

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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