

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

BONNIE KUROWSKI,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:21-cv-04363
	)	
JOHN KRAFT, KIRK ALLEN,	)	
ALYSSIA BENFORD, CYNTHIA BRZANA,	)	Judge Feinerman
SHERI GRIMMENGA, KRISTINA WING,	)	Magistrate Judge Fuentes
BECKY BECKER, AND EDGAR COUNTY	)	
WATCHDOGS, INC., an Illinois Corporation,	)	
	)	
Defendants.	)	<b>Jury Trial Demanded</b>
	)	

**MEMORANDUM IN SUPPORT OF DEFENDANTS’  
MOTION FOR SUMMARY JUDGMENT**

NOW COME Defendants, JOHN KRAFT, KIRK ALLEN, ALYSSIA BENFORD, CYNTHIA BRZANA, SHERI GRIMMENGA, KRISTINA WING, BECKY BECKER AND EDGAR COUNTY WATCHDOGS, INC., an Illinois corporation, (collectively “Defendants”) by and through their attorney Robert T. Hanlon, with their Memorandum of Law in Support of Defendant’s Motion for Summary Judgment pursuant to F.R.C.P 56 and pursuant to the Illinois Citizen Participation Act, 735 ILCS 110, and in support of this motion state as follows:

**Introduction:**

This Court should grant Defendants’ Motion for Summary Judgment with prejudice pursuant to the Citizen Participation Act (“CPA”) and pursuant to Rule 56 on the basis that Defendants demonstrate herein that the Complaint and First Amended Complaint (hereinafter “FAC”) constitute a Strategic Lawsuit Against Public Participation (S.L.A.P.P), which does not

plead a legitimate cause of action against each Defendant as well as pursuant to Fed. Rule 56 because the statements complained of are not actionable or are ostensibly true.

Importantly, the FAC cannot be re-pled because the gravamens of Plaintiff's FAC, being called a liar, and claims concerning Plaintiff filing bankruptcy are true statements or otherwise not actionable. Moreover, the per quad claims advanced by Plaintiff require pecuniary damages. These claims are completely defective because Plaintiff has now admitted that the cause of her purported loss of employment (the allegation of pecuniary injury) was caused by a non-party to this action. See Rule 56.1 Statement of Facts (hereinafter "SOF") 4-5.

**A. Plaintiff is a Liar.**

Plaintiff's FAC contains two counts, False Light Invasion of Privacy and Cyberstalking. Defendants will first address the insufficiency of the FAC and then address the failures of Plaintiff's claims. The gravamen of Plaintiff's complaint for false light is that Plaintiff alleges that she has been harmed because she was called a liar. Ordinarily, such an allegation is clearly a non-actionable statement of opinion. However, in some cases a statement appearing as an opinion may rise to a defamatory statement if it were construed as a statement of fact and if not actually true. In this case, as shown herein, the statements that Plaintiff is a liar is an opinion and Plaintiff is, in fact, a liar. As shown in the 56.1 Statement Of Facts, Plaintiff has objectively lied about topics including her: (A) her loss of employment at JHT, (B) loss of a security clearance, (C) having had a "Top Secret" security clearance, (D) being a Department of Defense employee, (E) employer deeming Theresa Bhoj a high level security risk, (F) income, (G) being permanently disabled, (H) claiming to be a PhD or a Doctor, (I) claiming Trademarks never issued, (J) the number of times Plaintiff filed for bankruptcy relief, (K) claims about Kirk Allen being investigated by the FBI, (L) assets in bankruptcy pleadings, (M) purported issuance of gag

orders, (N) reasons for homeschooling her daughter, (O) raising money, (P) Kirk Allen and John Kraft purportedly at DC siege of January 6, 2021, (Q) taxpayer money spent by Benford on purportedly frivolous litigation, (R) delivering letters to Will County State's Attorney, (S) claiming no written communication with Nyota Figgs, and (T) signing a Hall of Fame performer for her record company. See SOF 1-76.

Importantly, most of the objectively verifiable false statements come primarily from Plaintiff's own sworn testimony. *Id.* It's actually shocking! Plaintiff has been abusing the truth for so long that it is unlikely that she cares about the difference between truth and fiction. For instance, Plaintiff alleged in a sworn declaration before the Trademark and Patent Office that she had a Ph.D from Capella University. See SOF 34-41. However, Capella University disavowed granting Plaintiff a Ph.D. SOF 35. Another example tied to the allegations of the FAC, Plaintiff alleged in her 26(a) disclosure that she purportedly lost employment at Johnson & Howard Technologies, Inc. ("JHT") with \$80,000/yr. salary when in fact her employment there provided a salary of only \$65,000/yr. See SOF 22. Even the reason for her dismissal was not as pled.

Plaintiff's application for employment at JHT asked if she had any disabilities, which she affirmatively answered no. SOF 32. However, within Plaintiff's third bankruptcy (Case No. MD FL 2018 BK 05944) filed less than a year earlier, Plaintiff alleged a "permanent" disability to obtain a discharge of her student loan debt because she purportedly suffered a "permanent" disability arising from three purported strokes. SOF 31. Within Plaintiff's Petition for a No Stalking Order in Lake County Florida, Plaintiff alleged that she was a "Top Secret DOD Employee". Plaintiff did not have a "top secret" security clearance at that time and was not a

DOD employee.<sup>1</sup> See SOF 11. Within that same Petition for a No Stalking Order, Plaintiff contended that her employer (identified in the petition as JHT Industries) had deemed Theresa Bhoj a “a high level security risk”. SOF 17. Her then only employer, JHT, denied that it deemed Ms. Bhoj a high level security risk. SOF 19. When pressed on this issue in her deposition, Plaintiff contended that she herself assessed her neighbor via her purported employment from an entity Plaintiff owned. SOF 17-21. These are a smattering of the various false statements of Plaintiff in various sworn environments. See SOF 1-80. Collectively, with the magnitude of false sworn statements, Plaintiff established that she is in fact a liar and to call her a liar is not actionable because it is both factual and a well-informed opinion.

**B. Plaintiff’s FAC Does Not State a Cause of Action as to Certain Defendants.**

Plaintiff’s FAC does not state a cause of action against Alyssia Benford, Cynthia Brzana, Sheri Grimmenga, Kristina Wing, or Becky Becker. In fact, throughout the Complaint and FAC, statements concerning the “Defendants” are generally grouped leaving the allegations impermissibly vague as to who said what and when to support a cause of action. “The Court has an independent obligation to dismiss a shotgun pleading.” See *Ain Jeem, Inc. v. Individuals, P’ships, and Unincorporated Ass’ns Identified on Schedule A*, No. 8:21-cv-1331, 2021 WL 2941735, (M.D. Fla. July 13, 2021).

Plaintiff mentions Defendants Becker, Grimenga, and Wing in paragraphs 6, 7, and 8 which allege each is a citizen of Illinois and specifies the county. Nothing in the FAC informs Defendants of what Grimenga, Wing or Becker purportedly did to Plaintiff related to the two causes of action filed with this Court. The FAC does not identify any false statement concerning

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<sup>1</sup> Ironically, since Holland & Knight’s letter demonstrates Plaintiff lied about her employer and her status as a top secret DoD employee was attached as an exhibit to the FAC filed by Plaintiff, Plaintiff’s counsel was fully aware of the numerous false statements by Plaintiff at the time the FAC was filed.

any of these Defendants or any acts those Defendants purportedly did but to include these Defendants in grouped allegations that do not demonstrate any of them did anything to Plaintiff.

In reviewing the FAC to identify statements made about Benford, it is alleged Benford delivered a public document to Kraft and Allen when she was a DuPage Township Trustee. See paragraph 15. There is no cause of action for delivery of a public record to any reporter. Plaintiff also alleges that she sent a letter to Jim Glasgow concerning Benford. Plaintiff having sent a letter to a State's Attorney is not an action by Benford and serves no basis for a complaint against Benford. Benford is only mentioned in paragraphs 4, 14, 15, 22, and the \$1,000,000 prayer for relief in both counts.

Meaningless allegations exist throughout the FAC. For instance, Plaintiff alleges in paragraph 14 that Defendant Benford provided information to reporters. In paragraph 15, Plaintiff alleges that there was a disclosure of Plaintiff's FOIA request (a public record) and an allegation that Plaintiff had filed bankruptcy twice. While it is true that Plaintiff filed bankruptcy three times (cases # ND IL 96 BK 28146, ND IL 2008 BK 4484, MD FL 2018 BK 05944), the purported sting of the statement, if any, is that Plaintiff had repeatedly filed for bankruptcy, which is true. SOF 44 - 48.

**C. Allegations Concerning Kraft.**

Defendant Kraft is mentioned in the FAC at paragraphs 2, 17, 30, and 31. Paragraph 2 merely identifies Defendant Kraft. In paragraph 17, Plaintiff objects to having been characterized as having sent "mindless ramblings", "incoherent accusations", having threatened "criminal and civil actions" and making complaints to the National Security Division. See FAC at 17. The FAC at 30 & 31 complain about Plaintiff being called a liar. As shown throughout the Rule 56.1 Statement of Facts (SOF), Plaintiff has provided numerous occasions where she

demonstrated that she is, in fact, a liar. Thus, all of the allegations concerning Defendant Kraft relate to his pointing out that Plaintiff lied. Well Plaintiff lied.

Clearly, the article quoting Plaintiff as engaging in mindless ramblings is a well-informed non-actionable opinion. In particular, Plaintiff stated the following because her FOIA request was released to Defendants Allen and Kraft:

I'm requesting that upon this complaint, an investigator should promptly conduct a jurisdictional investigation to determine whether the person named in my complaint has leaked any classified information, not just mine, and to what extent these leaks affect local and national level governmental security breaches.

See SOF 80.

The statement that somehow releasing a FOIA request by Plaintiff would create a local or national security breach is both mindless and rambling. How is it possible that a township is a repository of “classified” information? It is true that a Township might “classify” the nature of Plaintiffs FOIA requests, but that does not imply a risk for local or national security. The context of the statement clearly is in the context of classified material in a national security sense. This is mindless as we are talking about a FOIA request, not the CIA’s intelligence of Russia’s invasion of the Ukraine. Consequentially, the opinion that Plaintiffs statements are mindless is a fair report and a well-informed opinion.

**D. Allegations Concerning Allen.**

Defendant Allen is mentioned in the FAC in paragraphs 3, 15, and 17. The same issues referenced above with respect to Defendant Kraft are equally applicable as applied to the claims of Plaintiff concerning Defendant Allen. Defendant Allen was a co-author of two articles complained of by Plaintiff. Those articles are squarely within the province of communicating with the electorate (the Government). Specifically, in regards to the Illinois CPA, the term

"electorate" has been held to be "simply a body of qualified voters from a particular district or territory". *Hammons v. Soc'y of Permanent Cosmetic Professionals*, 2012 IL App (1st) 102644, Par. 22. Thus, the publication *Illinois Leaks* by Edgar County Watchdogs is an appeal to the electorate and its articles are covered under the CPA.

**E. SLAPPS.**

The purpose of the Citizen Participation Act ("CPA") is to counter "Strategic Lawsuits Against Public Participation" ("SLAPPS"), which have been used "as a means of intimidating, harassing, or punishing citizens and organizations for involving themselves in public affairs," 735 ILCS 110/5 (West 2008), the Act's purpose is to eliminate SLAPPS and protect citizen participation in public affairs by: (1) immunizing individuals from lawsuits based on acts taken in furtherance of their rights to free speech or to petition government; (2) creating an accelerated legal process to dispose of SLAPPS; and (3) providing attorney fees and costs to parties who prevail on motions under the Act. *Wright Development Group, LLC v. Walsh*, No. 109463, slip op, at 9-10 (October 21, 2010), 238 Ill.2d 620, 939 N.E.2d 389, 2010, See also: *Hytel Group, Inc. v. Butler*, 405 IllApp.3d 113, 938 N.E.2d 542 IllApp, 2 Dist., 2010.

"SLAPPS" masquerade as ordinary lawsuits" and may include myriad causes of action, including defamation, interference with contractual rights or prospective economic advantage, and malicious prosecution. *Sandholm* at 35 citing Kathryn W. Tate, *California's Anti-SLAPP Legislation: A Summary of and Commentary on its Operation and Scope*, 33 Loy. L.A. L. Rev. 801, 804-05 (2000). Only because Plaintiff is willing to clearly and objectively plead falsely is there an arguable claim to Plaintiff having pled a cause of action against Defendants Allen and Kraft. This is the danger of a SLAPP and an important area for this Court to consider striking

the knowingly false allegations against Defendants Allen and Kraft. (Defendants will serve an appropriate Rule 11 Safe Harbor Letter upon Plaintiff's counsel to address these issues as well.)

SLAPPs are, by definition, meritless. *Id.*, at 34 citing John C. Barker, *Common-Law and Statutory Solutions to the Problem of SLAPP 's*, 26 Loy. L.A. L. Rev. 395, 396 (1993). Plaintiffs in SLAPP suits do not intend to win but rather to chill a defendant's speech or protest activity and discourage opposition by others through delay, expense, and distraction. *Id.* citing John C. Barker, *Common-Law and Statutory Solutions to the Problem of SLAPPs*, 26 Loy. L.A. L. Rev. 403-405 (1993).

In determining whether this court should grant judgment under the CPA, the court engages in a three-part analysis. *Chadha v. North Park Elem. Sch. Ass'n*, 2018 IL App (1st) 171958, P83 (2018), quoting *Sandholm*, Par. 53-57. Under the Act, a defendant may move "to dispose of a claim in a judicial proceeding" on (1) the grounds that the movant is alleged to have engaged in an act in furtherance of his or her rights of petition, speech, association, or to otherwise participate in government and (2) the plaintiff's claim is based on, relates to, or is in response to that protected act of citizen participation. 735 ILCS 110/15 (West 2014). The burden then shifts to the plaintiff to produce (3) "clear and convincing evidence" that the acts of the moving party were a sham, i.e., that they were "not genuinely aimed at procuring favorable government action." *Id.* §§ 15, 20(c).

In this case, it is clear the writing of Defendants Allen and Kraft (Edgar County Watchdogs, Inc.) is covered under the CPA. The publications are covered as a petition speech and the participation in government. Plaintiff's claim is based upon the very writings of the articles published by Edgar County Watchdogs, Inc., by Defendants Allen and Kraft, seeking to report on affairs related to operation of government.



In *Hytel Group, Inc. v. Butler*, 405 Ill.App.3d 113, 938 N.E.2d 542 Ill.App. 2 Dist.,2010, the 2nd District Appellate Court observed the following with respect to the Citizens Participation Act:

In interpreting a statute, we must strive to interpret it so as to give meaning to all of its provisions and avoid interpretations that would render any provision superfluous. *Solon I' Midwest Medical Records Ass'n*, 236 Ill.2d 433, 440-41, 338 Ill.Dec. 907, 975 N.E.2d 1113 (2010). Reading the Act as a whole, we find that section 20(c)'s phrase "the acts of the moving party" is an unambiguous reference to the actions identified in section 15 as subject to the Act's protection.

Section 15 explicitly includes within the Act's reach suits filed "in response to" petitioning activity as well as those "based on" such activity, thereby encompassing facially unrelated but retaliatory claims. Section 15 also provides that the only circumstance in which a petitioning activity is excluded from protection is if that activity was "not genuinely aimed at procuring favorable government action." Similarly, the sole manner in which a dispositive motion may be defeated under section 20(c) is by establishing, by clear and convincing evidence that the Plaintiff has a legitimate cause of action. This interpretation is consistent with the description in Section 5 of the Act's purposes, which include preventing abusive litigation that chills the exercise of citizens' rights: the target of such litigation may feel just as intimidated by a facially unrelated but clearly retaliatory lawsuit as by a lawsuit based more directly on the exercise of those rights. Noteworthy is the fact that the CPA is written in the disjunctive, meaning any of the grounds will constitute a SLAP P suit. Here, every ground for CPA relief has been satisfied. This is especially true given that Plaintiff's entire claim is based upon publications and even her own submission of FOIA requests to a public body.

**F. Fair Reporting Privilege.**

If the gist of the purportedly defamatory statement in a report is the same as the gist in the actual account, then the publication is a fair abridgement of the proceedings the fair reporting privilege applies. Maple Lanes, Inc. v. News Media Corp., 322 Ill. App. 3d 842, 844, 751 N.E.2d 177, 179, 256 Ill. Dec. 124 (2001). Under the fair reporting privilege, a party may reprint defamatory information reported by another in the context of public records or government proceedings. The privilege protects news accounts based upon the written and verbal statements of governmental agencies and officials made in their official capacities. The accuracy of the summary, not the truth or falsity of the information being summarized, is the "benchmark of the privilege." Maple Lanes, Inc., 322 Ill.App. 3d at 844, 751 N.E.2d at 179 (quoting Gist v. Macon County Sheriff's Department, 284 Ill.App. 3d 367, 376, 671 N.E.2d 1154, 1160, 219 Ill. Dec. 701 (1996)); see also Hurst v. Capital Cities Media, Inc., 323 Ill. App. 3d 812, 754 N.E.2d 429, 257 Ill. Dec. 771 (2001). Here, Plaintiff complains Defendant Allen's and Defendant Kraft's statement regarding her filing bankruptcy twice is false. The sting of the statement is that Plaintiff is a recurrent filer for bankruptcy protection. The fact that Plaintiff claims that a reference to her filing two (2) bankruptcy petitions, when in fact she filed three (3) times, is not actionable. Importantly, Plaintiff testified that she filed only twice. SOF 44. Thus, Plaintiff filing a FAC in this Court claiming that Defendants made a false statement concerning her filing bankruptcy twice demonstrates the serious misconduct before this Court. Only upon being pressed on the specifics of her third bankruptcy proceeding did she acknowledge that she filed for bankruptcy protection three times. SOF 47. Thus, under the fair reporting privilege a statement that Plaintiff filed bankruptcy twice is not actionable.

**G. The Ollman Factors Show Statements are Not Actionable.**

Applying the Ollman factors to the specific statements takes this case out of contention for the need for any discovery.

For instance, one statement reads:

“Liar”, “Liar”, “Wrong”

These comments on social media are not actionable because it does not identify the person who is a “liar” or is “wrong” and are opinions which are objectively true that the lies and deception in Plaintiff’s numerous sworn statements support that the opinions are well informed opinions that Plaintiff is a liar and is often wrong. It is clear from the above argument that there is a significant basis to infer that Plaintiff is a liar.

**H. Opinion.**

Even if a statement is defamatory, it “still may enjoy constitutional protection as an expression of opinion.”. *Solaia Technology, LLC v. Specialty Publishing Co.*, 221 Ill. 2d 558, 581 (2006). Only factual statements capable of being proven true or false are actionable. *Brennan v. Kadner*, 351 Ill. App. 3d at 969. *Hadley v. Doe*, 2014 IL App (2d) 130489, ¶ 42. Courts have found name calling, exaggeration, or ridicule to be nonactionable opinion. *Id.* This is what is at issue in this case. Plaintiff’s feelings are hurt by the truth being told concerning her numerous false statements.

Illinois courts apply the following contextual factors to determine whether a statement is one of fact or opinion: (1) the precision of the statement; (2) verifiability of the statement; (3) literary context of the statement; and (4) public and social contexts of the statement. *Brennan*, 351 Ill. App. 3d at 969; *Hopewell v. Vitullo*, 299 Ill. App. 3d 513, 519 (1st Dist. 1998). Factor 3 (literary context) and factor 4 (social context) are significant factors in determining whether a

statement should be interpreted as fact or non-actionable opinion. *Maag v. Illinois Coalition for Jobs*, 368 Ill. App. 3d 844, 851 (5th Dist. 2006) (“In determining whether statements are opinion or fact, allegedly libelous language must be evaluated *in its broader context* to assess whether a reader would have understood the allegation to be a statement of fact.”) here Plaintiff fails to include the broader context and thus has an improper complaint. “[L]iterary, public, and social contexts are a *major determinant* of whether an ordinary reader would view an alleged defamatory statement as constituting fact or opinion.” *Brennan*, 351 Ill. App. 3d at 970. Properly applying each of the factors—and giving each of them the appropriate weight—demonstrates that the statements set forth in the FAC are non-actionable opinion.

#### **I. Cyberstalking.**

No Illinois court has determined that cyberstalking is a tort or a civil cause of action. Illinois has adopted a criminal statute cited to by Plaintiff in Plaintiff’s FAC. However, Illinois law does not provide for the private enforcement of a criminal statute. See 720 ILCS 5/12-7.5. Nevertheless, even if this Court were to determine that Plaintiff could advance a civil claim under the criminal cyberstalking law, Plaintiff’s claim fails nonetheless. Illinois defines cyberstalking in its criminal statute as follows:

##### Sec. 12-7.5. Cyberstalking.

(a) A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that 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.*

(a-3) A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and:

- (1) *at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person; or*

*(2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or*

*(3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.*

(Emphasis added)

Missing from the facts of this case is that there are no statements that would make a reasonable person fear for their safety or suffer emotional distress under section (a)(1) and (2). Moreover, there is no allegation that any Defendant made a threat of immediate bodily harm to Plaintiff or even solicited such a threat. On Defendant Edgar County Watchdogs' webpage there has never been a threat and no threat is alleged. Thus, there is no cyberstalking under the statute cited by Plaintiff in her FAC.

Dated: April 19, 2022

Respectfully submitted,

John Kraft, Kirk Allen, Alyssia Benford,  
Cynthia Brzana, Sheri Grimmenga, Kristina  
Wing, Becky Becker and Edgar County  
Watchdogs, Inc., an Illinois corporation,  
Defendants

/s/ Robert T. Hanlon  
One of Defendants' Attorneys

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**CERTIFICATE OF SERVICE**

I, Robert T. Hanlon, an attorney, do hereby certify that the foregoing document was filed with the Clerk of the Court using the CM/ECF system (which will send notification of such filing to all Counsel of Record), as well as serving a copy of this document upon the following counsel of record via e-mail from Woodstock, IL, on this 19th day of April, 2022:

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