STATE OF MINNESOTA | IN DISTRICT COURT

COUNTY OF KANDIYOHI | EIGHTH JUDICIAL DISTRICT

Steve Quest,

Plaintiff,

v.

Nicholas Rekieta and Rekieta Law, LLC,

Defendants.

Court File No: 34-CV-23-12
Judge Jennifer Fischer
Case Type: Civil Other/Miscellaneous

PLAINTIFF'S MEMORANDUM OPPOSING DEFENDANT'S "SPECIAL MOTION," MOTION TO DISMISS, MOTION FOR SUMMARY JUDGMENT, AND MOTION TO APPLY COLORADO LAW

INTRODUCTION

Plaintiff Steve Quest ("Quest") submits this Memorandum in opposition to Defendant Nicholas Rekieta and Rekieta Law, LLC's ("Rekieta") "special motion" to dismiss Plaintiff's case pursuant to Colorado law, motion to apply Colorado law, and for Summary Judgment pursuant to Rule 56 of the Minnesota Rules of Civil Procedure. This court should deny Rekieta's Motion and requests because it is neither properly before the Court and because there are genuine issues of material fact in this case that must be determined by a finder of fact.

RULE

Minn. R. Civ. P. 56.02 and 56.03 set forth rules to present a motion for summary judgment permitted by Minn. R. Civ. P. 56.01:

56.02 Time to File a Motion

> Service and filing of the motion must comply with the requirements of Rule 115.03 of the General Rules of Practice for the District Courts, provided that in no event shall the

motion be served less than 14 days before the time fixed for the hearing. Unless the court orders otherwise, a party may not file a motion for summary judgment more than 30 days after the close of all discovery.

56.03 Procedures

(a) Supporting Factual Positions. A party asserting that there is no genuine issue as to any material fact must support the assertion by:

(1) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(2) showing that the materials cited do not establish the absence or presence of a genuine issue for trial, or that an adverse party cannot produce admissible evidence to support the fact.

(b) Objection That a Fact is Not Supported by Admissible Evidence. A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(c) Materials Not Cited. The court need consider only the cited materials, but it may consider other materials in the record.

(d) Affidavits. An affidavit used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant is competent to testify on matters stated.

Minn. R. Civ. P. 56.03

OBJECTION TO EXHIBITS

Rekieta has offered Exhibit 1 through 15 and Exhibit 22 without offering proper foundation for their admissibility. None have been offered into evidence, other than by way of declaration of an attorney named Alex J. Shepard (the "*Shepard Dec.*"), who only declares he saw the individual exhibit. These exhibits should be excluded as hearsay. He cannot, and has not, affirmed who created any exhibit, its import, context, or relevancy. To be sure, he does not declare he created any exhibit other than to transcribe certain conversations. Finally, some exhibits, in particular those erroneously attributed to Quest, one related to Quest's brother (not a

party to this matter) are also unfairly prejudicial. Quest's evidentiary objections are based upon MRE 405 (a) Reputation or Opinion, (b) Specific Instances of Conduct, MRE 602 Lack of Personal Knowledge, MRE 801(c) and 802 Hearsay, and MRE 805 Hearsay Within Hearsay, and MRE 403 Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time.

Finally, these exhibits should be excluded from the record and stricken pursuant to Minn. R. Civ. P. 56.03 (b) as the material cited (these exhibits) to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

Exhibit 17, from the *Shepard Dec.*, are articles of incorporation likely filed with the Minnesota Secretary of State which are admissible under the business records exception to the hearsay rule if properly offered.

Exhibit 19, from the *Shepard Dec.*, is a magazine article, from Minnesota Lawyer, a known reputable source, and may be accepted into evidence under the business records exception to the hearsay rule if properly offered.

Those paragraphs within the *Shepard Dec.* comprising transcription of Rekieta's programs, although hearsay, also appear accurate and reliable and can be accepted under the business records exception to the hearsay rule if properly offered.

DOCUMENTS NOT PROPERLY BEFORE THE COURT

Quest identifies the documents (noting objections) that are attached to the Declaration of Alex J. Shepard, Exhibits 1 through 22, ("*Shepard Dec.*") submitted by Rekieta. Quest does not adopt these, however, references to exhibit numbers and pages will be the same as those set forth in the *Shepard Dec.*

DOCUMENTS COMPRISING THE RECORD

As they are offered by way of affidavit, these documents comprise the record before the Court:

Affidavit of Steve Quest ("*Quest Aff.*") with accompanying exhibit:

Exhibit 23: Two photographs depicting a truck driven by Quest and one of his home;

Affidavit of David W. Schneider ("*Schneider Aff.*") with accompanying exhibits:

Exhibit 24: Correspondence from Defendants dated December 15, 2017;

Exhibit 25: Minnesota Lawyer article, Kevin Featherly, "Filings: Attorney helped build 'online hate factory'" November 19, 2019.

FACTS

Rekieta is a lawyer, licensed in Minnesota, who earns income offering legal opinions on the internet. For years Rekieta operated a law firm in Willmar Minnesota, at 2015 First Street South, called "Rekieta Law." Attached to the *Schneider Aff.* as **Exhibit 24** is a copy of correspondence from Defendants in the context of representing a client in an unrelated case. The document displays a stylized logo. This logo is substantially the same as that which Rekieta uses on published videos to the present day. See the videos, published by Rekieta, uploaded as part of Quest's motion for default judgment, filed January 13, 2023. Rekieta has since closed this office, however, Defendant Nicholas Rekieta continues practicing law in the area. Until this month, up until February 3, 2023, he had registered the name "Rekieta Law, LLC," with the Minnesota Secretary of Commerce. From visiting the Minnesota Secretary of State's website, Rekieta engaged in an "administrative termination" of Rekieta Law, LLC on February 3, 2023. *Schneider Aff.* On the internet, he refers to his shows, what he's doing, and who he is as "Rekieta Law." While speaking on a wide range of legal topics he comes into contact with other individuals, on the internet, who seek to "chat" with Rekieta.

From the videos produced by Rekieta uploaded to the Court on January 13, 2023, which accompanied Quest's motion for default judgment, Defendant Nicholas Rekieta's behavior can be observed. He engages in profanity, vulgarity, and attacks people on the internet, and does so for profit. The magazine, "Minnesota Lawyer," described Rekieta in a November 19, 2019 article, as helping to build an "online hate factory." A printed copy of this article, attached the *Schneider Aff.,* is marked as **Exhibit 25.**

At some time in the past, during the year 2019, Rekieta first spoke and or chatted with Quest. *Quest Aff.* The parties have never met in person and have no direct business dealings with each other or through third-persons. Rekieta has attacked Quest on his Rekieta Law show, defaming Quest. From the beginning of Rekieta's attacks, Quest has asked him to stop and retract. See *Quest Aff.* Evidence of request and Rekieta's refusal to retract are found in a November 4, 2022 program with Megan Fox. At no time has Rekieta sought to apologize or retract defamatory statements. Indeed, as of his February 17, 2023 video, Rekieta continues to so refuse. *Schneider Aff.* Indeed, on February 17, 2023 Rekieta created a video titled "I'm BEING SUED by a Moron. Let's Read It, let's Talk About It: Montagraph vs. Rekietalaw" and is over four hours in length. *Schneider Aff.* Rekieta clearly is not running away from his malicious and defamatory statements, but, as time passes, he is building upon the original defamation as pled in Plaintiff's amended complaint:

> On October 6, 2022, Defendant Nicholas Rekieta was a guest on a livestreamed program called Megan Fox Investigates for an interview about why Defendant was banned from Youtube. During this livestream, Defendant made various cruel, false statements and those of a sexual nature about Plaintiff. Specifically, he stated Plaintiff was a "retarded man," suggested Plaintiff had sex with a watermelon, and that Plaintiff has stated he routinely "fists himself."
>
> On October 13, 2022, Defendant Nickolas Rekieta published a video in which another lawyer named Andrew d'Adesky appeared as a guest. During this published video, Defendant accused Plaintiff of pedophilia. Defendant Nicholas Rekieta stated "Plaintiff has always been into sucking little boy cock which is weird, but that's his thing. Look, I'm not here to stop him,

I'm just saying, he should probably be shot in the fucking head. Montagraph, you're a fucking faggot, everybody knows you're a faggot. Clip this all you want and sue me if you want you fucking child molesting fucking faggot. Do that. How about you try that."

On October 28, 2022, Defendant Nicholas Rekieta published a video in which he talked about Plaintiff "making a snuff film, about a kid...." And further stating, as a matter of fact, Plaintiff made such a film, further suggesting Plaintiff "made a nasty movie about a kid...and that's why Plaintiff does not have a good name...." Further, Plaintiff stated, as a matter of fact, that "nobody goes, huh, who's Steve Quest? Who's this Montagraph? Oh, he's a fine upstanding citizen. Nobody. Nobody does," and, "bro, I'll take my name over yours. Your good name is garbage, and that's no joke. That's the straight talk..."

On December 22, 2022, Defendant Nicholas Rekieta published a video with several guests and stated "Monty [Plaintiff] is a fucking retard," "you're [Plaintiff] dumb," "Monty [Plaintiff] you don't make any money. You're a weird broke person on the internet. I'd love to see your damages," "[Plaintiff] made a couple movies, and one of his movies is so derided as being pedophilic and violent.... There are videos about it.... He got removed from every streaming and broadcasting service there was because this is creepy shit with kids."

On January 11, 2023, Defendant Nicholas Rekieta published a video on Youtube in which he called Plaintiff a "retard," that "the ADA had assigned Defendant Nicholas Rekieta a retard who has gone rogue (suggesting Plaintiff is a retard assigned by the ADA to oversee Defendants' business)."

See *Schneider Aff.*

From the *Shepherd Dec.*, paragraphs 25-30, such defamatory and malicious comments have actually been transcribed, thus offering even greater detail of Rekieta's defamation and malice. Initiation of litigation did not stop Rekieta, and attacks continue online. The Court may take judicial notice that, after this memorandum is served and filed, Rekieta will likely make additional online malicious and defamatory statements about Quest.

ARGUMENT

A. Summary Judgment is inappropriate.

I. A motion for summary judgment is not properly before the Court.

Rekieta has retained a very well-known law firm with offices in Nevada and Massachusetts. It is apparent from their appearance pro hoc vice this firm has not moved for summary judgment

in Minnesota, until now. The motion presently before the Court was accompanied by no affidavits, no written discovery answers, no admissions, no deposition testimony transcripts, and no transcripts of court testimony. Rekieta made its motion before the parties vetted evidence through discovery. The only support for Rekieta's motion is found in the declaration of Alex Shepard. Minn. R. Civ. P. 56.03 (a) clearly requires the moving party **must** support the assertion by offering either:

(1) citing to particular parts of **materials in the record**, including depositions, documents, electronically stored information, **affidavits,** stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or
(2) showing that the materials cited do not establish the absence or presence of a genuine issue for trial, or that an adverse party cannot produce admissible evidence to support the fact.

Minn. R. Civ. P. 56.03(a)(emphasis added).

Because this motion was made immediately following Rekieta's answer, we have no record upon which to move for summary judgement; a record is required for a court to issue an order and judgment. Counsel for Rekieta, Alex Shepard, offered all of the objected-to exhibits, most of which were likely taken straight from the internet and none created by him, by way of declaration, not affidavit. Quest submits the choice to offer evidence (indeed, the only evidence presented to the Court by Rekieta) by way of declaration is fatal to this motion as to do so does not comply with Minn. R. Civ. P. 56.03(a).

The choice to offer evidence through declaration, as opposed to affidavit, in a case where the parties have developed no other evidence comprising a record is not trivial or meaningless. Rekieta's choice means they have not offered support for the assertion in the motion and memorandum required by the Rule. While it is true that under Minn. Stat. §358.116, **unless specifically required by court rule**, a pleading, motion, affidavit, or other document filed with a court of the Minnesota judicial branch or presented to a judge or judicial officer in support of a

request for a court order, warrant, or other relief, is not required to be notarized, Minn. R. 56.03(a) does not give the moving party that option. (Emphasis added). Indeed, this Rule specifically requires evidence to be offered through **affidavit** to show the factual basis for the claim and the moving party's burden of proof. Defendant must comply with motion practice rules; affidavits are written documents attached to an affirmation, such as a notary public oath, which states that the statements in the document are true. Declarations are written documents the writer believes are true, but the statements contained in the declaration are made without the writer being sworn in. In short, without offering "true statements," or offering "verified evidence" worthy of a lawyer's affirmation, Rekieta could be presenting documents to the Court that are not what Rekieta thinks they are, nor can the Court be assured Rekieta's offer of proof, evidence, is trustworthy.

Attorney Alex Shepard, licensed in California and Nevada, likely chose to disclose exhibits through declaration to avoid the obligation to verify truthfulness and accuracy; after all, much of what is published on the internet is not true, not published by those to whom ascribed, and, especially nowadays, almost always taken out of context. Quest does not blame Alex Shepard for protecting a license to practice law, but this "abundance of caution" means the exhibits Rekieta intended to disclose cannot be used to support the motion.

Rule 56.03(a) is in place for a reason, specifically, because the moving party must show that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.01. How can the Court rule in the movant's favor, when the movant himself isn't even certain the proffered evidence is what the person offering it thinks it is? For this procedural reason, Rekieta's motion for summary judgment should be denied.

II. Material facts are before the Court showing Rekieta defamed Quest and did so with actual malice.

Rekieta may cure the above-noted defect, before the hearing, and offer evidence by way of affidavit. If accepted by the Court and the motion is heard, Quest choses to defend on the merits of the case and offers this memorandum of law opposing Rekieta's motion for summary judgment. A motion for summary judgment shall be granted when the pleadings, depositions, answers to interrogatories, admissions, and affidavits show there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.03; *Gradjelick v. Hance*, 627 N.W.2d 708, 711 (Minn. Ct. App. 2001); and *Potter v. Ernst & Young, LLP*, 622 N.W.2d 141, 144 (Minn. Ct. App. 2001).

A material fact is one that will affect the outcome of the case. *Bebo v. Delander*, 632 N.W.2d 732, 737 (Minn. Ct. App. 2001). To survive a summary judgment motion, the non-moving party must therefore establish that there is a genuine issue of material fact through "substantial evidence," meaning legal sufficiency and not quantum of evidence. *Osborne v. Twin Town Bowl, Inc.*, 749 N.W.2d 367, 371 (Minn. 2008). The evidence must be viewed in the light most favorable to the non-moving party. *Id.* A genuine issue of material fact exists if a rational trier of fact, considering the record as a whole, could find for the non-moving party. *Monson v. Suck*, 855 N.W.2d 323, 326 (Minn. Ct. App. 2014), review denied (Dec. 30, 2014) (citing *Frieler v. Carlson Mktg. Grp., Inc.*, 751 N.W.2d 558, 564 (Minn. 2008)).

"In a negligence action, the defendant is entitled to summary judgment when the record reflects a complete lack of proof on any of the four essential elements of the claim: (1) the existence of a duty of care; (2) a breach of that duty; (3) an injury; and (4) [that] the breach of the duty [was] the proximate cause of the injury." *Gilmore v. Walgreen Co.*, 759 N.W.2d 433, 435 (Minn. Ct. App. 2009). The plaintiff need not prove all four elements to survive a motion for summary

judgment, but simply must show there are facts in the record that give rise to a genuine issue for trial. See *Lubbers v. Anderson*, 539 N.W.2d 398, 401 (1995). Summary judgment is inappropriate when reasonable persons might draw different conclusions from the evidence presented. *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69 (Minn. 1997).

Rekieta has falsely accused Quest of a crime, pedophilia, sex with minors. No evidence of criminal charge or conviction has been offered by Rekieta to support his claim. Rekieta has no such evidence because it's not true. A false accusation of a crime is defamatory per se. *Longbehn v. Schoenrock*, 727 N.W.2d 153, 158 (Minn. App. 2007). However, a speaker is not liable for defamation if a qualified privilege protects the defamatory statement, and the privilege is not abused. *Larson v. Gannett Co.*, 940 N.W.2d 120, 131 (Minn. 2020). The privilege only applies if the statement is made in good faith, upon a proper occasion, with proper motive, and is based upon reasonable or probable cause. *Bol v. Cole*, 561 N.W.2d 143, 149 (Minn. 1997).

A qualified privilege can exist when an individual makes a good-faith report of suspected criminal activity to law enforcement. *Smits v. Wal-Mart Stores, Inc.,* 525 N.W.2d 554, 557 (Minn. App. 1994), rev. denied (Minn. Feb. 14, 1995). Whether a qualified privilege applies is generally a question of law. *Bol,* 561 N.W.2d at 149. Rekieta has offered no evidence that his online show is, for example, some sort of Public Service Announcement (PSA). He's not alerting neighbors to the registered sex offender next door. Rekieta has offered no evidence of a qualified privilege.

Rekieta has called Quest a "moron." He has called Quest a "faggot." He has called him a "retard." He has subsequently come up with a short-story, which he tells to friends (including Megan Fox) that under the ADA (presumably the Americans with Disabilities Act) he is assigned and must accept a "retard" to watch over Rekieta to help him not offend, defame, or hurt others. He and others (again, notably Megan Fox), laugh and carry on about how funny this notion is, that

a person who doesn't appreciate being defamed is thus a "retard" and worthy of additional hostility. See *Schneider Aff.* One wonders why the German word "schadenfreude," which means to derive pleasure from another's misfortune, wasn't ascribed to Rekieta by the writer of the Minnesota Lawyer article, "online hate factory." See **Exhibit 25,** *Schneider Aff.* From this writer's perspective, Rekieta enjoys being cruel.

In contrast, Quest has offered evidence and can prove Rekieta made: (a) a false and defamatory statement about the plaintiff; (b) in [an] unprivileged publication to a third party; (c) that harmed the plaintiff's reputation in the community. *Weinberger v. Maplewood Review*, 668 N.W.2d 667, 673 (Minn. 2003). A qualified privilege is overcome if the plaintiff demonstrates that the defendant made the statement with malice. *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 920 (Minn. 2009). Malice under the common law means that the defendant made the statement "**from ill will and improper motives, or causelessly and wantonly for the purpose of injuring the plaintiff.**" *Stuempges v. Parke, Davis & Co.*, 297 N.W.2d 252, 257 (Minn. 1980) (Emphasis added). Rekieta, the builder of the proverbial online hate factory, oozes ill-will. Quest has proven Rekieta defamed him with actual malice.

III. Quest is not a limited public figure.

Curiously, Rekieta argues, in pages 24 through 26 of its memorandum, that Quest is also a public figure, however, Defendant Nicholas Rekieta himself appears to suggest that Quest likely is not[1]. From the objected-to evidence attached to the *Shepard Dec.*, of the few legitimate documents offered by Rekieta's lawyers, one can see how Quest attempted to stop defamation, by others, and stop others from using his art without authorization and inappropriately. Does the fact

[1] On December 22, 2022, Defendant Nicholas Rekieta published a video with several guests and stated "you're [Quest] dumb," "Monty [Quest] you don't make any money. You're a weird broke person on the internet. I'd love to see your damages...."

Quest is an artist make him a public figure? Does the fact he has been defending himself and pleading with Rekieta to stop defaming him make him a public figure? What if Quest really has over "one million viewers on youtube" as argued by Rekieta on page 24 of its memorandum?

The determination, to be sure, is a legal one and may be resolved by the Court before the matter is submitted to a jury. *Doe v. Archdiocese of St. Paul & Minneapolis*, 817 N.W.2d 150, 163 (Minn. 2012). Limited-purpose public figures are "those classed as public figures who have thrust themselves to the forefront of particular controversies in order to influence the resolution of the issues involved." *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345, 94 S. Ct. 2997, 41 L.Ed. 2d 789 (1974). Three factors must be present for someone to be a limited-purpose public figure: "(1) whether a public controversy existed; (2) whether the plaintiff played a meaningful role in the controversy; and (3) whether the allegedly defamatory statement is related to the controversy." *Chafoulias v. Peterson*, 668 N.W.2d 642, 651 (Minn. 2003) (citing *Gertz*).

From the albeit-limited record before the Court, we must look for "controversies that are already the subject of debate in the public arena at the time of the alleged defamation." *Id.* at 652, however that brings us back to reality: Quest's sexual proclivities, whatever they may be, were never the subject of debate in any public arena. To be sure, Quest was teased, cajoled, mocked, harassed, threatened, and defamed by others, then he was defamed by Rekieta, threatened, harassed, chased, and defamed again, but there is no evidence a "debate" by any character, online or otherwise, occurred at any time. Under the so-called *Gertz* test, as noted by the *Chafoulias* court, the absence of a debate means Quest cannot be adjudicated a public figure.

Who is not considered a public figure, at least in Minnesota, may be surprising. For instance, in *McGuire v. Bowlin*, 932 N.W.2d 819 (Minn. 2019), McGuire, the girls head basketball coach at Woodbury High School, became the victim of defamation by the parents of certain players

who accused McGuire of swearing at practice, touching female (minor) players inappropriately, and flirting with players (minors). His contract was not renewed, and he discontinued coaching the team, however, certain individuals continued defaming him.

In defense to the litigation brought against them by McGuire, the defendants claimed he was a limited purpose public figure. After all, a high school basketball coach determines who plays, who sits, when, what plays are executed, etc. Coaches are active in recruitment, practices, and scheduling games. They are ever-present in the gym and are the "face" of the basketball program, often for many years at a time. The coach will be interviewed, often after every single game, by local newspapers. They will be quoted on school websites. If they are successful, they will be honored and even revered. Thus, a basketball coach certainly "thrusts themselves to the forefront of controversies in order to influence resolution of the issues involved," a standard articulated in *Gertz*.

Despite the obvious public persona attributable to McGuire, the Minnesota Supreme Court, overruling the court of appeals and district court on this issue, held:

> [w]e are unable to discern any public controversy here. Although controversy ensued after respondents made the alleged defamatory statements about McGuire, that controversy cannot serve as a basis for concluding that McGuire is a limited-purpose public figure. As *Chafoulias* makes clear, a party cannot stir up controversy by making defamatory statements and then point to the resulting controversy as a basis for assigning the defamed party public-figure status. See *Id* at 651-52; *McGuire* at 21.

If a girls' high school basketball coach accused of sexual misconduct is not a public figure, then it is difficult to imagine how Quest can be a public figure. Each have been accused of sexual misdeeds with children and neither charged or convicted. Sauce that's good for the goose is good for the gander. The Court should rule Quest is not a limited public figure.

B. Plaintiff has not pled a SLAPP case. Anti-SLAPP laws in Minnesota are unconstitutional. This Colorado law cannot apply in this defamation case.

Rekieta seeks to apply Colorado's anti-SLAPP statute, presumably to change the rules and make Quest's case more difficult to present it to a jury. Without comparing Quest's case to those of typical SLAPP lawsuits, Rekieta begins his memorandum with a dive into the "anti-SLAPP" antidote to the SLAPP problem. Quest's claims against Rekieta are not the basis of a "SLAPP" lawsuit, hence, application of so-called "anti-SLAPP" statutes or case holdings is inappropriate.

IV. What is a SLAPP?

Rekieta's brief, and motion, appears premised on facts, not in evidence, that are likely routinely litigated in matters where the general public has an interest. Think cases concerning logging, mining, protecting natural resources, access to clinics, etc., where many people become upset. SLAPP is an acronym for a Strategic Lawsuit Against Public Participation. The term was coined in the 1980's by two University of Denver professors, George Pring and Penelope Canan, who co-authored "SLAPPS: Getting Sued for Speaking Out." At its most basic definition, a SLAPP suit is a civil complaint or counterclaim filed against people or organizations who speak out on issues of public interest or concern. A SLAPP suit initiated with the goal of stopping "citizens from exercising their political rights or to punish them for having done so." George W. Pring, SLAPPs: Strategic Lawsuits Against Public Participation, *7 Pace Envtl. L. Rev.* 3, 4-6 (1989).

According to Pring and Canan, who conducted the first nationwide study of SLAPPs, SLAPP lawsuits have "worked . . . to 'chill' present and future political involvement, both of the targets [of SLAPPs] and of others in the community and have worked to assure that those citizens never again participate freely and confidently in the public issues and governance of their town, state, or country." George W. Pring & Penelope Canan, "Strategic Lawsuits Against Public Participation" ("SLAPPS"): An Introduction for Bench, Bar and Bystanders, *12 Bridgeport L. Rev.* 937, 943

(1992). See *Middle-Snake-Tamarac Rivers Watershed Dist. v. Stengrim*, 784 N.W.2d 834, 838-839 (Minn. 2010).

V. This isn't a SLAPP case. No anti-SLAPP if no SLAPP.

Quest pled in his original complaint and amended complaint that Rekieta is free to engage in protected first amendment speech and Quest does not seek restraint. Further, Rekieta may continue analyzing lawsuits and legal issues, and chatting about them, and, Quest does not seek to stop Rekieta from speaking on matters of "public interest or concern." Quest is a private individual affiliated with no company, cause, or concern. *Quest Aff.* Quest simply requests Rekieta discontinue maliciously defaming him and causing harm.

When is a matter public or private, for purposes of analysis? From *Chafoulias v. Peterson*, 668 N.W.2d 642 (Minn. 2003): A public controversy is a dispute that "has received public attention because its ramifications will be felt by persons who are not direct participants." *Waldbaum v. Fairchild Publications, Inc.*, 627 F.2d 1287, 1296 (D.C. Cir. 1980); *accord* Trotter v. Jack Anderson Enters., Inc., 818 F.2d 431, 433-34 (5th Cir. 1987); *Lundell Mfg. Co. v. Am. Broad. Co.*, 98 F.3d 351, 363 (8th Cir. 1996). Private concerns are not public controversies simply because they attract attention. See *Time, Inc. v. Firestone*, 424 U.S. 448, 454-55, 47 L. Ed. 2d 154, 96 S. Ct. 958 (1976); see also *Wolston*, 443 U.S. at 167-68. In isolating the public controversy, courts look to those controversies that are already the subject of debate in the public arena at the time of the alleged defamation. See, e.g., *Bruno & Stillman, Inc. v. Globe Newspaper Co.*, 633 F.2d 583, 591 (1st Cir. 1980); *Waldbaum*, 627 F.2d at 1297. *Chafoulias* at 651-652.

Rekieta argues that, somehow, the world should care about Quest, specifically, the world should know Quest is a pedophile and guilty of crimes, perhaps even Minn. Stat. §609.344 subds. 1(c) and 2, and/or Colorado's equivalent statute, that he is a "fucking faggot," that he "fists

himself," that he created a "snuff film," etc. without first establishing how he knows these allegations to be true, or, how these alleged crimes and perverse acts somehow relate to matters we, the public, should show interest in or have concern. Rekieta's position is inconsistent with well-settled law, from all over the United States, as recited by the *Chafoulias* Court.

If Quest really were a pedophile, that he sexually abused children, Rekieta could argue evidence of the prosecution and conviction should be made public because Quest, if out of prison, would be a registered sex offender as required by Minnesota law, and we should keep our children away from him. Rekieta hasn't done this, and cannot do this, because Quest has neither been charged nor convicted of any such crimes in any state of the union. In an illustration of how the term "non-sequitur" may be used, Rekieta offers **Exhibit 9**, evidence that Quest's brother is indeed a criminal. However, Rekieta makes no effort to connect Quest to his brother. Quest's brother may be a criminal. Quest is not. No law imposes a requirement that the guilt of Cain must pass to Abel.

Rekieta goes to great lengths to illustrate Quest is a prolific producer of websites and video content (some of which may be perceived as obnoxious) without first describing how such content rises to the level or public interest or concern, without first verifying obnoxious content was actually created by Quest as opposed to other individuals, or without first verifying the allegedly obnoxious content really is what others have purported it to be. Rekieta's exhibits offered through the *Shepard Dec.*, hearsay at best, unfairly prejudicial at worst, display an array of actors and commentators and an array of subjects. Again, no effort is made to show why we, the public, should care. How does Quest's internet activity, whatever it is, create public interest or concern? The answer is patent: it does not.

So, what is a SLAPP lawsuit, at least according to courts in Minnesota? Pursuant to the court in *Leiendecker v. Asian Women United of Minn.,* 848 N.W.2d 224 (Minn. 2014), they are lawsuits that interfere with citizens and organizations exercising their rights of public participation in government. *Leiendecker* at 228. SLAPP suits, which are generally filed in order "to use litigation to intimidate opponents' exercise of rights of petitioning and speech," even when, as is often the case, the party filing the suit does not care whether it actually prevails. *Duracraft Corp. v. Holmes Prods. Corp.*, 427 Mass. 156, 691 N.E.2d 935, 940 (Mass. 1998); *Id.*

To deter vexatious litigation and protect participation rights in government, Minnesota's anti-SLAPP statute (which is unconstitutional as of 2016) include both a grant of immunity and various procedural provisions. The grant of immunity is found in Minn. Stat. §554.03, which provides that "[l]awful conduct or speech that is genuinely aimed in whole or in part at procuring favorable government action is immune from liability, unless the conduct or speech constitutes a tort or a violation of a person's constitutional rights." *Id.*

Typically, anti-SLAPP statutes protect the exercise of two types of public-participation rights: the right to free speech and the right to petition the government. See, e.g., *Equilon Enters., LLC v. Consumer Cause, Inc.,* 29 Cal. 4th 53, 124 Cal. Rptr. 2d 507, 52 P.3d 685, 693 (Cal. 2002); *Denton v. Browns Mill Dev. Co.*, 275 Ga. 2, 561 S.E.2d 431, 433 (Ga. 2002); *Id.*

As correctly noted by Rekieta, in a 2016 Minnesota Court of Appeals decision, Minnesota's anti-SLAPP statute was found to be unconstitutional because it "deprive[s] the non-moving party of the right to a jury trial by requiring a court to make pretrial factual findings to determine whether the moving party is immune from liability. *Mobile Diagnostic Imaging v. Hooten*, 889 N.W.2d 27, 35 (Minn. Ct. App. 2016). Further, in *Leiendecker v. Asian Women United of Minn.*, 895 N.W.2d 623, 637-38 (Minn. 2017) (this case is referred to herein as "*Leindecker 2017*" given the

number of other reported cases bearing the same title) the Minnesota Supreme Court also ruled that the law was "unconstitutional when it requires a district court to make a pretrial finding that speech or conduct is not tortious." *Leiendecker 2017* at 637-38. Needless to say, from these important cases it would appear anything which tends to interfere with the right of an aggrieved victim of defamation's attempt to submit the complaint to a finder of fact is unconstitutional in the State of Minnesota, "anti-SLAPP" or otherwise. Further, Quest's case against Rekieta is not a "SLAPP case in need of application of an anti-SLAPP" law. Rekieta's motion is misguided.

VI. Colorado law applied in this Minnesota defamation case is unconstitutional.

Quest pled, and Rekieta correctly noted, that at least at the beginning of this lawsuit Quest was a resident of the State of Colorado. However, Quest had developed significant connection also to the State of Illinois during the period of time Rekieta has defamed him. In his complaint and amended complaint, Quest stated he had also lived in Illinois. At present, Quest does not reside in Colorado, but resides in Illinois. Quest has resided in Illinois since June, 2020. *Quest Aff.* Rekieta speaks extensively how Quest has no connection to Minnesota (other than being a U.S. citizen), but that statement is incorrect. Quest uses "computer servers," which are based in the State of Minnesota. Quest is required to pay a monthly cost to access those servers. *Quest Aff.* So, in fact, Quest has a business connection to the State of Minnesota. Finally, while Rekieta is sitting in his Spicer Minnesota-based recording studio defaming Quest, and Quest responds during "chats" or "super chats" to Rekieta, that communication certainly involves Minnesota. Quest has substantial connects to three states, Minnesota, Illinois, and Colorado.

In fairness to Rekieta, because no discovery has been conducted, Rekieta did not know Quest had moved to Illinois, or, about Quest's computer servers in Minnesota and the business relationship. The distinction is immaterial, however. The Colorado law Rekieta seeks to apply,

in the case at bar, would most certainly be deemed unconstitutional in the State of Minnesota given the *Mobile Diagnostic Imaging* and *Leindecker 2017* decisions, regardless where Quest resides.

What is the basis for applying the law from another state apply to cases in Minnesota? Rekieta's "special motion" requires analysis of the laws of other states. An individual's interest in his reputation is a basic concern, but its reflection in the laws of defamation is solely a matter of state law. A state can limit, modify, or perhaps take away a cause of action for defamation through the operation of testimony of privileges, absent any claim of constitutional deprivation. *Mazella v. Philadelphia Newspapers, Inc.,* 479 F. Supp. 523 (E.D. N.Y. 1979). The existence of a judicial remedy for injury to reputation is thus purely a matter of state law; defamation actions involving private plaintiffs and private issues must be analyzed under state common-law principles. *Weissman v. Anderson Newspapers, Inc.* 469 N.W.2d 471 (Minn. App. 1991).

At least according to the law of the State of Colorado, in defamation cases, the state with the most significant relationship is usually the state of the plaintiff's domicile. *Zimmerman v. Board of Publications of Christian Reformed Church*, 598 F. Supp 1002. 598 (D. Colo. 1984). A dictionary definition of the word "domicile" is "where a person lives in and has a substantial connection with." In fairness, Quest's home, after June of 2020 is in Illinois, but he formerly lived in Colorado where Rekieta began defaming him likely in 2019, and, Quest still has connections with Colorado (his mailbox and counselor. See *Quest Aff.).* However, Quest also has, and has always had, business connection to Minnesota. So, which state's law should apply here? Standing alone, at least one state (New York) has determined the plaintiff's residence (whether it be in Colorado or Illinois) is not enough to determine the choice of law in a defamation case. *Arochem International v. Buirkle*, 767 F. Supp. 1243 (S.D. N.Y. 1991).

In defamation cases, strong policy reasons exist for deciding issues whose major impact on the behavior of potential defendants according to the rules of the jurisdiction where the conduct that gives rise to liability takes place, especially when that conduct may be protected speech. *Keeton v. Hustler Magazine*, 828 F2d 64 (1st Cir. 1987). However, a law analogous to the Colorado law, sought to be employed by Rekieta, Minn. Stat. §554.04, a statute where the Minnesota Supreme Court, in *Leindecker 2017*, declared not just the law unconstitutional, but also the effect. To be sure, Minnesota's statute and the Colorado statute are written differently and are not synonymous, but the unconstitutional effect is the same. Future enforcement efforts of an unconstitutional law will invariably lead to an aggrieved person, harmed by that action, to challenge the government's action. In practical terms, when the government or Minnesota court's face laws that are on their face unconstitutional, they will (and should) act as though the law does not exist. Quest encourages the Court to do just that here.

Quest recognizes the choice of law issue is relevant given the fact that there is at least some connection to Colorado, and, the Court should be aware the way Minnesota courts have dealt with these issues has changed over time. An excellent recitation of the history of the evolution of how Minnesota courts handle such situations is found in *State v. Castillo-Alvarez,* 836 N.W.2d527 (Minn. 2013). There, a criminal defendant from Iowa escaped to Mexico. He was arrested, interviewed and recorded, tried, and convicted in Iowa. Later, his convictions were overturned on appeal. Five months after that the defendant was charged by the Jackson County attorney, in the State of Minnesota. The defendant sought to suppress his recorded statement. He was tried and convicted and sentenced to prison. On appeal, the issue of the admissibility of the recorded statement by both federal and Iowa law enforcement officials violated Minnesota's law regarding electronic recording at custodial interrogations was raised. The Court then proceeded to review

the three different choice of law approaches to resolve issues relating to the admission of evidence collected in other states. Citing *State v. Heaney*, 689 N.W.2d 168, 174-76 (Minn. 2004), the Court described the three approaches as: 1. Traditional choice law; 2. Exclusionary rule, and 3. Most significant relationship. *Castillo-Alvarez* at p. 22. Settling upon the "significant relationship" rule, at least for the facts of that case, the Court held:

Under the significant relationship test, the law of the state with the most significant relationship to the evidence controls, even if it conflicts with the law of the forum, **unless applying the law of the state with the most significant relationship would be contrary to a strong public policy in the forum** (citing *Heaney* at p. 175); *Castillo-Alvarez* at 26. (emphasis added). In the case at bar, Minnesota Courts have, very clearly, stated that laws are unconstitutional when they require a district court to make pretrial finding that speech or conduct is not tortious. Query, if we apply any statute which, in operation, does what *Mobile Diagnostic Imaging* and *Leiendecker 2017* prohibit, namely require the Court to make an unconstitutional-pretrial determination, is that not, under the 'significant relationship" test, "contrary to a strong public policy" in Minnesota? Undoubtably, the answer is in the affirmative. The Court should refuse to apply Colorado law in the case at bar under the significant relationship test discussed in *Castillo-Alvarez*.

C. Rekieta's actions caused emotional distress. Done so intentionally, and or negligently, will be proven in discovery.

VII. Quest's claim for negligent infliction of emotional stress is supported by evidence.

A claim for negligent infliction of emotional distress requires a party to prove three additional elements: that the party "(1) was within the zone of danger of physical impact created by the defendant's negligence; (2) reasonably feared for her own safety; and (3) consequently suffered severe emotional distress with attendant physical manifestations." *Id.* (quotation omitted). However, a party who establishes a claim for defamation need not prove the

"zone of danger" element. *Bohdan v. Alltool Mfg. Co.*, 411 N.W.2d 902, 907 (Minn. App. 1987), rev. denied (Minn. Nov. 13, 1987).

When Quest was being threatened by Rekieta's devotees, and followed around Denver, and being stalked, then seeing published pictures of this activity on the internet (see **Exhibit 23**), Quest was afraid and certainly within the zone of danger of physical impact following Rekieta's defamatory statements. *Quest Aff.* Further, Quest sought care. He is currently treating with care providers and will offer evidence that he suffered "severe emotional distress with attendant physical manifestations," the third required element of a claim for negligent infliction of emotional distress. *Engler v. Ill. Farmers Ins. Co.*, 706 N.W.2d 764, 767 (Minn. 2005) 767. Query, is Rekieta asking the Court to dismiss Quest's case now, before Rule 26 disclosures, before written discovery, and before depositions, because Rekieta knows the harm caused to Quest is recent, and the medical record is only now being created? If so, such a stance would seem to be inconsistent with the anticipated scheduling order (which has yet to developed) and palpably unfair. At the summary-judgment stage of the proceedings, evidence is viewed in the light most favorable to the nonmoving party and resolve all doubts and factual inferences should be resolved against the moving party. *Staub v. Myrtle Lake Resort, LLC,* 964 N.W.2d 613, 620 (Minn. 2021). Quest suggests to the Court this issue is not yet ripe for adjudication.

VIII. Quest's claim against Rekieta for intentionally causing emotional distress should also survive summary judgment.

Minnesota first recognized the independent tort of intentional infliction of emotional distress in *Hubbard v. United Press International, Inc.*, 330 N.W.2d 428 (Minn. 1983). Intentional infliction of emotional distress consists of four distinct elements: (1) the conduct must be extreme and outrageous; (2) the conduct must be intentional or reckless; (3) it must cause emotional distress; and (4) the distress must be severe. *Id.* at 438-39; see also Restatement (Second) of Torts

§ 46(1) (1965). Intentional infliction of emotional distress cases are "sharply limited to cases involving particularly egregious facts" and that a "high threshold standard of proof" is required to submit the claim to a jury. *Hubbard*, 330 N.W.2d at 439. In examining the record and what we know about Rekieta, Rekieta's conduct must be adjudged "extreme and outrageous" when it is "so atrocious that it passes the boundaries of decency and is utterly intolerable to the civilized community." *Hubbard*, 330 N.W.2d at 439 (quoting *Haagenson v. National Farmers Union Property and Casualty Co.*, 277 N.W.2d 648, 652 n.3 (Minn. 1979)). Liability for intentional infliction of emotional distress does not extend to "insults, indignities, threats, annoyances, petty oppressions, or other trivialities." Restatement (Second) of Torts § 46 cmt. d (1965). To qualify as extreme and outrageous, the conduct must lead an average member of the community to exclaim "Outrageous!" *Id. Langeslag v. KYMN Inc.*, 664 N.W.2d 860, 865, (Minn. 2003).

Again, Rekieta has stated (and routinely admits), many obnoxious, cruel, and mean-spirited things, to which the common response is "outrageous!" directed at Quest. See paragraphs 25 through 30, *Shepard Dec.* Perhaps what Rekieta is really telling the Court is that Quest, and his lawyer, your author herein, his lawyer's entire office staff, and his lawyer's wife who has watched Rekieta's shows and have yelled "outrageous!" are all simply prudish-churchgoers who should stop being so sensitive. *Schneider Aff.* Perhaps Rekieta, as part of his newly-minted "online hate factory," wants the world to forget about societal norms and do as does he, namely swear, mock, tease, taunt, slander, libel, complain, then, when the world is sufficiently aggrieved we should stand by, smiling, as Rekieta's devotees descend upon us with threats and stalking.

If Rekieta seriously expects the Court to dismiss Quest's intentional infliction of emotional distress count, surely justice demands it be based upon a fully-developed case, complete with

Defendant Nicholas Rekieta's deposition testimony. Like the motion to dismiss the negligent infliction of emotional distress, this motion is also not yet ripe for adjudication.

CONCLUSION

Moving for summary judgment, at the beginning of a defamation case, while exciting and worthy of video creation if you're in the business of offering legal opinions on the internet, may lead to fatal motion practice error. A party should permit a case to be developed so that a record is prepared upon which a Court may rule. In the case at bar, Rekieta has offered nothing to satisfy Rule 56.03(a) and the Court should deny Rekieta's motion for summary judgment.

Application of Colorado law, given the status of Minnesota defamation law after 2017, is "unconstitutional when it requires a district court to make a pretrial finding that speech or conduct is not tortious." *Leiendecker v. Asian Women united of Minn.*, 895 N.W.2d 623, 637-38 (Minn. 2017). Hence, the Court should also deny Rekieta's "special motion" and request that Colorado law be applied in any respect.

Finally, evidence of negligent infliction of emotional distress and intentional infliction of emotional distress is supported by the Affidavits of Steve Quest and David W. Schneider and properly before the Court. More evidence will be produced through discovery. The Court should deny Rekieta's motion to dismiss.

Dated this 21st day of Feb., 2023.

SCHNEIDER & MADSEN, P.C.

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STATE OF MINNESOTA IN DISTRICT COURT

COUNTY OF KANDIYOHI EIGHTH JUDICIAL DISTRICT

Case Type: Civil other/misc.
Court File No.: 34-CV-23-12

Steve Quest,

Plaintiff,

AFFIDAVIT OF STEVE QUEST

vs.

Nicholas Rekieta and Rekieta Law, LLC,

Defendants.

STATE OF ILLINOIS)
) ss.
COUNTY OF CHAMPAIGN)

Your affiant, Steve Quest, does hereby state, allege, and affirm:

1. I am your affiant, Steve Quest, and the Plaintiff in the matter before the court herein. I offer this affidavit in support of my lawsuit against Defendant Nicholas Rekieta for damages and as part of my opposition to the motion for summary judgment and dismissal. I have legally changed my name to Steve Quest.
2. I am now 59 years of age and was a resident of the State of Colorado, City of Lakewood, Colorado, 80226. However, I moved to Illinois on June 2, 2020 for my safety. Defendant Rekieta and his followers, fans, and devotees harassed me. I continue to carry a Colorado driver license, which, does not expire until 2024 and I have not notified the State of Illinois I now live in Illinois. I did not believe my actual residence was

important, for the lawsuit I filed against Defendants, until I was notified by my lawyer that Defendants' have made it an issue as part of their motion to dismiss.

3. I realize I have not complied with Illinois' requirement, to obtain an Illinois driver's license but I have learned, the hard way, if I do Defendants' followers, fans, and devotees will find me, harass me, and threaten me. My Colorado address remains in use and valid as it is a "personal mailbox" I rent from a company with an office at that physical address. I continue to receive correspondence there, including bills, banking, insurance, and I can even be legally served there. I can do this because I have an agreement with the company; they know I have been harassed and they have agreed to protect me. I pay for this service.
4. I continue treating with a care provider named Karen Steinbeck, in Colorado utilizing "telehealth." Her clinic is in Grand Junction, Colorado. I set up appointments, usually by phone, and we will have appointments by phone or a video system provided by the clinic. The clinic is called Lifestance and they have doctors all over the U.S. My medical doctor is Dr. Andrew Zasada who practices in Savoy, Illinois. He works at OSF Health Care.
5. I own no real estate. I hold no title or right to a corporation or Limited Liability Company in any state. I pay rent, where I reside, which is a house I share with my girlfriend. In recent years I've suffered health problems. I suffer from asthma and COPD. I have not performed construction work for a couple of years. Presently, my sole source of income is from Youtube AdSense, and, websites I own and maintain. My girlfriend and I reside in Champaign County, State of Illinois.

6. I have been doing business for over 25 years in the State of Minnesota. A Minneapolis-based company called "Area 51 Services" hosts my websites and maintains my domain names. I currently own, and Area 51 Services maintains 8 websites, but only four are currently active. Area 51 Services provide my IT command, which means they repair, modify, and perform all other computer-related activities. I pay for these services.
7. I learned how to produce videos and work with computers years ago when I worked in the telecommunications industry. I am also a trained photographer and videographer. In the early 2000s, I began working with other video producers, actors, and technicians in collaborative fashion. In addition to creating art, we would collaborate to create videos that could be marketed to industry and state agencies to be used in marketing and public service announcements. The income I derived from these activities has always been a secondary source of income. My primary source of income, for many years but ending in 2020, was through building and construction, drywall, plaster, flooring, and all phases of home remodeling.
8. I discovered Defendants on the internet, I believe in 2019, but have never met Defendant Rekieta in person. I became acquainted with the Defendant Rekieta watching podcasts and participating in online conversations. Mr. Rekieta created a website called Rekieta Law and published videos in which he appears. He publishes them on various hosting sites. These include "Youtube," "Rumble," and "Locals." Initially, my interactions with Defendant Rekieta were not negative. In fact, I enjoyed participating in online chats on his podcasts. He presented himself as a knowledgeable and experienced lawyer but who was also approachable, sometimes even irreverent. I enjoyed the fact he was approachable and did not come off as a "stuffy shirt" like so many other lawyers I have

known. He was able to provide satisfactory explanation and answers to many legal questions. He gave free legal advice.

9. Things changed, when Defendant Rekieta through his online program, falsely accused me of me being a pedophile. I believe he had heard such rumors from others. He has told his audience I am a faggot, that I've had sex with a melon, that I "suck little boys' cocks," that I've created a "snuff film" starring a female child actor, that I created a "snuff film" starring a male child actor, and that I am a "retard." I understand the term "faggot" to suggest I am a homosexual. I understand the term "snuff film" to describe the murder of a kidnapped child. I understand the term "retard" to be derogatory and an insult of me. I've never had sex with a melon. He has said these things, and other defamation, repeatedly and continues to defame me, in his published videos, to the present day. His words are cruel and he isn't joking. In my opinion, he has defamed me with malice. His allegations have caused substantial grief and anxiety for me and my family. It has disrupted my sleep and has caused me to suffer great physical and emotional distress. Again, I moved to Illinois to get away from those who follow Defendants. I am not a part of any cause or political movement.
10. I understand at least one definition of the word "malice" to be the intention or desire to do evil; ill will. I believe that is the basis of Defendants' defamation of me.
11. Defendant Rekieta defames me, usually, with a "straight face" on his programs and shows. Nothing about most of his defamatory conduct suggests humor, levity, or that he's joking. Defendant never couches his criticism of me or my art using terms suggesting he is merely offering his opinion. To the contrary, he sometimes declares, when he defames me, that he is stating facts. He often asks his guests, and co-hosts, to go

along with him. Rarely do others oppose him. He reminds me of Alex Jones. Finally, he has never retracted any defamatory statements of me nor has he apologized. He has never stated "I really don't know this guy, so, don't take my word for it" or anything else like this suggesting he is engaging in protected free-speech. I asked him, most recently on a chat during his November 4, 2022 show, to stop it and retract. He stated, on the program, that he would not.

12. I state and affirm I am not a pedophile, I do not suck little boys' cocks, I am not a faggot, I did not create a "snuff film" starring a female actor, and I did not create a "snuff film" starring a male child actor. I have never had sex with a melon. I have never been charged or convicted of any crimes associated with these and other defamatory statements. I hope I am not perceived as a "moron" or a "retard."
13. In collaboration with others, I have created videos in which emotions, including anger, are accentuated. I have created films condemning prostitution. I have attempted to discuss and illustrate the prevalence of hate groups, in America, and questioned the presence of the illuminati in America, and the potential connection to the assassination of President John F. Kennedy. I do not have extensive viewership, of my videos, and I have not filed any of them with the Library of Congress. I have not trademarked or sought copyright of any art independently produced by me. Finally, I have not earned significant income through the direct sale of art created by me although I have had "AdSense = Youtube Commercials" played on art videos which have generated income. I also have NFTs for sale but have not sold any, thus far.
14. A phenomena and consequence of podcasts, especially those where viewers ask questions and interact with the host, is a following and "fan clubs" may develop. It is my

impression Defendants have developed an extensive fan club, given the volume of his viewership (over 500,000 subscribers), some of which have also become supporters and even defenders of Defendants.

15. I too have attempted to create podcasts and develop a following, and in a way attempted to emulate Defendants but without also engaging in defamation. In fairness, I have not been anywhere nearly as successful as Defendants. For my work, I have to rely on creative focus and spend considerable time on researching topics for my shows. As a result of Defendants' malicious defamation and false allegations of crimes I now must spend the bulk of my time monitoring the internet to identify any threats of physical violence against my family and myself.

16. As noted above, a significant reason for moving away from my home in Colorado is members of Defendants' "fan club" found my home and stalked me. There have been people waiting for me, leaving my home, taking video of me, mocking me, and following me, and threatening me. For instance, one viewer physically went to my mailing address, on his motorcycle, shortly after watching a livestream, created by Defendants, on June 29, 2019. The same person who followed me around then published photos of my address, online. Recently, he has been vowing to find my location and harass me again. His screen name is "RandyFromReality," however, I don't know his real name. Attached hereto are true and correct copies of three pictures taken of my truck, by members of Defendant's fan club, which they've published on the internet. They are collectively marked **Exhibit 24.**

17. It has become a full-time job trying to mitigate this security risk and damage control to my professional reputation and good name given Defendants' continuing defamation, and

harassment. Defendants' behavior has caused significant worry for my family members and myself. I feel I am responsible for their safety and well-being.

18. I have become the target of derision from Defendants and their audience, as well as other online channels associated with Defendants. Their wide reach of audience has caused the proliferation of abuse, across the internet, and this most assuredly will continue in the future.

19. I know, from experience, that people will stalk you, in real life, and threaten to murder you, and, threaten to commit sexual violence against significant others as a tool of intimidation. Defendants' ongoing and continuous slander of me, even after being served the complaint, displays malicious intent to cause further harm.

20. As a result of Defendants' words and actions, and defamation, I am seeking counseling to deal with the anxiety from which I now suffer. This has been extremely painful for me and my family to have my name and face associated with Defendants' taunts and threats.

21. The attacks by Defendants have also had a significant financial impact on me, because people (especially his fan club) believe what Defendant Rekieta says, on his shows, are statements as fact, because he is a licensed attorney, and has spoken on national and international legal cases to a broad audience. Since his slanderous attacks, my audience participation has greatly been reduced. Also, my ability to produce videos has been reduced, because my time is being consumed protecting myself; I literally am required to scroll through the internet and discover sites and quotes, falsely attributed to me, and report them as false.

22. An example of a website falsely attributed to me, and, included with Defendants' exhibits offered as part of their motion to dismiss is called the "222 Crew." This occurred in

2016. A computer user with the screen name, Voice of Dissent, published a video where he admitted the article he wrote, "222 Exposed," was false. The entire article was orchestrated as he went line by line to explain how he falsified information and he then apologized.

23. The IMDB page, also included with Defendants' exhibits, that references "The Umbrella Man" film and all of the information associated with the production of that film, including lead actress Vickie Miller, actor Montagraph (The Umbrella Man) is not my
24. account. This particular IMDB page appears to be operated by Doug Maguire, who I understand is a Hollywood actor that once stood in for Brad Pitt. I understand he wrote and produced another film, titled, "Bank Roll." He takes credit for the film "Keyboard Commandos Must Die." I believe Doug Maguire and MagCo Entertainment are the same entity. I never wrote those words associated with that IMDB. In November 2022, I emailed IMDB to remove that bogus page or its association with me.
25. I continue to be amazed how Defendant Rekieta attracts other lawyers, on his programs and videos, who sit there while Defendant Rekieta defames me. They usually say nothing. One participant is constantly fiddling with an assault rifle while they talk about me. At least half a dozen lawyers, who are Defendant Rekieta's friends and guests on his show, are participating in the continued ridicule of myself based on these false allegations. The fact that they are lawyers, giving tacit approval that it is okay to publicly accuse someone of heinous crimes to a wide audience, further exacerbates the incitement of violence under mob mentality, encouraging everyone on the internet to follow Defendants.
26. I have been asked by David Schneider, my lawyer, to determine how many videos Defendants have created since the lawsuit commenced, starting on December 12, 2022. Defendant publishes

videos on three different internet platforms, Youtube, Rumble, and Locals. Here are the video totals, per platform, from December 12, 2022 to January 2, 2023: Rumble = 12; Youtube = 12; Locals = 17.

27. Rumble and Youtube overlap so that he can service two "superchat/AdSense" platforms at the same time. On average, Defendants' livestreams will drop off of Youtube after an hour, then, continue streaming on Rumble for hours longer. Typically, Defendant Rekieta will become more profane on Rumble, which, is more tolerant of profanity than Youtube; Youtube enforces a code of conduct. The total hours from all the videos are over 74 hours from December 12, 2022 to January 2, 2023.

28. Much has been made of "The Umbrella Man" video. In late 2009, I decided to create a horror film, because I had never done a horror film. I started my Youtube channel on July 4, 2006, where my channel was producing predominantly comedy videos. Also, I was involved in some political collaborations nationally, one being with Jimmy Hook. Another was with the truth rapper and artist, Payday Monsanto, from Philadelphia. Additionally, I was doing music collaborations with artist, Tomi Bon Tomi, who is from Germany. I decided to call my original horror film, "The Umbrella Man" based off of the assassination of JFK that occurred on November 22, 1963. Historically, there was a man at the scene of the JFK assassination with an open umbrella on a sunny day in Dallas, Texas. This man was later interviewed by the FBI. To this day, there are many questions on the potential participation that this individual may have had in the incident itself. He also appears on the historic Zapruder film that was used in the introduction of the first "The Umbrella Man" film. I had been studying the Illuminati, secret societies, the committee of 300, and other internationally influential shadow entities. Thus, I had understood that "black and white," under Masonic teachings, equates to duality. Hence,

the black and white chess board in the film. I wanted my film to maintain its historical origins that may read like a Steve Cameron book on the topic, yet, at the same time, maintaining my own individual avant-garde style. In developing the story line for "The Umbrella Man," I wanted to establish the real-life incident that occurred in Dallas to a future tense. In short, in my film, the Umbrella Man becomes the villain, a villain that we all know as a serial killer. I had researched the historical patterns of serial killers within the United States. I found that all serial killers share a common trait, that is they take a trophy from the victim, such as a lock of hair, a tooth, an article of clothing, jewelry, identification, etc. In my short film, "The Umbrella Man," I decided that the trophy that he would take from the victim would actually be a handwritten letter. The victim would be instructed by the Umbrella Man to write a letter to their loved ones (i.e. brother, father, mother, sister, husband, etc.). The Umbrella Man would promise to mail their letter, and he would. The Umbrella Man would mail the letter to himself, as to relive the killing of the victim. Once the character and all of his idiosyncrasies had been developed, I contacted Tomi Bon Tomi, my friend in Germany, to create the original introduction and score for the first episode of "The Umbrella Man." I also contacted my friend, Vickie Miller, who lives in Denver, to be the lead actress/victim in the film. I also contacted a number of individuals, world-wide, to provide footage for the visual introduction of the film. I decided that the Umbrella Man would be wearing a checkerboard mask to maintain the Illuminati-esque theme of duality. As a test run, I painstakingly applied a black and white checkerboard pattern, on my face, with a wig, to give the appearance of long hair. I also purchased a 1960's-era Colt 45 beer can in preparation for the film to maintain the feel of the era. I published that test run on the

Youtube. Later, I was contacted by mask maker, Ron Thompson, from Oklahoma. He offered to make a checkerboard custom mask, so that I would not have to apply make up every episode. I took him up on this offer and the mask that he made was perfect and was used in all four episodes. A decade before "The Umbrella Man" production, I was working on the "Zodiac" project, among other various artistic endeavors for Montagraphy, which was a special effects photography business. I placed an advertisement in the "Westword Magazine" which was published in Denver, seeking models for art works and projects. Vickie Miller responded, and this is how we first established our working relationship. We became good friends. Years later, I called on Vickie to be the lead actress for "The Umbrella Man." In addition to her lead role in the production, she also helped with filming of my character the Umbrella Man, and I filmed her character (the victim). Vickie also read each letter at the end of every episode, of which there were four. The first episode of "The Umbrella Man" was published April 20, 2010 on video sharing site, Metacafe and later on Youtube. The views on Youtube were in the excess of 25,000.

29. I believe "The Umbrella Man" truly disturbed the audience, because even though there was no gratuitous violence/gore, nudity, or vulgar language, the entire film was produced for the viewer to fill in the blanks with their own imagination, similar to a Hitchcock style film. Initially, I thought I had succeeded creating a horror film. However, soon the trouble began. On February 22, 2015, a Youtube channel was created by an unknown user, with my face titled, "Montagraph is JB Smeary of 222 Crew." https://socialblade.com/youtube/channel/UC_lqjOpFxjRR4TzAxDymTvA, in which at least 30 people attempted to falsely frame me for running a pedophile ring and having an

association with the killing of Jon Benet Ramsey. They took images from "The Umbrella Man," where I am wearing the mask, and they incorporated it into a fake article that was written by username, Dr. Dissent aka John Evans, who I believe lives in Michigan. A book was written by Daniel Marion Mitchell, also from Michigan, titled, "Two is too Young to Die." Mr. Mitchell placed the book for sale on Barnes & Noble and it was pulled by the company, because of complaints from the public for being so vile and reprehensible. Later, Mr. Mitchell maliciously and falsely attached my name, "Steve Quest" as the author.

30. Working in tandem with Tiffany Moser, from California, Mr. Mitchell conspired with dozens of people to falsely frame me, online, as being a murdering pedophile. In addition to the fake book, different channels on Youtube were constantly harassing me on my main Montagraph channel, inundating it with false accusations of affiliation of a website, they created, in order to publicly injure me through character assassination. I vehemently denied these allegations both in comments and on video, with my face and my voice, but to no avail. A Missouri police officer by the name of Jim Mitts, was also involved, online, threatened to publish my driver's license on a website titled, Topix. I was fighting for my reputation and my personal safety, and had identified him by name to being associated with this conspiracy against me. Many different channels were leaving comments and links to the website, that they had created, attempting to frame me as a pedophile. Numerous Youtube channels from all over the country and the world were involved in this operation. For instance, username "Caliberhitter" aka Felix Pantaleon (New York); KennyKPZ aka Warren Mason (Georgia); MissAnonymousDick aka Katheranne Childers (Kentucky); Tiffany Moser (California); Dr. Dissent aka John Evans

(Michigan); Daniel Marion Mitchell (Michigan); Georgebushpimps aka Sean Merriman (Illinois); Paulie's Customs aka Paul Wayman (Illinois); MrAnonymousDick aka Philip Bierenga (Michigan); Xombiekiller aka Christopher Sebastian Bentley (California); Cap304 aka Russell Gray (Kansas); Adaisycutter aka Kenny Ward (Tennessee); DraginJim aka Jim Mitts (Missouri). There are so many, it is difficult to comprehend, compounding all of these users and their subscribers, plus others that are watching their videos and comments (the multiplier effect).

31. A lot of videos on the aforementioned channels were flagged on Youtube for malicious harassment or worse, some came down, but most did not. I was injured through this and I am still being injured by the likes of Defendants, who, continue to insist to the audience of hundreds of thousands, not only on his channel, but other channels throughout Youtube and other social media platforms, that I created a snuff film, even after I told him numerous times that the actress is alive and well and that she was 35 years of age during the filming of the first episode of "The Umbrella Man."
32. It should be remembered "The Umbrella Man" is a short film with actors. Nobody was actually kidnapped. Nobody was actually murdered. Nobody is actually lurking around, wearing a mask, like the character in the film. Further, nobody reported a crime, during filming, no police were called, and no hospital visits were necessary. This was an art project and an attempt to create a horror film.
33. Defendant Rekieta, I believe, thinks the female actor/victim, in "The Umbrella Man," was a child, hence, that's why he tells people I am a pedophile. I came to know Vickie Miller in the context of film production. She was always an adult and I never knew her as a child. When we first met, Ms. Miller, in her thirties, was living with her elderly mother and

working as a model in Denver. She accepted direction and I assume she had some training as an actress but I do not recall the details of her education. Vickie Miller is the only female who appeared in The Umbrella Man; indeed, I have never created a film or movie including a child. I have never professionally photographed a child.

34. To reiterate, Vickie Miller was the actress in all four episodes, where Nicholas Rekieta insists that there was a child (both girl and boy) involved in this production, which is categorically false. "The Umbrella Man" film was merely an artistic expression, akin to a "B-Movie" that was grossly taken out of context, maliciously misrepresented from fiction to fact by individuals of the online community, who are listed above, and many others. I admit the quality of the film is not comparable to modern standards. It must be remembered this was produced over 13 years ago and cameras and digital recording technology have advanced considerably. I admit I am not a Hollywood-grade producer, videographer, or movie producer but that does not make me a pedophile, murderer, or kidnapper. I did not murder Jon Benet Ramsey.
35. I wish Defendants would simply apologize and retract the defamation that continues to hurt me, that which they publish with actual malice. In addition to defaming me, Defendants have caused me to suffer emotional distress. I believe that, as time passes, Defendants did so intentionally however this may have started out as simple negligence. I am aware, to satisfy a requirement that I suffered actual harm, not just complain about it.
36. Discovery will show I am treating with therapist Karen Steinbeck and Dr. Andrew Zasada for issues arising from Defendants' harassment, threats, and the resulting stress and anxiety. I see Ms. Steinbeck every two weeks, and I began seeing her in December 2022. My care providers continue to provide care and have not determined my issues have resolved.

Further your affiant sayeth naught.

Steve Quest

Subscribed and sworn to before me this 20 **day of** Feb, 2023.

Notary Public

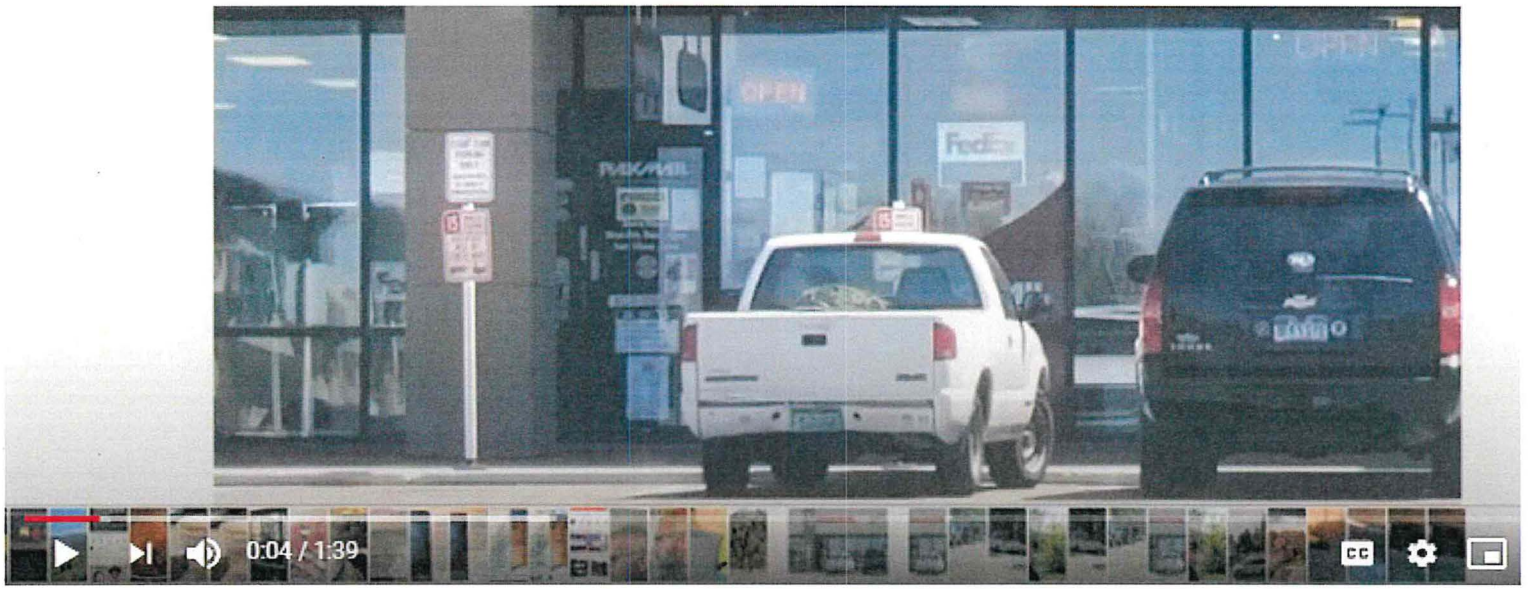
ALEXANDRA JADE JOHNSON
Official Seal
Notary Public - State of Illinois
My Commission Expires Jan 20, 2027

County/City of Champaign
Commonwealth/State of Illinois
The foregoing instrument was acknowledged before me this 20 day of Feb, 2023, by
(name of person seeking ackowledgement)

Notary Public
My Commission Expires: Jan. 20, 2027

youtube.com/watch?v=_M8IyaYL3-Y&t=2s

YouTube montagraph



#UNABOOMER #SafetyFirst #OctoberReinz

Montagraph Visits PAKMAIL 😷wearing mask 😈theSheriff of Youtube 🔑PreCrime division on Location

139 views • May 20, 2020 15 2 SHARE

Chinada3
628 subscribers

🔑What will YouTube's #UNABOOMER DO NEXT. Follow along as we tail our suspect. Also to note 📝 after much concerns of dear Steve being stalked. I have instructed my PrivateEye to PROTECT Steve should he get attacked in public while being tailed. #SafetyFirst

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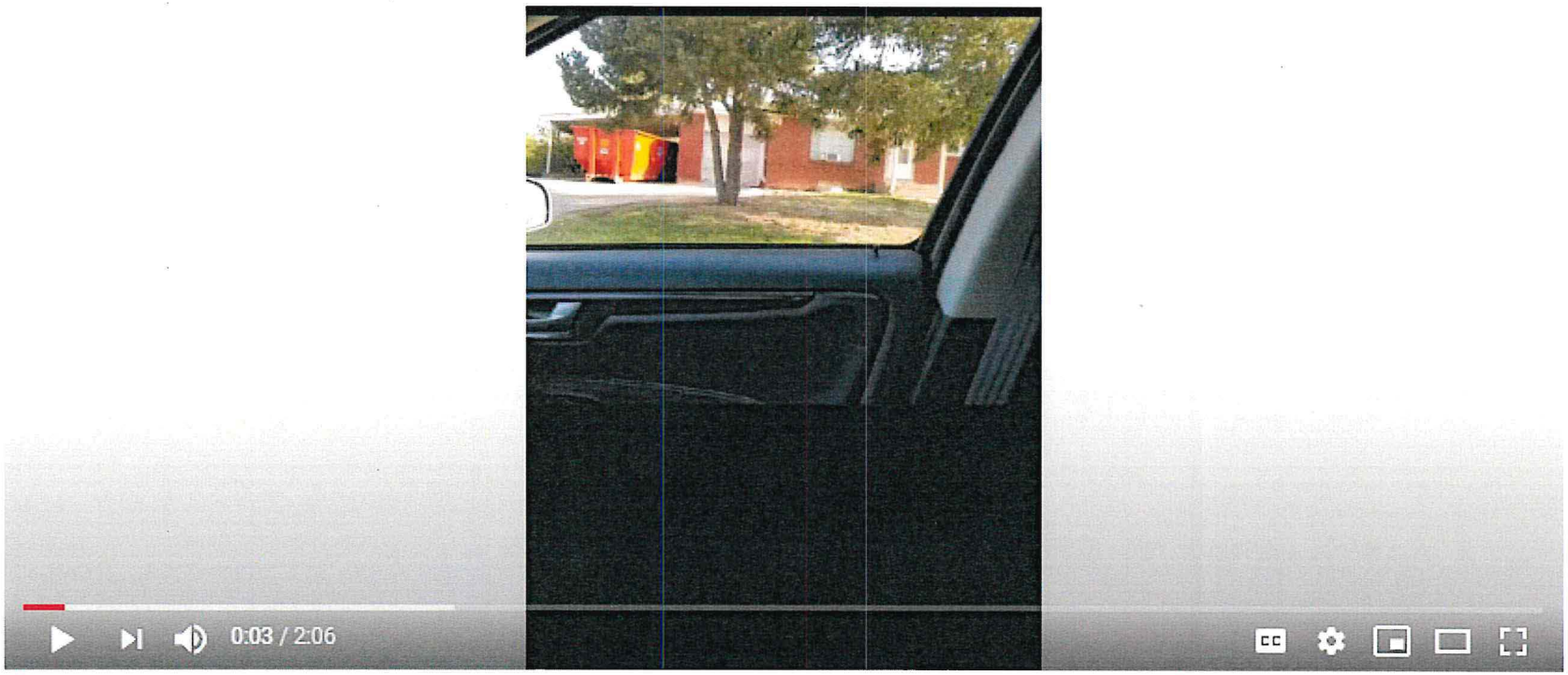
23



#Agent19FrankJardim #SteveWasRoy #NewLocationBeingVerified

APB🚨be on the Lookout4 YouTube's UNABOMBER🏴MONTAGRAPH ATTEMPTING 2BUGOUT🚫Pre-Crime Violator Alert

368 views • May 12, 2020

31 8 SHARE SAVE ...

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622 subscribers

SUBSCRIBE

🚨the Sheriff takes up the charge of YouTube's Pre- Crime Division with out first suspect⚠ @OctoberReinz is vacating Bayaud BatCave Dumpster has loaded all his belongings and is ready to go to new destination Hideout🚚🚚🚚@Agent19 drives the getaway car as moderator of his Live

SHOW MORE

youtube.com/watch?v=ZxAq_qamNBQ

YouTube

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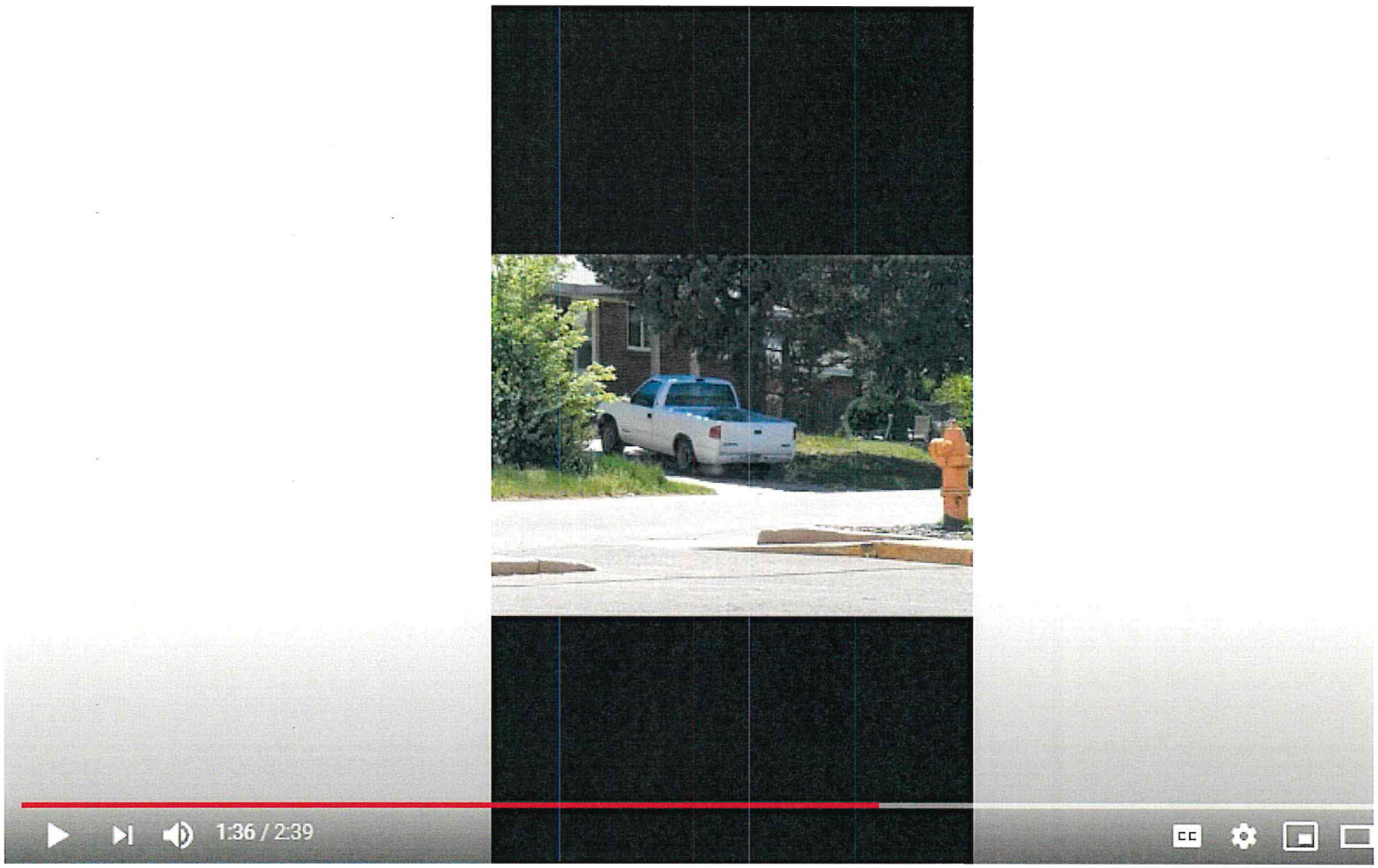

NOLONGER⃠OriginalAnon -Now Famous School Zone Drag Racer⊐ @MONTAGRAPH attempts to evade Skip⊺

171 views • May 24, 2020

30 14 SHARE SAVE

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STATE OF MINNESOTA IN DISTRICT COURT

COUNTY OF KANDIYOHI EIGHTH JUDICIAL DISTRICT

Case Type: Civil other/misc.
Court File No.: 34-CV-23-12

Steve Quest,

Plaintiff,

AFFIDAVIT OF DAVID W. SCHNEIDER

vs.

Nicholas Rekieta and Rekieta Law, LLC,

Defendants.

STATE OF MINNESOTA)
) ss.
COUNTY OF KANDIYOHI)

Your affiant, David W. Schneider, does hereby state, allege, and affirm:

David W. Schneider, your affiant herein, being first duly sworn upon oath, deposes and says:

1. Your affiant is an attorney licensed to practice law in Minnesota State and Federal Courts. I make this affidavit in good faith and in support of Plaintiff Steve Quest's opposition to Defendants' motion to dismiss, for summary judgement, and to apply Colorado law.

2. Attached hereto is a true and correct copy of a letter received by your affiant from Defendants dated December 15, 2017. This letter concerns matters of another case in which Defendants and your affiant represented clients. It is offered for the limited purpose to show Defendants ran an office practice in Willmar Minnesota, and the firm's letterhead includes a stylized logo, which, is substantially similar to that Defendants presently use as part of the

background and introductory scenes used by Defendants when Defendants defamed and harassed Plaintiff Steve Quest. It is marked as **Exhibit 24.**

3. Your affiant accesses the Minnesota Secretary of State's website to ascertain identification of businesses in the usual and regular part of the practice of law. In so doing, related to this case, your affiant recently visited the Minnesota Secretary of State's website and discovered Defendants engaged in an "administrative termination" of Rekieta Law, LLC, which was recorded on February 3, 2023.

4. Your affiant pays for a subscription to "Minnesota Lawyer," a printed and online magazine published for lawyers and legal professionals. From the electronic version, your affiant has printed and attached a true and correct article concerning Defendants. It is cited as Minnesota Lawyer article, by Kevin Featherly, entitled "Filings: Attorney helped build 'online hate factory'" and dated November 19, 2019. It is marked as **Exhibit 25.**

5. Since the inception of litigation Defendants have continued producing and publishing videos on the internet. For instance, on February 17, 2023 Rekieta created a video titled "I'm BEING SUED by a Moron. Let's Read It, let's Talk About It: Montagraph vs. Rekietalaw" and is over four hours in length.

6. Because so little evidence is properly before the Court, your affiant "cut" five paragraphs from the amended complaint, specific complaints of defamation and evidence of actual malice by Defendants against Plaintiff Steve Quest, and "pasted" them into the memorandum opposing Defendants motions to dismiss and for summary judgment. They are on pages 5 and 6 of Plaintiff Steve Quest's memorandum of law.

7. Your affiant has watched videos produced and published by Defendants. An individual with whom Defendant Nicholas Rekieta has appeared, a number of times, in which Plaintiff Steve Quest has either been defamed, or spoken about with malice, or both, occurs with a woman named Megan Fox. On a number of such videos Defendant Nicholas Rekieta stated that under the ADA (presumably the Americans with Disabilities Act) he is assigned and must accept a "retard" to watch over Rekieta to help him not offend, defame, or hurt others. He and Megan Fox, laugh and carry on about how funny this notion is, that a person who doesn't appreciate being defamed is thus a "retard" and worthy of additional hostility. Other versions of this story has been published by Defendants in other videos as well.

8. Your affiant, your affiant's legal assistant Sharon Wellander, paralegal Bernice Peltier, law partner Bill Madsen, associate Mark Thalberg, have watched Defendants' videos. Your affiant's wife, Trish Perry, has also watched them. With regard to the words uttered by Defendants against Plaintiff Steve Quest every viewer, including your affiant, have exclaimed Defendants' words and conduct as "outrageous!'

Further your affiant sayeth naught.

David W. Schneider

Subscribed and sworn to before
me this 21st day of February, 2023.

Sharon A. Wellander
Notary Public

SHARON ANN WELLANDER
Notary Public
State of Minnesota
My Commission Expires
January 31, 2025

1862

12/15/2017

RE: Ed's Service Center & Sales, Inc. v. Steven M. Halvorson

Dear Mr. Schneider

I will no longer be representing Mr. Halvorson as of 1:10 PM on 12/15/2017. I respectfully request a rescheduling of the deposition, and I apologize for any inconvenience, but Mr. Halvorson no longer desires my services and I no longer desire to represent him in any legal matters.

Please contact Mr. Halvorson directly for any further communication, I will be turning over all documentation from this case to Mr. Halvorson, but if he is unable to locate a document, I will maintain electronic copies of the documents I have.

Thank you.

Sincerely,

Nick

Dated: 12/15/2017

Signed: _____

Rekieta Law
Nicholas Rekieta #0397061
2015 First St S. Ste. #130
Willmar, MN 56201
320-441-2401
RekietaLaw@Rekieta.org

EXHIBIT
tabbies
24

SAINT PAUL LEGAL LEDGER
MINNESOTA LAWYER

Minnesota attorney Nick Rekieta, left; voice actor Vic Mignogna, center; and Texas attorney Ty Beard pause for a cigar break at Houston's Anime Matsuri convention in mid-July. (Submitted photo)

Filings: Attorney helped build 'online hate factory'

By: Kevin Featherly November 19, 2019

Nick Rekieta isn't actually a party in the Texas legal drama that has been called the anime movie industry's first #MeToo reckoning.

But the Minnesota attorney plays a starring role in several pleas for sanctions against the Texas voice actor who unsuccessfully sued his sexual-harassment accusers for defamation.

On Oct. 4, actor Vic Mignogna lost the five remaining claims of his 17-count suit in a Texas

county court. The rest were dismissed weeks earlier. An appeal is pending.

As the case played out, Rekieta — a popular YouTube channel host — served as Mignogna's "hate megaphone," defendants charge.

Their sanctions motions accuse Rekieta of coordinating an abusive PR campaign with Mignogna and his defense attorney, Ty Beard.

In it, they contend that Rekieta took to his YouTube site and his now-suspended Twitter account almost nightly. At times, he calmly discussed the case with guest hosts on camera. At others, he raged against the defendants and their supporters.

In the process, Rekieta unleashed "a torrent of disgusting and degrading insults" from his online followers. There were death threats and public confrontations, too. The defendants, their supporters and lawyers, even Tarrant County (Texas) District Court Judge John P. Chupp, were all targeted.

"By misleading viewers about the facts and the law," writes lawyer Sean Lemoine on behalf of clients Monica Rial and Ron Toye, "plaintiff generated an online hate factory designed to raise money and intimidate other victims."

Mignogna sued Rial, a voice actress; her fiancé, Toye; fellow voice actress Jamie Marchi; and Texas-based anime film distribution company Funimation in April. He claimed they falsely accused him to derail his career and sap his earnings.

In turn, the defendants sought dismissal, accusing Mignogna of violating the Texas Citizens Participation Act (TCPA), the state's anti-SLAPP (strategic lawsuits against public participation) law.

After several months of trial and failed mediation, Chupp on Oct. 4 sided with the respondents.

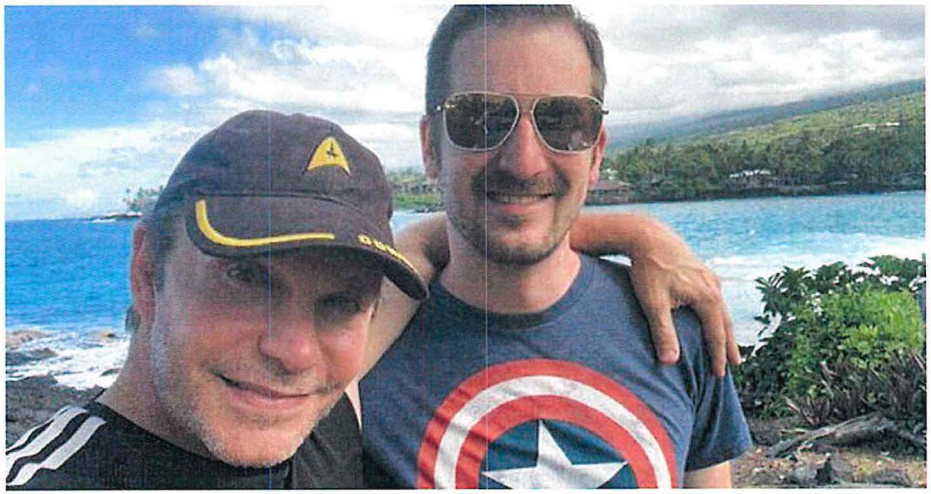
"All causes of action ... asserted by plaintiff Mignogna are based on, related to or are in response to the defendants' right to free speech, the right to petition or the right to association under the TCPA," Chupp wrote in his Oct. 4 opinion.

Afterward, the defendants petitioned to recover hundreds of thousands of dollars in attorney's fees and punitive sanctions. They ask the court to hit Mignogna hard financially to deter him from filing more suits to silence his accusers.

Rekieta's name looms as large in the case's finances as in its messaging. His GoFundMe page, created in February to pay Mignogna's legal fees, has raised $261,200 from 6,600 supporters as of Nov. 14.

Those contributions have spared the actor from spending any of his own money on the case, litigants charge. Without heavy sanctions, they contend, he can simply continue abusing the system.

"If he felt that pain because of a robust sanctions award entered against him by the court," Lemoine's brief says, "he might think twice before filing another frivolous lawsuit."



This photograph was distributed on Twitter on Sept. 26. It shows Vic Mignogna, left, the plaintiff in a defamation suit against three people and a company that he says conspired to end his career as an anime voice actor by accusing him of sexual harassment and assault, and Nick Rekieta, the

Minnesota attorney who raised more than $260,000 on GoFundMe to pay for the suit. (Submitted photo)

'Hyperbole is fun'

The war started after the actor's latest animated movie, "Dragon Ball Super: Broly" was released in January. Mignogna voiced the movie's lead character.

As the film began challenging domestic anime box-office records, Rial and Marchi took to social media. They repeated old but persistent rumors that Mignogna has habitually kissed, hugged and made unwanted sexual advances toward young women, sometimes on the job.

After initially apologizing, Mignogna sued for defamation in April, financed by Rekieta's GoFundMe drive. His lawyer, Beard, has connections to Rekieta's family estate and appears to have been recruited by the Minnesotan to represent the actor.

Reached Wednesday, Rekieta expressed discomfort at being characterized as an anti-#MeToo minion.

His interest, he said, has nothing to do with the sexual harassment allegations. It's about defending Mignogna's religious, political and artistic freedoms, he said.

Whatever the case, his rhetoric has at times been inflammatory. On his YouTube channel, he has branded Mignogna's accusers and their supporters as "liars," "terrible people" and "scum." At one point he declared his goal was to "grind them into dust."

"The language of hyperbole is fun," Rekieta said with a chuckle over the phone.

But why does the case generate so much personal animosity? Rekieta was asked.

"Because I hate this stuff," he said. "I hate that art is destroyed over people's political or even personal animus. I think it ruins the art that people are creating. It takes good artists and good creators out of the world of creation."

Rekieta said he hasn't seen credible evidence that the accusations against Mignogna are true. He even claims that sexual harassment isn't the real issue. Instead, he said, it's Mignogna's cultural and religious conservatism.

As an evangelical Christian, the actor sometimes uses convention appearances to stump for God and the Bible onstage, Rekieta said. Some people in the anime community don't like

that, he said. He dismisses their allegations as emblematic of the "cancel culture."

"For lack of a better word," Rekieta said, "it's a leftist or liberal push by fringe members of those communities to cancel someone — to censor their speech, to prevent them from getting work."

If his role is that of impassioned defender, Rekieta acknowledges that he also is an entrepreneur. And he doesn't deny that the Mignogna case has been good for business.

But he insists that he has not profited from the GoFundMe page and has never been paid by either Beard or Mignogna to serve as their tub-thumping spokesman.

His money, he said, comes from a YouTube application called "Super Chat," which allows viewers to pay to have their online commentary highlighted and read aloud during his show.

He turned that feature on in September 2018, he says, well before the Mignogna case exploded. "My channel is a business," he said. "It was a business back then."

Its model is "to build a network of lawyers and resources" for people in similar straits to Mignogna, he said. It's a "conduit for getting to people who can help them fight back."

Lemoine, who spoke by phone Tuesday, suggested that Rekieta's "conduit" more closely resembles a pipe bomb — and was designed as such. As evidence, he points to Rekieta's online comment from Feb. 15, 2019, just days before the GoFundMe site launched.

"Guys, I'm working on some stuff that I can't disclose," Rekieta wrote. "But if I am successful it will weaponize my channel in the culture war to a level far beyond right now, while providing massive amounts of content."

Rekieta waves that off, saying Lemoine misunderstands the post. It wasn't even about the Mignogna case, he said, but a related lawsuit that never saw the light of day.

"No one will believe this," he said, "but it's true."

End-zone dance

In their sanctions briefs, defendants also point to comments from attorney Beard, aired during Rekieta's Oct. 4 webcast, as evidence that Mignogna's crew didn't care whether he prevailed in the case.

"We've already won," Beard said on a web broadcast aired the night he lost the case. "Vic is out there and people are standing in line for hours to see that man. Doesn't sound to me like y'all accomplished anything. Just saying."

Over the phone, Lemoine compared Beard's braggadocio to a "safety dance." It shows that dragging the accusers to court to intimidate them into silence was the whole point, he said.

Therefore, Lemoine writes in his brief, "A sanction equal to the moving defendants' attorneys' fees is necessary and appropriate to deter future conduct."

Rekieta said that Lemoine has misread Beard's comments. He was just looking for a silver lining in a gray cloud after having a very bad day in court, Rekieta said.

"Anyone who can say that there was an end zone dance, after having all of your causes of action dismissed, is a little bit silly," Rekieta said.

Mignogna's lawyer attempted to file a notice of appeal on Oct. 24 — before fees were entered in the case. Lemoine then entered a motion to dismiss it as premature, because the court had yet to rule on fees and sanctions. That has yet to be acted on.

If the defendants collectively get everything they want, Mignogna could stand to pay out nearly $800,000 in lawyers' fees and punitive sanctions — three times more than what Rekieta raised for him online.

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