman made the False and Defamatory Statements with actual malice knowing the falsity of the statements.

115. If Bittman did not know the falsity of the statements, she acted with reckless disregard for the falsity of the False and Defamatory Statements to the detriment of Fox.

116. As a result of Bittman's conduct and the publication of the False and Defamatory Statements, Fox has suffered and continues to suffer damages including, but not limited to harmed reputation, damaged credibility as a writer, loss of paid writing and broadcasting opportunities, embarrassment, and emotional distress.

117. WHEREFORE, Fox seeks an award of compensatory and punitive damages arising from Bittman's *per se* defamation of her.

**SECOND CLAIM FOR RELIEF
DEFAMATION *PER QUOD***

118. Counterclaimant Fox hereby incorporates by reference Paragraphs 1 through 104 above in this Second Claim for Relief as though fully set forth herein.

119. The False and Defamatory Statements constitute the publication of false and defamatory statements of fact by Bittman about Fox.

120. The False and Defamatory Statements falsely imply that Fox is a liar or makes up stories.

121. The False and Defamatory Statements falsely impute a lack of honesty, integrity, and professionalism in Fox's work as a writer and journalist.

122. The False and Defamatory Statements prejudice Fox in her employment, including by damaging her credibility as a writer and journalist.

123. Bittman presented the False and Defamatory Statements as fact.

124. The False and Defamatory Statements made by Bittman about Fox are and would be highly offensive to a reasonable person.

125. The False and Defamatory Statements constituted unprivileged publication of the defamatory statements by Bittman to third parties.

126. Bittman caused these False and Defamatory Statements to be published to a wide audience via media, including but not limited to print newspapers and online news websites.

127. Bittman made the False and Defamatory Statements with actual malice knowing the falsity of the statements.

128. If Bittman did not know the falsity of the statements, she acted with reckless disregard for the falsity of the False and Defamatory Statements to the detriment of Fox.

129. Bittman caused pecuniary damages to Fox through the loss of paid writing work at The Blaze.

130. Upon information and belief, Bittman has caused Fox to lose other paid writing or broadcasting opportunities.

131. As a result of Bittman's conduct and the publication of the False and Defamatory Statements, Fox has suffered and continues to suffer damages including, but not limited to harmed reputation, damaged credibility as a writer, loss of paid writing and broadcasting opportunities, embarrassment, and emotional distress.

132. WHEREFORE, Fox seeks an award of compensatory and punitive damages arising from Bittman's *per quod* defamation of her.

**THIRD CLAIM FOR RELIEF
FALSE LIGHT**

133. Counterclaimant Fox hereby incorporates by reference Paragraphs 1 through 104 above in this Third Claim for Relief as though fully set forth herein.

134. The False and Defamatory Statements constitute the publication of false and defamatory statements of fact by Bittman about Fox.

135. The False and Defamatory Statements falsely imply that Fox is a liar or makes up stories.

136. Most of the False and Defamatory Statements identify Fox by name.

137. Persons other than Bittman and Fox would and actually have reasonably understood that the False and Defamatory Statements related to and were about Fox.

138. The False and Defamatory Statements cast Fox in a false light by portraying her as lacking honesty and credibility in her profession as a writer and journalist.

139. The False and Defamatory Statements cast Fox in a false light by falsely portraying her as lacking the abilities to perform in her employment as a writer and journalist.

140. The False and Defamatory Statements prejudice Fox in her employment.

141. The False and Defamatory Statements made by Bittman about Fox are and would be highly offensive to a reasonable person.

142. The False and Defamatory Statements constituted unprivileged publication of the defamatory statements by Bittman to third parties.

143. Bittman caused these False and Defamatory Statements to be published to a wide audience via media, including but not limited to print newspapers and online news websites.

144. Bittman made the False and Defamatory Statements with actual malice knowing the falsity of the statements.

145. If Bittman did not know the falsity of the statements, she acted with reckless disregard for the falsity of the False and Defamatory Statements to the detriment of Fox.

146. Bittman caused pecuniary damages to Fox through the loss of a paid writing opportunity at The Blaze.

147. Upon information and belief, Bittman has caused Fox to lose other paid writing or broadcasting opportunities.

148. As a result of Bittman's casting Fox in a false light by the publication of the False and Defamatory Statements, Fox has suffered and continues to suffer damages including, but not limited to harmed reputation, damaged credibility as a writer, loss of paid writing and broadcasting opportunities, embarrassment, and emotional distress.

149. WHEREFORE, Fox seeks an award of compensatory and punitive damages arising from Bittman's portrayal of her in a false light.

JURY DEMAND

Fox and DuJan demand a trial by jury of all claims and defenses upon which they are entitled to a jury trial.

PRAYER FOR RELIEF

Fox and DuJan request that Plaintiff's Amended Complaint be dismissed with prejudice, that the Court find that Plaintiff is not entitled to any judgment or relief, that the Court shall enter judgment in favor of Fox and DuJan, that the Court award Fox compensatory and punitive damages on her Counterclaims, and that the Court award Fox and DuJan its attorneys' fees, costs, and expenses, pre-judgment interest, and such other and further relief as the Court deems just and proper.

Dated: June 15, 2015

Respectfully submitted,

s/ Daniel R. Lombard

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CERTIFICATE OF SERVICE

I certify that on June 15, 2015, I caused the foregoing document to be served via Electronic Court Filing (“ECF”) and/or electronic mail in compliance with the Federal Rules of Civil Procedure on the following counsel:

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