

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPT.
CIVIL ACTION NO.:

19-1717

JOSEPH A. CURTATONE,

Plaintiff,

v.

KIRK MINIHAINE, individually, &
BARSTOOL SPORTS,

Defendants.

FILED
IN THE OFFICE OF THE
CLERK OF COURTS
FOR THE COUNTY OF MIDDLESEX

JUN 17 2019

Joseph A. Curtatone
CLERK

PLAINTIFF'S COMPLAINT AND JURY DEMAND

PARTIES

1. The plaintiff, Joseph A. Curtatone ("Curtatone"), is an individual who resides in the City of Somerville ("City"), Massachusetts and at all times relative to the allegations contained in this Complaint was the Mayor of the City of Somerville.
2. The defendant, Barstool Sports, Inc. ("Barstool") is a domestic corporation doing business in the Commonwealth with a principal place of business located at 333 7th Avenue, New York City, New York.
3. The defendant, Kirk Minihane ("Minihane"), is an individual who resides in Lexington, Massachusetts. At all times relative to the allegations contained in this Complaint, Minihane was employed by Barstool Sports.

FACTS

4. Barstool is a blog whose President is David Portnoy (Portnoy) who is known as "El Pres" .
5. Portnoy enjoys a reputation for publishing crass content on Barstool.
6. Portnoy has a well-documented affinity for using demeaning and derogatory language when referring to women.
7. For example, Portnoy once posted an online poll asking men which high-profile Boston female TV news anchor they would prefer to wed, bed or kill (a game

better known as “murder, marry, f***”). Portnoy has also referred to a female ESPN reporter a “slut” while stating that her “#1 requirement is [to] make the men hard”, and has stated openly that a female Barstool employee should not go on camera, implying that she was unattractive.

8. Portnoy has also previously laid claim to his efforts to purportedly revitalize the use of the term “c***” when referring to women.¹
9. Barstool’s notoriety is attached to recurring features such as “Guess that Ass,” Guess that Rack,” and “Grading the Newest Sex Scandal Teacher”.
10. On May 29, 2019, Boston Herald reporter Jessica Heslam (“Heslam”) authored an article and published a tweet criticizing the Boston Bruins and National Hockey League for their association with Barstool.² Specifically, Barstool was promoted on the “fan towels” distributed at TD Garden ahead of Game 2 of the Stanley Cup Finals. Heslam, and her sources, criticized this “partnership”.
11. In her article, Heslam reported that she had spoken with a female college student who spent time protesting Barstool while a student at Boston University. Specifically, the identified source claimed she and others spent time “trying to stop men from carrying unconscious young women out of Barstool Sports Blackout parties in Boston.”
12. Herald Bruins beat reporter Marisa Ingemi initially questioned the partnership to the Bruins’ PR staff, requesting comment on the team’s decision to partner with Barstool Sports on the promotional towels.
13. Other media outlets have called out Barstool for its “well-documented history of misogyny, racism, and harassment.”³ It also is well known that the National Football League has banned Portnoy from attending certain league-affiliated affairs.
14. On May 31, 2019, Mayor Curtatone issued a statement condemning Barstool for its treatment of women and minorities. Curtatone wrote, “As a fairly rabid sports fan one of the more regrettable things I’ve seen is the attempt to disguise misogyny, racism & general right-wing lunacy under a “sports” heading. Our sports teams & local sports fans need to push back to stress that’s not us. @NHLBruins #mapoli”.
15. In response to Mayor Curtatone’s expressing his opinion, Portnoy launched a vitriolic personal attack on Curtatone and his family.

¹ See <https://www.barstoolsports.com/boston/guess-what-im-bringing-back-the-word-cunt/>.

² See <https://www.bostonherald.com/2019/05/29/the-nfl-broomed-barstools-david-portnoy-so-should-the-bruins/>.

³ See <https://thinkprogress.org/barstool-sports-sexism-30cee73eccc4/>.

16. Portnoy posted on Barstool accusing Curtatone of being a “professional criminal”.⁴
17. Portnoy stated that “they” (Curtatone’s family) “rape, extort, stab and arson (sic)”.
18. Portnoy stated that Mayor Curtatone “is a legitimate criminal”.
19. Portnoy launched this attack because his fragile ego could not cope with legitimate criticism.
20. Minihane decided that he would try to interview Curtatone on behalf of Barstool.
21. Minihane claims that he attempted to get an interview using his real name and was refused.
22. Mayor Curtatone never received any request from Minihane for an interview.
23. Minihane decided to impersonate a Boston Globe reporter named Kevin Cullen in order to obtain an interview.
24. Minihane contacted employees of the City of Somerville and identified himself as Kevin Cullen.
25. On June 5, 2019, Minihane spoke to a Public Information Officer for the City of Somerville, identified himself as Boston Globe reporter Kevin Cullen, and asked to interview Mayor Curtatone.
26. In response to the request by a person who Mayor Curtatone believed to be Kevin Cullen, Mayor Curtatone agreed to the telephone interview.
27. On June 6, 2019, Minihane, while in Massachusetts, conducted the telephone interview of Mayor Curtatone while impersonating Kevin Cullen.
28. Minihane went so far as to alter his normal method of speaking to sound like Kevin Cullen.
29. Minihane is and was aware that he needed to obtain permission from Curtatone to audio record their conversation.
30. Minihane, posing as Cullen, asked for Mayor Curtatone’s consent to record him during the interview by stating “I’m just going to record this so we have it, is that good?”
31. Mayor Curtatone, believing that he was speaking to a representative of a legitimate news organization, the Boston Globe, responded “no problem”.

⁴ See <https://www.barstoolsports.com/boston/the-mayor-of-somerville-joe-curtatone-who-appears-to-be-a-legitimate-criminal-took-a-shot-at-barstool-sports-over-towelgate>.

32. Minihane obtained Mayor Curtatone's "consent" to the recording through fraud.
33. Minihane caused his end of his conversation with Mayor Curtatone to be both audio and video recorded, and audio recorded both ends of the conversation.
34. Minihane bragged on the recording about having lied about his identity.
35. Barstool placed the recording of Curtatone on its blog.
36. Minihane, acting as an agent of Barstool Sports, published the illegally recorded interview on Barstool.⁵

COUNT I
VIOLATION OF M.G.L.A. 272 § 99

37. M.G.L.A. 272 § 99, the Massachusetts Wiretapping Statute, makes it a criminal violation to audio record an individual without his/her consent.
38. M.G.L.A. 272 § 99 also imposes civil penalties for violations of the Statute and affords aggrieved individuals a civil cause of action for actual damages, punitive damages, and attorneys' fees.
39. Minihane's recording of Mayor Curtatone voice without consent violates the statute.
40. The "consent" that Minehane obtained from Curtatone to the recording was obtained through fraud because Minehane impersonated a Boston Globe reporter.
41. The illegally obtained recording was then published on Barstool.
42. The actions of Minehane and Barstool constitute a clear violation of M.G.L.A. 272, § 99.

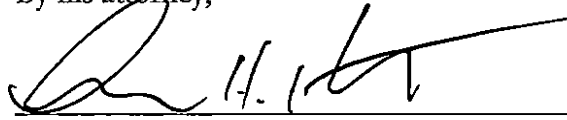
WHEREFORE, the plaintiff seeks all available remedies to him afforded under the law, including damages, punitive damages, costs, attorneys' fees, and any other relief permissible.

JURY DEMAND

The plaintiff demands a trial by jury as to all issues properly triable to a jury.

⁵ See <https://www.barstoolsports.com/video/1333685/kirk-minihane-aka-kevin-cullen-from-the-boston-globe-interviews-somerville-mayor-joe-curtatone>.

The Plaintiff,
Joseph A. Curtatone,
By his attorney,

A handwritten signature in black ink, appearing to read 'L.H. Kesten', written over a horizontal line.

Leonard H. Kesten, BBO# 542042
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Dated: June 17, 2019