

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

KATHRINE MAE McKEE,

Plaintiff,

v.

WILLIAM H. COSBY, JR.,

Defendant.

Civil Action No. 3:15-cv-30221-MGM

AMENDED COMPLAINT

Plaintiff Kathrine Mae McKee, by and through her attorney F. William Salo, Esq., complaining of the Defendant, respectfully alleges for her Amended Complaint which is hereby served as a matter of course pursuant to Fed R. Civ. P. 15(a)(1)(B), as follows:

Parties

1. The Plaintiff Kathrine Mae McKee, who is also known as Kathy McKee (hereinafter “Ms. McKee” or “Plaintiff”), is domiciled in the City of Las Vegas, in the State of Nevada, and is a citizen of the United States.
2. Ms. McKee is an accomplished performer and actress, and has been working in the entertainment industry for over fifty (50) years.
3. Today, Ms. McKee is an independent casting director.
4. The Defendant William H. Cosby, Jr., who is also known as Bill Cosby (hereinafter “Cosby” or “Defendant”), is domiciled in the City of Shelburne Falls, in the County of Franklin, in the Commonwealth of Massachusetts, and is a citizen of the United States.
5. Defendant is an internationally well-known celebrity and entertainer.

Jurisdiction and Venue

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1), because this is a civil action where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

7. Venue is proper under 28 U.S.C. § 1391(b)(1), as it is based upon the residence of the Defendant.

8. Filing the Complaint in the Western Division is proper pursuant to Local Rule 40.1(D)(1)(c) of the Local Rules of the United States District Court for the District of Massachusetts, since the defendant resides in Franklin County, Massachusetts (*see* Local Rule 40.1(C)(3)).

FACTS OF THE CASE:

How Ms. McKee Met Cosby:

9. Ms. McKee first met Cosby in or about 1964, when Ms. McKee was working as an aspiring actress and as a showgirl in Las Vegas, Nevada.

10. In 1971, Ms. McKee appeared as an actress on “The Bill Cosby Show”, a popular American television program which aired from 1969 to 1971.

11. After appearing on “The Bill Cosby Show”, and during the period from 1971 through 1974, Cosby led Ms. McKee to believe that Cosby was her friend, so that Ms. McKee felt comfortable accepting social invitations from Cosby, and Ms. McKee did socialize with Cosby, including having dinner with Cosby and his wife Camille Cosby on several occasions during that time period.

The 1974 Rape in Detroit

12. On one day in 1974, when both Ms. McKee and Cosby happened to be in Detroit, Michigan coincidentally, Cosby asked Ms. McKee to meet him socially.

13. Cosby asked Ms. McKee to get some ribs from a local restaurant and then pick him up at his hotel, and he promised that he would then take Ms. McKee to a party on a friend's boat docked in the Detroit River.

14. When Ms. McKee arrived at the hotel room, Cosby invited Ms. McKee into the hotel room, and she observed that Cosby was wearing a bath robe and a knit wool cap.

15. Ms. McKee stepped a few steps into the hotel room when she was immediately set upon and physically attacked by Cosby.

16. Cosby snatched the ribs from her hands and tossed them aside.

17. Cosby was wild and aggressive, and was acting nothing like the man Ms. McKee had known professionally.

18. Cosby violently and forcefully grabbed Ms. McKee and then spun Ms. McKee around so that she was facing away from Cosby and toward the door.

19. Cosby violently lifted her dress and pulled down her panties.

20. Cosby intimidated, terrified, and terrorized Ms. McKee with pain and overwhelming physical force.

21. Cosby proceeded to forcibly rape Ms. McKee while both were still standing very near the door.

22. The rape was an unprovoked and violent attack. The rape was shocking, scary and horrible.

The New York Daily News Story dated December 22, 2014

23. In mid-December 2014, Ms. McKee was interviewed by reporter Nancy Dillon of the New York Daily News and upon being questioned, Ms. McKee told Nancy Dillon about the aforesaid rape perpetrated by Cosby in Detroit in 1974.

24. On Monday, December 22, 2014, the New York Daily News published a news article by Nancy Dillon which described the aforesaid 1974 rape of Ms. McKee perpetrated by Cosby in a hotel in Detroit.

CAUSE OF ACTION FOR DEFAMATION:

Cosby's Plan to Discredit Ms. McKee with Defamatory Statements:

25. Sometime in 2014, Cosby decided to employ a strategy of defaming his accusers in an attempt to discredit them, to intimidate them, and to intimidate any future would-be accusers.

26. In various published reports which appeared in December 2014, Cosby stated that he intended to discredit his accusers generally, and that he intended to discredit Ms. McKee specifically by name.

27. Also according to published reports, Cosby hired California attorney Martin Singer, who upon information and belief charges \$850 per hour, and who upon further information and belief revels in being described variously in the media as the "pit-bull of Beverly Hills" [New York Times, May 11, 2011], and the "attack dog of L.A. law" [Los Angeles Magazine, May, 2000], and the lawyer "whose job is to dive into the gutter of a litigious, capitalistic society and win at all costs" [Profile of Martin Singer found on his own website, at [www.LavelySinger.com/RagingBulls.html](http://www.LavelySinger.com/RagingBulls.html)].

28. At all times relevant hereto, Martin Singer was the attorney for Cosby, and was his agent, servant, and employee, and was authorized in law and fact to speak for Cosby.

29. According to a New York Post story published on December 29, 2014, Cosby hired attorney Martin Singer to run “a scorched-earth strategy in which anything negative in the accusers’ pasts is fair game”.

30. According to the same New York Post story, as part of Cosby’s coordinated plan to discredit his accusers with defamation, Cosby paid more than one hundred thousand dollars (\$100,000) to a firm of private investigators based in Glendale, California to dig up information that Cosby could use to discredit his victims and accusers generally, and Ms. McKee specifically.

31. According to the New York Post, the Glendale, California-based firm dedicated six (6) former LAPD detectives to Cosby’s self-described “scorched-earth strategy”.

32. As part of his plan to discredit Ms. McKee, Cosby intended to use any and all personal information the he could gather about Ms. McKee to intimidate, harass, embarrass and defame her by presenting said personal information in a distorted and untrue manner.

33. Cosby planned to use, and did use, the personal information that he uncovered about Ms. McKee in a misleading and defamatory way, by presenting false statements and distortions of events from Ms. McKee’s life, as described below.

34. In various media outlets, attorney Martin Singer has denounced Ms. McKee specifically, and has defamed her as being part of the group of women whose allegations of rape against Cosby are “fantastical”, “unsubstantiated”, and “uncorroborated”.

35. According to a published report which appeared in the global online news service of the Daily Mail Newspaper on December 28, 2014, Cosby was reported to have said that he believed that his defamatory plan to discredit Ms. McKee was working.

#### The Singer Letter

36. On December 22, 2014, as part of his defamatory plan to discredit Ms. McKee, and in response to the aforementioned New York Daily News article dated December 22, 2014 written by Nancy Dillon, Cosby, by and through his attorney Martin Singer, wrote a six-page letter to the New York Daily News wherein Cosby denied that he raped Ms. McKee, and wherein Cosby called Ms. McKee a liar (directly and indirectly), and wherein Cosby imputed unchastity to Ms. McKee, and wherein Cosby made other false and defamatory statements about Ms. McKee (hereinafter referred to as the “Singer Letter”). A copy of the Singer Letter is attached hereto as Exhibit A.

37. Cosby intended that the Singer Letter would defame and intimidate Ms. McKee, as part of his strategy to undermine her credibility and to damage her reputation for truthfulness among the people who make up the national readership of the New York Daily News, and to damage her reputation to all other people who would learn of the content of the Singer Letter through re-prints and re-reports in various other online reports.

38. On December 22, 2014, and continuing thereafter, Martin Singer published the Singer Letter to the New York Daily News via email to the newspaper’s head office in New York, New York, and upon information and belief, leaked a copy to the HollywoodReporter.com, and further upon information and belief, also leaked a copy of the letter to other media outlets as well.

39. Simply put, the Singer Letter claims that Ms. McKee lied about being raped by Cosby.

40. The Singer Letter further falsely states that Ms. McKee's allegation of rape is contradicted by Ms. McKee's own past conduct and by her own past statements.

41. The Singer Letter deliberately distorts Ms. McKee's past personal life and accomplishments, and misquotes her past statements which have appeared in prior news articles, all for the purpose of defaming Ms. McKee by portraying her in a false light.

42. The Singer Letter also imputes unchastity to Ms. McKee, an unmarried woman.

43. Finally, the Singer Letter directly and openly called Ms. McKee a liar, and indirectly uses false light, artifice, fallacy, innuendo and inference to cast further doubt on Ms. McKee's reputation for truthfulness, honesty, integrity, and good moral character.

44. Upon information and belief, on or about December 23, 2014, or soon thereafter, the New York Daily News published a news article about the Singer Letter wherein it reported that Cosby (through Martin Singer) denied the rape allegation of Ms. McKee, and further reported that Cosby asserted in the Singer Letter that Ms. McKee "had [done] a lot of lying", and that Ms. McKee "defied credibility", and that Ms. McKee is "used to lying".

45. On December 23, 2014, the HollywoodReporter.com published a news article which described in detail parts of the Singer Letter including that Singer stated that Ms. McKee's allegation of rape "defies credibility", and that Ms. McKee "did a lot of lying", and repeated Singer's misleading statement that Ms. McKee "liked" one of Cosby's YouTube videos, and also repeated Singer's false and misleading statement that Ms. McKee had said that Cosby "treated me wonderfully."

46. The HollywoodReporter.com also quoted the false accusation from the Singer Letter that Ms. McKee's "background and her previous conduct toward Cosby were enough to make her story unreliable".

47. On the same day Singer published the Singer Letter to the New York Daily News via email, *i.e.*, December 22, 2014, various defamatory statements contained within the Singer Letter appeared in other news outlets around the world, and were published in stories that appeared in the [Daily] MailOnline.com, and the Associated Press, and which were further reported and disseminated by various other international news organizations and websites, including but not limited to the Spanish language periodical "Reforma" which is published in Mexico, and a Dutch newspaper. The only explanation for the rapid dissemination of the Singer Letter on December 22, 2014, is that Singer himself intentionally leaked the Singer Letter to media outlets.

48. In late December 2014, Singer made additional defamatory statements when he stated that Ms. McKee had "praised Cosby's stand-up act and wrote favorably about him", and falsely claimed that there existed prior statements of Ms. McKee which were published in various newspapers and websites that contradicted McKee's rape allegation against Cosby.

49. It is currently unknown to Ms. McKee if the full text of the Singer Letter has ever been published in its entirety, but the defamatory statements contained within the Singer Letter mentioned above, have appeared globally.

50. Cosby's intention was not only to defame Ms. McKee to the New York Daily News and the Hollywood Reporter, but also to defame Ms. McKee to the world at large, by causing a news story to appear in the New York Daily News and other news outlets, wherein Cosby would call Ms. McKee a liar, all for the purpose of discrediting Ms. McKee and to



damage her reputation for truthfulness and honesty, and further to embarrass, harass, humiliate, intimidate, and shame Ms. McKee.

51. And in fact, Cosby's defamatory statements were effectively published and disseminated broadly to the world at large, through the internet, television, and through other newsprint organizations to a very broad community.

52. Cosby's statements in the Singer Letter are false, and Cosby knew them to be false when they were made.

53. Cosby made the statements in the Singer Letter with reckless disregard for the truth, and/or actual malice toward Ms. McKee.

54. At all times relevant hereto, Cosby knew that Ms. McKee was telling the truth, and Cosby knew that he did in fact rape Ms. McKee in a hotel room in Detroit in 1974.

55. Cosby's statements in the Singer Letter are not privileged.

56. Cosby's statements in the Singer Letter are not opinion.

57. Cosby damaged Ms. McKee's reputation by asserting openly and through insinuation that Ms. McKee was a liar, thus creating the impression that she is unethical or immoral to a considerable and respectable segment of the community.

58. Cosby knowingly made false statements contained in the Singer Letter with the intention of damaging Ms. McKee's reputation in the community generally, and in the entertainment industry specifically, and to harm her credibility.

Choice of Law Analysis:

59. Under the rule of Klaxon Co. v. Stentor Electric Mfg. Co., 313 U.S. 487, 61 S. Ct. 1020 (1941), the federal district court must apply the choice-of-law principles of its forum state in order to establish the substantive rule of decision for Ms. McKee's non-federal claims.

60. This Court must therefore apply Massachusetts choice-of-law rules to determine which substantive tort law should be applied to Ms. McKee's pendent defamation claim.

61. Massachusetts has abandoned the mechanical rule of *lex loci delicti* in favor of the more functionally-oriented "interest analysis" or "most significant relationship" approach of the Second Restatement. *See Bi-Rite Enterprises, Inc. v. Bruce Miner Co.*, 757 F.2d 440, 442 (1<sup>st</sup> Cir. 1985); *A. Johnson & Co. v. Aetna Cas. & Surety Co.*, 741 F. Supp. 298, 299 (D. Mass. 1990), *aff'd*, 933 F.2d 66 (1<sup>st</sup> Cir. 1991).

62. The Second Restatement states "[w]hen a natural person claims that [s]he has been defamed by an aggregate [i.e., multistate] communication, the state of most significant relationship will usually be the state where the person was domiciled at the time, if the matter complained of was published in that state." [emphasis added] Restatement (Second) of Conflict of Laws § 150; *see also Continental Cablevision v. Storer Broadcasting Co.*, 653 F. Supp. 451, 455 (D. Mass. 1986).

63. Applying the functional approach of the Restatement Second, Massachusetts' substantive tort law should be applied to the defamation claim asserted by the Ms. McKee, for the reasons stated below.

64. First, Cosby originally published the Singer Letter in the State of New York via an email, but the sum and substance of the defamatory statements contained within the Singer Letter were subsequently re-published in news articles which appeared around the world via the internet.

65. Cosby intended to damage Ms. McKee's reputation in the aggregate in all fifty (50) states.

66. Ms. McKee's reputation was therefore damaged first in the State of New York, and then later across the entire country.

67. However, the damage to Ms. McKee's reputation did not occur instantly when Martin Singer pressed the send button which transmitted his email of the defamatory Singer Letter to the New York Daily News, but rather it took days, weeks or even months to harm Ms. McKee. Over time, Ms. McKee's reputation was damaged equally in all fifty (50) states.

68. Although Ms. McKee was a resident of the State of Michigan on the day the Singer Letter was published via email to the New York Daily News, she was in the process of changing her residence to the State of Nevada, and officially changed her domicile to the State of Nevada approximately six (6) months after the Singer Letter was published to the New York Daily News when she moved her residence to Nevada with intent to remain in Nevada in June 2015.<sup>1</sup>

69. On December 22, 2014, Ms. McKee had already formed the intent to move to Nevada, and as such Michigan was no longer her domiciliary state, since domicile requires residence plus the intent to remain.<sup>2</sup>

70. As such, Michigan was merely the residence and not the domicile state of Ms. McKee on the day the Singer Letter was published to the New York Daily News, and thus Michigan has little interest in this case under the functional analysis of the Second Restatement.

71. The Commonwealth of Massachusetts, however, has a more compelling interest in this case than any other state.

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<sup>1</sup> [T]he elements of domicile are "residence in fact, coupled with the intent to make the place of residence one's home." Texas v. Florida, 306 U.S. 398, 424, 59 S. Ct. 563 (1939).

<sup>2</sup> *See id.*

72. The other candidates include, in the order of interest: New York, California, Michigan and Nevada. However, on balance, after considering the totality of the circumstances, Massachusetts wins out by reason of the following relationships: Cosby is domiciled in Massachusetts, Massachusetts has a compelling local interest in the tortious conduct of its citizens, Cosby caused the Singer Letter to be written while Cosby was domiciled in Massachusetts, and finally under the current long-arm jurisdiction analysis of the United States Supreme Court, which discourages forum shopping, the only clearly appropriate forum for Ms. McKee to sue Cosby was his home state of Massachusetts.

73. Therefore, under the “interest analysis” or “most significant relationship” tests preferred by the Second Restatement, the state with the most compelling interest or relationship to this case is Massachusetts.

74. Furthermore, under the “fair play and substantial justice test”<sup>3</sup> borrowed from long-arm jurisdictional analysis, Cosby cannot claim prejudice or surprise at having his defamation case adjudicated under the substantive law of Massachusetts, since it was Cosby who chose Massachusetts as his domicile state after residing *inter alia* in the states of Pennsylvania, New York and California.

75. And finally, since Cosby intended to defame Ms. McKee in every state in the country as stated above, Cosby cannot object to the application of the law of his home state, since he damaged Ms. McKee’s reputation in the Commonwealth of Massachusetts as well.

76. Michigan’s interest in this case is limited solely to being the residence of Ms. McKee on the date the Singer Letter was published via email to the New York Daily News, and for six (6) months thereafter.

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<sup>3</sup> See, International Shoe Co. v. Washington, 326 U.S. 310, 66 S. Ct 154 (1945).

77. Similarly, Nevada has a limited interest in this case since it is Ms. McKee's current domiciliary state.

78. California has some interest in this case, since it is the domiciliary state of Martin Singer, and it is home to the motion picture industry.

79. New York has an even stronger interest in this case than either Michigan, Nevada or California, since it is the state where Martin Singer published his defamatory letter, and it is the ancestral home of the entertainment and media industries.

80. However, on balance, for the reasons stated above, Massachusetts has the most compelling interests in this case for choice of law purposes.

Defamation Count No.1:

81. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 81, as if fully set forth herein.

82. In the Singer Letter at p. 1, first full paragraph, first sentence: Singer states that "*The New York Daily News* engaged in reckless conduct by publishing a malicious defamatory article with Kathrine McKee's wild allegations about [Cosby] accusing him of rape." [emphasis in original.]

83. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

Defamation Count No. 2:

84. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 84, as if fully set forth herein.

85. In the Singer Letter at p. 1, first full paragraph, second sentence: Singer states that Ms. McKee has in the past spoken or written “laudatory words about Mr. Cosby”.

86. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

87. Ms. McKee has not spoken or written any laudatory words about Cosby. Furthermore, it implies that Ms. McKee is duplicitous, which is false.

Defamation Count No. 3:

88. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 88, as if fully set forth herein.

89. In the Singer Letter at p. 1, first full paragraph, fourth sentence, Singer describes Ms. McKee’s rape accusation against Cosby as a “story” which “lacks credibility.”

90. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

91. This statement was made with actual malice, and is defamatory *per se* in all states which recognize such a claim, and is defamatory without need to prove damages or economic losses in the Commonwealth of Massachusetts.

Defamation Count No. 4:

92. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 92, as if fully set forth herein.

93. In the Singer Letter at p. 1, first bullet point: Singer asserts that Ms. McKee said that Cosby “is among a group of ‘very wonderful, lovely men’ whom she says ‘treated [her] wonderfully’.” [emphasis removed.]

94. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

95. Ms. McKee never said Cosby is “wonderful” or a “lovely man”.

96. Singer has falsely and with actual malice misquoted the article he cites, for a defamatory purpose.

Defamation Count No. 5:

97. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 97, as if fully set forth herein.

98. In the Singer Letter at p.1, second bullet point: Singer asserts that Ms. McKee “liked” one of Cosby’s YouTube Comedy videos and posted a fond message about Cosby.

99. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

100. Ms. McKee did not post a fond message about Cosby. Instead, Ms. McKee posted a comment on Cosby’s YouTube video page which Cosby entitled “Cosby Secret Sharing Club”. Ms. McKee posted a comment that she wanted to contact Cosby in order to confront Cosby about the rape that he committed in 1974. Singer knew, or should have known, that her post on YouTube was Ms. McKee’s means of posting a comment that Cosby would read, and does not mean that Ms. McKee actually likes or feels positively about Cosby.

101. Furthermore, Singer knew or should have known that Cosby responded to Ms. McKee's comment on his YouTube page with the following comment: "I bet you are." Cosby subsequently disabled the ability for the people to leave comments on his "Cosby Secret Sharing Club" YouTube video. *See* <https://www.youtube.com/watch?v=cUZgOlcVrnc>.

Defamation Count No. 6:

102. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 102, as if fully set forth herein.

103. In the Singer Letter at p. 1, third bullet point: Singer asserts that Ms. McKee said she "worked with such legends as ... Bill Cosby".

104. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

105. Ms. McKee obtained her screen actor's guild card as a result of appearing on "The Bill Cosby Show" in 1971.

106. This acting credit appears along with other acting credits on her filmography found on the internet. Singer has distorted this historical fact into a defamatory statement by implying some kind of duplicity on the part of Ms. McKee which does not exist.

107. After Cosby raped Ms. McKee in 1974, Ms. McKee avoided contact with Cosby.

Defamation Count No. 7:

108. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 108, as if fully set forth herein.

109. In the Singer Letter at p. 1, fourth bullet point: Singer asserts that "Ms. McKee has admitted 'I had to do a lot of lying' and that 'lies landed her a job' as a Vegas showgirl."



110. Singer has deliberately and with actual malice misconstrued and misquoted the C&G Newspapers story dated July 7, 2010, in an attempt to allege that Ms. McKee has lied for pecuniary gain in the past.

111. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

112. In reality, in the interview Ms. McKee told a reporter from C&G Newspapers that in the years 1966 and 1967, the hotels in Las Vegas, Nevada had a well-known segregationist policy that they would never hire a black showgirl. Therefore, in order to get a job as a Las Vegas Showgirl in the 1960's, hotel management personnel made it clear to Ms. McKee that she had to downplay the fact that her mother was white and her father was black, and that she was only 16 years old at the time.

113. In the 2010 article from C&G Newspapers, Ms. McKee was mis-quoted to have said that in the 1960's, "[i]t wasn't accepted to be mixed [race] and to have black blood in you. I had to do a lot of lying. I said I was white. And I said I was 23 years old, but I was 16."

114. Furthermore, Ms. McKee was never quoted to have said that "lies landed her a job". The statement "lies landed her a job", is not a quote of Ms. McKee, but rather is a statement made by the reporter.

115. Furthermore, the C&G Newspapers reporter misidentified the hotels where Ms. McKee worked in 1966-67, which were the Mint Hotel and the Silver Slipper, and not the Stardust Hotel as appears in the article.

116. In his letter, Singer twisted the quotation attributed to Ms. McKee in a defamatory manner to imply that Ms. McKee had lied for pecuniary gain, which is defamation *per se*.

117. In reality, the obvious meaning of the article is that Ms. McKee stated that due to the racially discriminatory hiring practices of the hotels in Las Vegas, Nevada in 1966-67, she felt compelled to downplay the fact that she was mixed-race, and that she was only sixteen (16) years old at the time.

118. Martin Singer defamed Ms. McKee by deliberately misquoting the C&G Newspaper article in such a way as to imply that Ms. McKee was a liar, in order to try to discredit her allegation that Cosby raped her.

Defamation Count No. 8:

119. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 119, as if fully set forth herein.

120. In the Singer Letter at p. 2, first bullet point on that page, Singer states that “Ms. McKee posted on her own Google+ page a 1970 video clip of herself acting with [Cosby] on the *The Bill Cosby Show*, with her gloating caption ‘That’s me with Bill Cosby 1970’.”

121. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

122. Ms. McKee has never “gloated” on any negative story about Cosby. Instead, Ms. McKee has merely come forward with her own true story that Ms. McKee met Cosby in the late 1960’s, and that Ms. McKee had appeared on “The Bill Cosby Show” in 1971, and that Cosby later preyed upon her trust and raped her in a hotel in Detroit in 1974.

Defamation Count No. 9:

123. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 123, as if fully set forth herein

124. In the Singer Letter at p. 2, second bullet point, Singer states “Ms. McKee has said about the time while she was Sammy Davis, Jr.’s ‘road wife,’ ‘it was very common to be in and out of affairs’ and ‘As far as I’m concerned, my life has been wonderful. It’s been blessed with lovely, wonderful men. I was free, and single and I had fun and I had a wonderful life.” [emphasis removed.]

125. First, this statement is false and misleading: in the article cited by Singer, Ms. McKee did not include Cosby among the men that she said treated her wonderfully. Singer has deliberately and with actual malice misquoted the 2010 C&G Newspaper article for a defamatory purpose.

126. Second, this statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

127. Finally, this statement is defamatory *per se* because it imputes unchastity to Ms. McKee, an unmarried woman<sup>4</sup>, in all states which recognize such a claim.

128. In Massachusetts, such a statement would also be “defamatory *per se*”, but Massachusetts has abolished the distinction, since there is no requirement in Massachusetts to prove actual damages or economic losses for any kind of defamation, and as such all defamation in Massachusetts is defamation *per se*. See Sharratt v. Housing Innovations, Inc., 365 Mass. 141 (Mass. 1974).

Defamation Count No. 10:

129. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 129, as if fully set forth herein.

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<sup>4</sup> See, New York Civil Rights Law § 77; see also Michigan Revised Judicature Act of 1961, § 600.2911.

130. In the Singer Letter at p. 2, third bullet point, Singer asserts that Ms. McKee's younger sister "Lonette, who worked as Mr. Cosby's secretary, has said about Kathrine McKee during the relevant era that her 'older sister, was always walking on the wild side, was always wild, was always a rebel, always doing inappropriate things, never conformed, thought she could break all the rules and did'."

131. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

132. Singer used personal information that he gathered about Ms. McKee and about Ms. McKee's younger sister, Lonette McKee, in a defamatory manner.

133. Singer deliberately and with actual malice misquoted Lonette McKee's statements which appeared in an August 11, 2010 interview with PopMatters.com<sup>5</sup>, in an attempt to defame and discredit plaintiff Kathrine McKee.

134. Singer's statements are false, misleading, and defamatory as follows: (1) Ms. McKee's younger sister Lonette McKee was only 17 years old when she allegedly worked as Cosby's "secretary"; (2) Lonette McKee was never the secretary of Cosby, but instead worked as a "go-fer", or what would be called an "intern" today, on the set of "The Bill Cosby Show" in 1970 or 1971; (3) the substance of what Lonette McKee said must be understood in the context of the full quote of what Lonette McKee actually said, which is that Lonette McKee was preparing to play a dramatic role of a character called "Sister" in the motion picture "Sparkle" released in 1976. Lonette McKee said in that interview that she modeled her dramatic portrayal

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<sup>5</sup> See, [https://en.wikipedia.org/wiki/Sparkle\\_\(1976\\_film\)](https://en.wikipedia.org/wiki/Sparkle_(1976_film)); and see Aug. 11, 2010 Interview with Lonette McKee, at <http://www.popmatters.com/feature/129327-giving-us-something-we-can-feel-an-interview-with-lonette-mckee/P0/>

on several people including her older sister Kathrine McKee and some of Kathrine McKee's friends. Lonette McKee's comments had nothing to do with Cosby, nor with Kathrine McKee's allegation that Cosby raped her. Singer deliberately and with actual malice, defamed Ms. McKee by misconstruing the four-year old interview given by Ms. McKee's younger sister in an attempt to discredit Ms. McKee.

135. Finally, to the extent that Singer's statement imputes a lack of chastity on the part of Ms. McKee, this statement is defamatory *per se*, in all states which recognize such a claim, and is defamatory without need to prove damages in Massachusetts.

Defamation Count No. 11:

136. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 136, as if fully set forth herein.

137. In the Singer Letter at p. 2, ¶1, Singer asserts "Ms. McKee's never-before-heard tale about something [*i.e.*, the rape] she claims happened back in the 1970's is completely contradicted by her own prior published statements. Ms. McKee's own statements and conduct confirming that she considers [Cosby] a wonderful, lovely person who treated her well, and lauding [*sic*] about her association with [Cosby], can easily be found with just a few clicks on Google."

138. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

139. Singer deliberately and with actual malice distorts the plain meaning of the actual quotes from Ms. McKee which can be found on the internet, all for the defamatory purpose of undermining the credibility of Ms. McKee.

Defamation Count No. 12:

140. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 140, as if fully set forth herein.

141. In the Singer Letter at p. 2, ¶1, Singer asserts that there exists “a mountain of evidence undermining [Ms. McKee’s] reliability [which was] ignored by the [New York] *Daily News*”. [emphasis in original.]

142. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

143. Singer deliberately and with actual malice, falsely alleged the existence of evidence which undermines Ms. McKee’s credibility, although none exists.

Defamation Count No. 13:

144. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 144, as if fully set forth herein.

145. In the Singer Letter at p. 2, ¶ 2, Singer defamed Ms. McKee *per se*, as he imputes a lack of chastity on the part of Ms. McKee, when he blames her for the rape, by arguing that Ms. McKee “never objected, never said no, did not attempt to end the encounter, went to a party that night with her alleged attacker (and drove him to the party in her own car)”.

146. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

147. Singer here has shamelessly resurrected the time-worn dodge of the rapist wherein the rapist (and/or his apologist) blames the victim for not resisting enough, or for not

fighting back to the point of death or serious bodily injury. This vicious canard has been soundly rejected by Courts in the past, and should not be countenanced now.

148. Singer's victim-blaming statement is morally abhorrent, outrageous, and is defamatory *per se*, in all states that recognize such a claim, and is defamatory without need to prove actual damages in the Commonwealth of Massachusetts.

Defamation Count No. 14:

149. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 149, as if fully set forth herein.

150. In the Singer Letter at p. 2, ¶ 2, Singer alleges that Ms. McKee "remained [Cosby's] friend and traded on his name for 40 years."

151. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

152. Ms. McKee does not consider Cosby a friend, and has never "traded on his name".

153. Ms. McKee at one time believed Cosby was her friend in the late 1960's and early 1970's, but when Cosby raped Ms. McKee in a hotel room in Detroit in 1974, Ms. McKee realized that Cosby was not her friend. Ms. McKee has never attributed any success in her career in the entertainment industry to Cosby.

154. All of Singer's allegations to the contrary are false and defamatory since they imply some kind of duplicitousness on the part of Ms. McKee which does not exist.

Defamation Count No. 15:

155. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 155, as if fully set forth herein.

156. In the Singer Letter at p. 3, at three bullet points at the top of the page, Singer states that Ms. McKee is among the “various women” who should not be believed for the following reasons: (1) “Criminal backgrounds of various accusers, such as arrests for lying to police and other crimes involving dishonesty”; (2) “Information from third party sources disputing the credibility of sources and their accusations”; and (3) “Independent evidence proving accusations impossible”.

157. These statements are false and defamatory communication of and concerning Ms. McKee, which were not privileged or opinion, and which were published to the New York Daily News.

158. Furthermore, all of these statements are defamatory *per se* in all states that recognize such a claim, and are defamatory without need to prove actual damages in the Commonwealth of Massachusetts.

Defamation Count No. 16:

159. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 159, as if fully set forth herein.

160. In the Singer Letter at p. 3, second full paragraph, Singer states that Ms. McKee’s rape allegation against Mr. Cosby is a “four-decade-old but never-before-heard tale”.

161. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.



Defamation Count No. 17:

162. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 162, as if fully set forth herein.

163. In the Singer Letter at p. 3, second full paragraph, Singer states “[t]o say that Ms. McKee is not a reliable source is a gross understatement.”

164. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

Defamation Count No. 18:

165. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 165, as if fully set forth herein.

166. In the Singer Letter at p. 3, second full paragraph, Singer asserts that “[a]mple published information readily available to the *Daily News* completely undermines [Ms. McKee’s] story.” [emphasis in original.]

167. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

168. There is no evidence which undermines Ms. McKee.

Defamation Count No. 19:

169. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 169, as if fully set forth herein.

170. In the Singer Letter at p. 3, second full paragraph, Singer asserts that the reader should question Ms. McKee’s “motivation[], [her past], or even [her] criminal record[].”

171. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

172. Singer has defamed Ms. McKee with false allegations of improper “motivation”, and he references in a defamatory manner a phantom “past” which does not exist, and he falsely cites a “criminal record” that does not exist.

173. All of these statements are defamatory *per se* in all states that recognize such a claim, and is defamatory without need to prove actual damages in the Commonwealth of Massachusetts.

Defamation Count No. 20:

174. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 174, as if fully set forth herein.

175. In the Singer Letter, at p. 3, third paragraph, Singer states: “ If someone was treated improperly, was assaulted, or was even raped, it is inconceivable that they would make these laudatory, positive statements about the alleged perpetrator. Why would someone who was allegedly raped ‘like’ a comedy video by their alleged attacker? Why would someone who claims to have been assaulted have as their Google+ post an episode of a television series acting along side their purported attacker? Why would she list her appearance on his show at the top of her list of professional accomplishments? It defies credulity [sic].”

176. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

177. Singer here is deliberately and with actual malice distorting things that Ms. McKee has done and said in a defamatory manner, in an attempt to undermine her credibility.

178. Ms. McKee appeared on “The Bill Cosby Show” in 1971. Ms. McKee obtained her screen actor’s guild card as a result of appearing on that show, which was a milestone achievement in her professional career.

179. In 1971, Ms. McKee considered Cosby a friend, but that changed after Cosby raped her in Detroit in 1974.

180. Ms. McKee has never denied appearing on “The Bill Cosby Show”.

181. Ms. McKee has not made “laudatory, positive comments about [Cosby]”.

182. Ms. McKee posted a comment on Cosby’s YouTube video page in order to confront him about the rape, as described above and below.

Defamation Count No. 21:

183. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 183, as if fully set forth herein.

184. In the Singer Letter, at p. 3, last paragraph, Singer states: “The glaring inconsistency between Ms. McKee’s past affectionate public sentiments about [Cosby] and what she is now claiming was alone a basis to question her veracity and render her an unreliable source.”

185. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

186. There is no basis for anyone to question the veracity of Ms. McKee.

187. There is nothing which renders Ms. McKee an unreliable source.

Defamation Count No. 22:

188. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 188, as if fully set forth herein.

189. In the Singer Letter, at pp. 3-4, last paragraph on p. 3, Singer states: “Ms. McKee’s own description of her *private* words and conduct at the time of the alleged incident also contradicts the *Daily News* Story.” [emphasis in original.]

190. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

191. Singer falsely states that he has gathered or obtained evidence of Ms. McKee’s “private words and conduct at the time of the alleged [rape]”. [emphasis added].

192. Singer has no such evidence of Ms. McKee’s “private words and conduct” at the time of the rape.

193. Singer is simply making it up in an attempt to discredit Ms. McKee. Here, Singer deliberately used the word “private” to imply that he is holding secret evidence, or some other kind of non-public evidence, in an attempt to cast doubt on Ms. McKee’s credibility.

194. However, such allegation is false and defamatory.

Defamation Count No. 23:

195. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 195, as if fully set forth herein.

196. In the Singer Letter at p. 4, first paragraph, Singer asserts: “When you add to the mix Ms. McKee’s constant name-dropping of her association with [Cosby], and her ‘liking’ of a comedy Cosby video a year ago and reaching out to get in touch with an old friend, and her

recent proud post of a video clip showing her acting alongside [Cosby] in the 1970's, the enormous disparity between the *Daily News* Story and her public words and conduct establish that the Story was published recklessly and with Constitutional malice.”

197. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

198. This statement is false in that Ms. McKee has never engaged in “name-dropping of her association with [Cosby]”, and she did not “like” a Cosby comedy video in order to get in touch with an old friend, but rather to confront her rapist, and there is no disparity between the New York Daily News story and her public words and conduct.

199. Singer is trying to undermine the credibility of Ms. McKee in order to discredit the story with appeared in the New York Daily News on December 22, 2014.

200. As such, the Singer Letter was not written in anticipation of litigation. It was written to impugn the reputation of Ms. McKee, and to impugn the reputation of the New York Daily News, and was part of Cosby's misguided strategy to exonerate or exculpate himself in the media through a consistent and defamatory message about his accusers.

Defamation Count No. 24:

201. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 201, as if fully set forth herein.

202. In the Singer Letter, at p. 4, second paragraph, Singer states: “The media blindly ignores the dubious background of sources, ignores the absence of evidence to corroborate decades-old accusations, and ignores the existence of contradictory evidence undermining its sources' claims or reliability. Meanwhile, as has been amply publicized and commented upon by

legal scholars, [Cosby] risks being sued for defamation (as has already occurred) if he so much as denies any scurrilous accusations made against him.”

203. This statement is a false and defamatory communication of and concerning Ms. McKee, which was not privileged or opinion, and which was published to the New York Daily News.

204. This statement falsely implies the following: Ms. McKee has a “dubious background” (she does not); Ms. McKee needs evidence to corroborate her allegation that Cosby raped her in 1974 (she does not); and there exists contradictory evidence which undermines the credibility of Ms. McKee (there is none).

Fault for Defamation and Damages:

205. Ms. McKee repeats and restates all of the foregoing allegations contained in Paragraphs 1 through 205, as if fully set forth herein.

206. Cosby is at fault in making the defamatory statements contained in the Singer Letter, since he knew them to be false, and further since his purpose was to discredit Ms. McKee’s rape allegation by damaging Ms. McKee’s reputation for truthfulness and honesty, and by having the defamatory statements published to the community generally, and to the entertainment industry specifically.

207. Cosby’s false statements have unfairly tainted and permanently damaged the reputation of Ms. McKee in the eyes of the general public, and in the eyes of people in the entertainment industry who are now unwilling to hire Ms. McKee as a casting director for their upcoming entertainment projects.

208. Cosby’s statements have caused Ms. McKee economic loss in loss of her reputation.

209. Cosby's statements are actionable as defamation without proof of economic loss under the common law of the State of Massachusetts, and elsewhere as defamation *per se*.

210. The aforesaid loss of reputation was caused solely by the actions of Cosby, his agent(s), servant(s), and/ or employee(s), and without any negligence of Ms. McKee contributing thereto.

211. Cosby is liable for the negligent actions and/or defamatory statements published by his agent(s), servant(s), and/ or employee(s) under the principle of *respondeat superior*.

**WHEREFORE**, Plaintiff demands judgment against the Defendant in a sum in excess of the minimum jurisdictional threshold of this Court, in both compensatory and punitive damages, plus pre- and post-judgment interest, together with attorney's fees, and the costs and disbursements of this action.

Demand for Jury Trial

Plaintiff hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38(b)(1), on all issues, claims, and causes of action against Defendant.

Dated: New York, New York  
July 1, 2016

*/s/ F. William Salo*

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CERTIFICATE OF SERVICE

I hereby certify under the penalty of perjury, that on June 21, 2016, this document and its supporting documents (if any) were filed through the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants:

*/s/ F. William Salo*

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F. William Salo, Esq.