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January 14, 2011

By Messenger
 District Court Administrator
 Hennepin County Government Center
 1251 Court Tower
 300 South Sixth Street
 Minneapolis, MN 55487

Re: Court File No. 27-CV-08-9585
 Our File No. 4568-32
 Freeman and D'Angelo v. Swift

Dear Court Administrator:

Enclosed herewith for filing are the following:

1. Plaintiffs' Post-Trial Memorandum; and
2. Plaintiffs' Proposed Findings of Fact, Conclusions of Law and Order for Judgment/Injunction.

By a copy of this letter, the above documents are being served on counsel for defendant, and a courtesy copy is being forwarded to Judge Rosenbaum, as well as an e-mail copy to her clerk.

Very truly yours,

MAHONEY, DOUGHERTY AND MAHONEY
 Professional Association

Victor Lund

VL/ma
 Encls.

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January 14, 2011

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CC: ***By Messenger***

The Honorable Marilyn Brown Rosenbaum
Judge of District Court
C1920 Hennepin County Government Center
300 South Sixth Street
Minneapolis, MN 55487
(File No. 27-CV-08-9585)

By E-Mail: kirstin.helmerts@courts.state.mn.us

Kirstin Elise Helmerts
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(File No. 27-CV-08-9585)

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
Type of Case: Other Civil (Defamation)
Court File No. 27-CV-08-9585

Peter Freeman and
James D' Angelo,

Judge: Marilyn Brown Rosenbaum

Plaintiffs,

**PLAINTIFFS' POST-TRIAL
MEMORANDUM**

-vs-

Janette J. Swift,

Defendant.

INTRODUCTION

This matter came on for trial before the court on December 22, 2010. The court requested post-trial submissions on behalf of plaintiffs by January 14, 2011. Plaintiffs submit this brief memorandum in support of their Proposed Findings of Fact, Conclusions of Law and Order for Judgment/Injunction.

ARGUMENT

I. WHAT IS NOT AT ISSUE.

Plaintiffs sued defendant for defamation. The Complaint and Answer show that defendant admits making the statements, admits publishing them on her blogs, and admits that the statements refer to the plaintiffs. Since the statements are in written format, there is no dispute about exactly what defendant wrote. The only issues in dispute are whether the statements are defamatory, and the various legal defenses that defendant raised.

II. THE COURT SHOULD FIND THAT THE STATEMENTS COMPLAINED OF ARE DEFAMATORY.

Plaintiffs' Proposed Findings of Fact detail the statements that plaintiffs contend are defamatory. In support of that contention, plaintiffs argue that the statements could tend to cause others in the community, not limited to their colleagues, to dissociate from them or to regard them with ridicule or distrust. The statements tend to degrade, disgrace or lower the esteem of plaintiffs in the eyes of the community. (CIVJIG 50.10) This follows from the statements themselves which are embodied in written form and before the court in exhibits. It also follows from the testimony of both plaintiffs. Both of them testified that they are now in the private consulting business and the statements either do or in the recent past have shown up on Google searches. They testified it is typical for potential clients to do a Google search on a consultant's name before making a decision about hiring. If somebody saw statements of this nature, it could tend to drive the business elsewhere. The plaintiffs do not know that anything of this nature has happened – in the nature of things, it is not knowable – but it is certainly possible.

The specific defamatory statements are before the court in written form as Exhibits 103, 104, 105, 106 and 107.¹ The court can read them and decide as the finder of fact that the specific statements are defamatory. Many of the statements are defamatory per se, to-wit: averments of unprofessional conduct, unethical conduct, sexual deviance, financial or professional incompetence, criminal activity, and the like.

¹ Exhibit 7 shows a defamatory blog entry that Swift first posted in January 2010. That is after the date of the Complaint. The exhibit and the testimony about it came in without objection. To the extent necessary, plaintiffs move to amend the pleadings to conform to the evidence under Rule 15.02 MRCP.

All of this is a showing that the statements would support an award of substantial monetary damages if the plaintiffs had not waived that claim. Plaintiffs waived the claim for monetary damages to shorten the trial because defendant has stated many times that she is penniless. Plaintiffs take her at her word (on that point) and have concluded that they would never collect monetary damages anyway. All they want is to have her stop publishing defamatory statements about them to the world.

The court sitting as fact-finder can further reject defendant's defense that the statements are merely metaphor or some other figure of speech not capable of being proven true or false. The statements can be proven true or false. They are defamatory because they are harmful and because they are false. The only testimony before the court is that the statements are false. Defendant in her Answer did not even attempt to claim that the statements may be true, or that she believed the statements were true, she simply took the position that the statements are metaphor and not factual. The statements are plainly not metaphor, and the court may so conclude by reading them.

III. THE COURT SHOULD FIND THAT PETER FREEMAN WAS NOT A PUBLIC FIGURE.

Peter Freeman is a private citizen. He is not a famous movie star or politician or any other kind of figure with a national or state-wide reputation. As such, he is not a general purpose public figure. The law recognizes that there are few such persons. He is not a limited purpose public figure. That status belongs to individuals who in connection with matters or issues of public interest have thrust themselves to the forefront of the matter and have made personal efforts to influence the outcome of the issue or debate. Chafoulias v. Peterson, 668 N.W.2d 642,

652 (Minn. 2003). In Ledoux v. Northwest Publishing, Inc., 521 N.W.2d 59 (Minn.App. 1994), the court held that a Duluth city employee was not a public figure and did not make himself a public figure because of extensive media coverage of a public controversy, or by commencing litigation to protect his interests. 521 N.W.2d at 66.

The two witnesses at trial, Peter Freeman and James D'Angelo, agreed that Peter Freeman did nothing to thrust himself forward in connection with the Onamia Nexus relocation project, and did nothing to affirmatively seek to influence the decision. He served on the Board of Nexus and voted along with the other 13 members of the Board in favor of the requisite resolutions. That does not turn him into a public figure. Defendant had no evidence to the contrary. The court should find that Peter Freeman is not a public figure.²

IV. THE COURT SHOULD FIND THAT IF JAMES D'ANGELO WAS A LIMITED PURPOSE PUBLIC FIGURE, HE MADE A SHOWING OF MALICE.

James D'Angelo probably is a limited purpose public figure. He was the face of Nexus in appearances before governmental boards. The Onamia Nexus relocation project was a matter of public interest in the Onamia area. James D'Angelo endeavored (successfully) to influence the various decisions that government agencies needed to make.

Assuming the court finds that James D'Angelo was a limited purpose public figure, that means that to prevail on his defamation claim he must show that defendant Swift made statements complained of with malice, sometimes known as constitutional malice as

² Accordingly, Swift's answers to the first two interrogatories on Exhibit 108 are irrelevant. Those interrogatories asked about investigation before sending the e-mails to Freeman's faculty colleagues. Plaintiffs offered that exhibit for a limited purpose under Rule of Evidence 105. If Freeman is not a public figure, any investigation done by Swift is irrelevant. The only question is whether the statements are false, not whether Swift made them with malice. Accordingly, the hearsay statements in those first two interrogatory answers are irrelevant.

distinguished from common law malice. CIVJIG 50.40. That standard requires a showing that the defendant published a statement knowing it was false or with serious doubts about its truth.

D'Angelo made that showing by submitting as Exhibit 108 Swift's answers to interrogatories. The interrogatories asked Swift to provide information on the investigation or research she did before publishing the various statements to the entire world on her blogs. The interrogatories are specific. If Swift had done any research, she could have easily provided that information in specific detailed factual answers to those interrogatories.

Swift's answers to interrogatories Nos. 3-7 (relating to the statements about D'Angelo) provide no factual information whatsoever. She simply takes the position that the statements are metaphor or incapable of being proven true or false and consequently not defamatory. In short, Swift had the opportunity in response to direct questions to provide information as to what research or investigation she had done. She provided no such information. This is the same as an admission that she did no investigation or research before publishing the statements.

This is a showing of constitutional malice. The standard is generally phrased in terms of the defendant having serious reservations about the truth of the statements before publishing them. Since Swift chose not to appear for a duly scheduled trial, we should not speculate as to what she might have said in response to questions that might have been put to her. Having said that, if we speculate that she would have said that she harbored no doubts about the truth or falsity of the statements because they, in her view, were not factual but metaphoric, the court should conclude that a response of that nature does not avoid a finding of constitutional malice. The law does not permit a person making false, defamatory and purportedly factual statements to

avoid liability by taking the disingenuous position that the person thought it was a metaphor and not a factual statement.

As it is, the only evidence in the record is the testimony of the two plaintiffs and the exhibits. Exhibit 108 shows that Swift made no investigation whatsoever before publishing statements about D'Angelo. She just made them up. The court should find that D'Angelo has made a showing of malice.³

V. THE COURT SHOULD FIND THAT DEFENDANT SWIFT IS NOT THE PRESS AND HAS NO CLAIM TO WHATEVER BENEFITS MEDIA STATUS MIGHT CONFER.

Defendant's pretrial submission asserted a defense that Swift is the press and should be entitled to the benefit of whatever defenses or favorable treatment flow from that status. It is by no means clear what a favorable treatment or defenses would flow from media status, but in any event, defendant has failed to make the showing. Plaintiffs sued J. J. Swift, an individual, not a newspaper. The name of one of her blogs is *Mille Lacs News*, but anyone can name a blog whatever they like. The label does not create the reality. "There is no magic in mere words to change the real into the unreal." Morrison v. Swenson, 274 Minn. 127, 142 N.W.2d 640, 645 (Minn. 1966). If Swift had wanted to prove up this defense, it was her burden to show up at trial

³ The case law uniformly holds that in cases of speech of public interest, a plaintiff must show malice in order **to collect monetary damages**. It seems to be a completely open question whether the court could enjoin repetition of such speech found after trial to be false and defamatory without a showing of malice. For example, if one partisan of a public debate puts up a billboard making false statements about his opponent, the court could not allow an award of damages if the party had a reasonable basis to believe that the statements were true. However, if the statements are shown to be false, there seems to be no reason why the court could not require the defendant to take down the billboard.

and provide the requisite testimony. She did not. The court should conclude that defendant has failed to prove media status.

Furthermore, Swift is trying to have it both ways. These proceedings have taken years because she moved to dismiss under Minnesota Chapter 554, the anti-SLAPP statute, followed by her appeal to the court of appeals. That's her right. However, the legislature enacted Chapter 554 to vindicate the constitutional right to petition the government for redress of grievance. That is a right enjoyed by individuals. The press has no constitutional right to petition the government for redress of grievances. By pursuing the motion to dismiss and the appeal, Swift was acting as an individual, not as the press. Now she wants to be the press. She is trying to have it both ways. She failed to prove the point.

VI. THE COURT SHOULD ISSUE AN INJUNCTION REQUIRING DEFENDANT TO REMOVE THE OFFENDING STATEMENTS FROM HER BLOG AND FURTHER ENJOIN DEFENDANT FROM PUBLISHING THE SAME STATEMENTS IN THE FUTURE.

In discussion in chambers before trial, the court expressed some concern about issuing an injunction extending into the future. There is case law in general disapproving of prior restraints on speech. However, cases disapproving prior restraints arise in the context of speech which no court has yet found to be false and defamatory. Speech which has been found after trial to be defamatory does not have any constitutional protection. Enjoining future repetition of defamation is not a prior restraint.

There is no First Amendment interest in repeating defamatory speech.⁴ If the court has found after trial that certain statements are defamatory, the court may enjoin future repetition of those statements. If it were otherwise, a defendant could simply delete defamatory blog statements following a trial and immediately re-post them, thereby giving rise to a new defamation lawsuit. That would serve nobody's interests, least of all the court's. It would also have the unfortunate effect of giving an indigent defendant a license to defame without consequences.

A blog is not like a radio or TV broadcast where there is nothing to enjoin because the broadcast occurs once and then is over and done with. A blog is different, and the law should acknowledge and respond to that difference. By way of a low tech example, a blog may be comparable to a billboard. If the court determines after a trial that a statement on a billboard is false and defamatory, there is no reason why the court should not require defendant to take the billboard down, and keep it down.

Minnesota considered these issues in Advanced Training Systems, Inc. v. Caswell Equipment Co., 352 N.W.2d 1 (Minn. 1984). The court referenced the history of prior restraint law in the United States beginning with Near v. Minnesota, 283 U.S. 697 (1931), cited in

⁴ Humphrey v. Casino Marketing, 491 N.W.2d 882, 887 (Minn. 1992) (False or misleading statements are not entitled to First Amendment protection.) See, also, Hornell Brewing Co. v. Minnesota Department of Public Safety, 553 N.W.2d 713, 717 (Minn.App. 1996) (The courts can restrict certain categories of speech – obscenity, defamation and fighting words. The court has “sometimes said that these categories of expression are not within the area of constitutionally protected speech.”)

Advanced Training Systems, Inc., 352 N.W.2d at 11. The Minnesota Supreme Court noted the following:

These cases may once have stood for the proposition that any injunction against speech activity was a “prior restraint” on speech. See Blasi, *Toward a Theory of Prior Restraint: The Central Linkage*, 66 Minn. L.Rev. 11, 12 (1981). More recently, however, the Supreme Court has stated that “[t]he special vice of a prior restraint is that communication will be suppressed, either directly or by inducing excessive caution in the speaker, before an adequate determination that it is unprotected by the First Amendment.” [citation omitted] Id.

The court went on to find that any rule against prior restraint does not apply to statements found to be disparaging or false and defamatory after an adversarial trial. Id. If the fact-finder has found that written statements are defamatory or otherwise wrongful, they enjoy no First Amendment protection, and there is no reason why the court cannot enjoin their repetition. In such cases, the court must be cautious to issue a narrow order specifying exactly what is enjoined. If the court shall issue a proper, narrowly drawn injunction, there is no constitutional objection. See, also, Sullivan v. Eginton, 406 N.W.2d 599 (Minn.App. 1987). In a case involving the sale of a house where the seller had difficulty letting go, the court affirmed a permanent injunction against the seller restraining him from entering the property or communicating with the buyers. 406 N.W.2d 601-02.

The Nebraska Court of Appeals considered these issues in Nolan v. Campbell, 690 N.W.2d 638 (Neb.App. 2004). In Nolan, the defendant defamed an employee of a city in connection with replacing a sidewalk in a neighborhood. The defendant accused the employee of running various scams, that he stole, extorted or embezzled some various sums of money, that he was a con artist and a thief. He accused the employee of continuing in office by oppression, deception and intimidation. 690 N.W.2d at 644-45. The court found on motion that the

statements were false and defamatory and reserved the issue of damages for a jury. Following trial, the jury made its verdict awarding damages to Nolan. The court then issued a permanent injunction forbidding the defendant from publishing anything about Nolan or repeating any of the terms or phrases which the court had found were false and defamatory. The Nebraska Court of Appeals affirmed the permanent injunction with modifications. The court cautioned that any such injunction must be narrowly drawn. 690 N.W.2d at 652-53. The court affirmed the injunction prohibiting Campbell from republishing specific documents that had been found to be defamatory. The court concluded that the injunction was too broad to the extent it forever enjoined Campbell from using specific words regardless of context. 690 N.W.2d at 653.

The State of California considered the same issues in Balboa Island Village Inn, Inc. v. Lemen, ___ P.3rd ___, 40 Cal.4th 1141 (2007). The plaintiff was a bar whose property abutted Lemen's residence. She got tired of living next to a bar, and began to express her displeasure in graphic terms directly to employees and patrons. She disparaged the bar's food. She followed and videotaped patrons entering or leaving the premises. She called patrons drunks and whores. She called the owner's wife "Madam Whore." She told patrons and neighbors that the bar produced prostitution and child pornography on the premises. She stated that persons were selling drugs on the premises, and that the bar was selling alcohol to minors.

The bar sued her for defamation seeking only injunctive relief, not money damages. A court trial determined that the statements were false and defamatory. The trial court granted an injunction forbidding Lemen from contacting employees, repeating certain designated statements, and filming from within a designated distance. The matter went up to the California Court of Appeals and then to the Supreme Court which affirmed the district court's power to permanently

enjoin repetition of statements found to be defamatory, but remanded for revision of the injunction which as issued was too broad.

In the present case, plaintiffs have submitted their Proposed Findings of Fact, Conclusions of Law and Order for Judgment/Injunction. The Proposed Order specifies exactly what statements plaintiffs contend are defamatory and which the court should enjoin Swift from continuing to publish. Plaintiffs' Proposed Order is narrowly drawn to protect the plaintiffs' interest in their good names and enjoin no more than necessary. The court should enter an injunction as requested.

CONCLUSION

For all the above reasons, the court should find that defendant defamed plaintiffs, require her to cease publication of the existing defamatory statements, and to enjoin her from repeating those statements in the future.

Dated: January 14, 2011.

MAHONEY, DOUGHERTY AND MAHONEY
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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
Type of Case: Other Civil (Defamation)
Court File No. 27-CV-08-9585

Peter Freeman and
James D'Angelo,

Judge: Marilyn Brown Rosenbaum

Plaintiffs,

-vs-

Janette J. Swift,

Defendant.

**PLAINTIFFS' PROPOSED FINDINGS
OF FACT, CONCLUSIONS OF LAW AND
ORDER FOR JUDGMENT/INJUNCTION**

The above-entitled matter came on for trial to the court on Wednesday, December 22, 2010. Trial concluded on the same day. Victor Lund, Esq., appeared on behalf of plaintiffs. The plaintiffs were also present and testified. Andrew Jackola, Esq., appeared on behalf of defendant. Defendant did not appear at trial.

The court, based on all the files, records and proceedings herein, and the testimony and exhibits adduced, makes the following:

FINDINGS OF FACT

1. Plaintiff Peter Freeman serves as a volunteer member of the Board of Directors of Nexus, a Minnesota nonprofit corporation. In 2007, he was on the faculties of the University of St. Thomas and the College of St. Catherine in the Department of Social Work. He is currently active as a psychotherapist and organization consultant.

2. Plaintiff James D'Angelo was the Chief Executive Officer of Nexus in 2007-2008. He has since retired from that position. He is currently active as a consultant in the field of social work.

3. Defendant Janette J. Swift lived in the City of Onamia in 2007 and thereafter. The court understands that she has since moved to the State of Missouri, but the court has no information as to when that move took place.

4. Nexus (not a party) has operated a residential treatment facility for juvenile sex offenders in the City of Onamia for approximately 20 years. The first Nexus facility in Onamia was located in the town of Onamia on or near Main Street in a building owned by the Order of the Croziers. In 2007, Nexus decided to build a new facility/treatment center approximately two miles from the original location. This was to be an entirely new facility built on land purchased by the city, annexed by the City of Onamia, and then sold to Nexus.

5. The Nexus relocation project required approval of a variety of issues by the City of Onamia and other government agencies. Plaintiff D'Angelo appeared on behalf of Nexus before any such government agencies.

6. Peter Freeman did not appear before any government body in connection with the Nexus relocation project. His role in connection with that project was limited to voting with the majority of the rest of the Board of Directors in favor of the relocation project. Freeman never took any steps to induce any government agency to decide any issue one way or the other.

7. Defendant Swift resided near the location of the new facility. She appeared before the City Council of Onamia and other governmental boards and opposed the Nexus plans for relocation.

8. Defendant Swift maintains two separate websites popularly known as blogs. The names of those blogs are *The Bradbury Buzzz* (<http://bradburybuzzz.blogspot.com>) and the *Mille Lacs News* (<http://www.millelacsnews.com>). The webmaster of those blogs is given as

Hannabelle. Hannabelle is defendant Swift. Swift is the author of all content on those blogs.

One topic which appears frequently on those blogs is the Nexus relocation project.

9. In a blog posting originally dated July 7, 2007 entitled “The Safety/Risk Management Card,” Swift, writing about plaintiff D’Angelo, stated, “He is a predator. One who preys on the elderly and infirmed.” [sic]

10. The above statement is purportedly factual, and is false and defamatory.

11. In a blog entry originally dated September 1, 2007 entitled “Can You Hear Me Now?,” defendant Swift, writing about D’Angelo, stated:

He’s dishonest. He’s a liar. He lacks character. That can lead to trouble. Maybe he’d mis-managed his finances and was deep in debt. And when Nexus fired him recently, (we like to think he was fired,) and his wife probably left him (we think he’s kinky) and the FBI investigated him (we think he’s running a crooked company), and he was on his way to jail for racketeering (one can dream). . . .

12. The above statements that D’Angelo is dishonest, a liar, mismanaged his finances, was deep in debt, was fired, that his wife left him, that he is kinky, that he was under an FBI investigation, that he was running a crooked company, and that he was on his way to jail for racketeering are purportedly factual, and are false and defamatory.

13. In a blog entry originally dated November 10, 2007 entitled “Writer’s Block,” defendant Swift, writing about D’Angelo, stated:

But imagine how different I might feel if Poopsie and Company had wined and dined me, spoken sweet and low, courted my favor, and sent me flowers and candy. . . .

instead of death threats and the law suits???

14. The above statement that D'Angelo sent death threats to defendant is purportedly factual, and is false and defamatory.

15. On or about October 1, 2007, defendant sent an e-mail to Barbara W. Shank, Peter Freeman's Dean at the University of St. Thomas. The full text of that e-mail is an attachment to the Complaint and before the court as Exhibit 106. In that e-mail, Swift wrote to Dean Shank that Freeman "is engaging in unethical, immoral, and possibly even illegal behavior – which reflects directly upon your social work department at St. Thomas University." The e-mail further stated that Freeman's actions were "unprofessional."

16. On or about October 16, 2007, Swift copied the e-mail which she had earlier sent to Dean Shank and forwarded it to approximately 20 of Freeman's colleagues on the faculties of the social work departments of St. Catherine's and St. Thomas.

17. The statements in the faculty e-mails that Peter Freeman's actions were unprofessional, unethical, immoral, and possibly even illegal are purportedly factual, and are false and defamatory.

18. Plaintiffs, in response to these blog entries and e-mails by defendant, authorized their attorney to correspond with Swift demanding that she cease and desist from any such statements and delete the above statements from her blogs. Swift did not respond or take any action in response thereto.

19. In a blog entry originally dated January 22, 2010 entitled "No Blood On My Hands - Peter D. Freeman," defendant Swift, writing about Freeman, repeated the defamatory statements referenced above in the e-mails to Freeman's Dean and faculty colleagues. That blog entry further stated that Freeman's actions in connection with the Nexus relocation project

represent “unprofessional bad judgment,” and that “he embarrassed himself by his own bad behavior.” These statements are purportedly factual, and are false and defamatory.

20. The defamatory statements enumerated above are harmful and injurious. The statements caused indignation and distress to plaintiffs. The statements are potentially capable of injuring plaintiffs’ reputations. Both plaintiffs are active as consultants in the field of social work. It is typical for potential clientele of such consultants to do a Google search on the names of consultants before deciding to hire. The above-referenced defamatory statements could have been located and read by anyone searching either plaintiff’s name using Google or any other readily available internet search engine. Certain, but not all, of the statements are still locatable by internet search. They would again become locatable by internet search if defendant Swift is not enjoined from re-posting such statements on the internet.

21. Plaintiffs have waived their claim for monetary damages, so the court makes no specific finding thereon.

CONCLUSIONS OF LAW

1. Plaintiff Peter Freeman is not a limited purpose public figure.
2. Defendant Swift defamed plaintiff Peter Freeman by sending e-mails to his Dean and faculty colleagues naming him and making purportedly factual, false and defamatory statements about him as detailed above in Findings of Fact Nos. 15, 16 and 17.
3. Swift repeated and republished her defamatory statements about plaintiff Peter Freeman by posting them on the internet on or about January 22, 2010, and remain as detailed above in Findings of Fact No. 19.
4. Plaintiff James D’Angelo is a limited purpose public figure.

5. Defendant Swift defamed plaintiff James D'Angelo by posting blog entries naming or plainly referencing him and making purportedly factual, false and defamatory statements about him as detailed above in Findings of Fact Nos. 9, 10, 11, 12, 13 and 14.

6. Defendant Swift defamed plaintiff James D'Angelo with constitutional malice.

7. The defamatory statements which defendant Swift made about plaintiffs are such that they would justify an award of monetary damages. The court makes no finding as to monetary damages because the plaintiffs waived that claim.

8. Defendant Swift acted as an individual person at all times relevant and not as a newspaper or other media.

9. Plaintiffs are entitled to an injunction commanding defendant Swift to cease and desist from publishing defamatory statements about them, to delete and remove from her existing websites the defamatory statements referenced above in Conclusions of Law 2, 3 and 5, and to refrain from re-posting those statements in any medium in the future.

ORDER FOR JUDGMENT/INJUNCTION

1. That defendant Swift is hereby permanently enjoined as follows:

A. Defendant Swift shall cease and desist from any contacts by e-mail or telephone with plaintiff Freeman, plaintiff D'Angelo and all the recipients of the e-mails referenced above in Finding of Fact No. 16.

B. Defendant Swift shall forthwith and permanently remove, delete, take down, or dismantle from her websites *The Bradbury Buzzz* and the *Mille Lacs News* the following statements about plaintiff James D'Angelo:

- 1) That D'Angelo is a predator who preys on the elderly and infirm.
- 2) That D'Angelo is dishonest.
- 3) That D'Angelo is a liar.
- 4) That D'Angelo lacks character.
- 5) That D'Angelo mismanaged his finances.

- 6) That D'Angelo was deep in debt.
- 7) That Nexus fired D'Angelo.
- 8) That D'Angelo's wife left him.
- 9) That D'Angelo is kinky.
- 10) That D'Angelo was the subject of an FBI investigation.
- 11) That D'Angelo ran a crooked company.
- 12) That D'Angelo was on his way to jail for racketeering.
- 13) That D'Angelo sent death threats to Swift.

Defendant Swift may comply with this portion of the Order by deleting from her blogs the blog entries entitled "The Safety Risk Management Card," "Can You Hear Me Now?," "Writer's Block," and any subsequent re-postings thereof.

C. Defendant Swift shall forthwith and permanently remove, delete, take down or dismantle from her websites *The Bradbury Buzz* and the *Mille Lacs News* the following statements about plaintiff Peter Freeman:

- 1) That Freeman's actions in connection with the Nexus relocation project were unethical, immoral, illegal and unprofessional, and constituted unprofessional bad judgment and bad behavior.

Defendant Swift may comply with this portion of the Order by deleting from her blogs the blog entry entitled "No Blood On My Hands - Peter D. Freeman" and any subsequent re-postings thereof.

D. Defendant Swift shall not re-post or re-enter the statements referenced above in paragraphs 1.B. and C. on her two existing blogs, *The Bradbury Buzz* and the *Mille Lacs News* nor on any other blog or internet page which she may establish in the future.

E. Defendant Swift shall not re-post or re-enter material substantially similar to the statements referenced above on her two existing blogs *The Bradbury Buzz* and the *Mille Lacs News* or on any other blog or internet page which she may establish in the future.

F. Defendant Swift shall not post or enter any of the above statements or substantially similar statements on a website established by anyone else to which she may have access.

G. Defendant Swift shall not provide the above-referenced statements or substantially similar statements to any other website maintained by another for posting ostensibly under that other person's authorship.

2. This injunction permanently enjoins defendant Swift from doing the acts referenced above. The court retains jurisdiction of the file for purposes of enforcement and for purposes of modifying the injunction if changed circumstances in the future so warrant.

3. Plaintiffs shall have judgment for their costs and disbursements reasonably incurred herein.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

Dated: _____

Marilyn Brown Rosenbaum
Judge of District Court

