

# **EXHIBIT Z**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

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 3 JAMES LAWRENCE, : No. 3:18-cv-01927 (SRU)  
 4 Plaintiff, : 915 Lafayette Boulevard  
 : Bridgeport, Connecticut  
 v. :  
 5 : May 9, 2019  
 ALTICE USA, :  
 6 Defendant. :  
 ----- x

MOTION HEARING

B E F O R E:

THE HONORABLE STEFAN R. UNDERHILL, U. S. D. J.

A P P E A R A N C E S:

FOR THE PLAINTIFF:

JAMES LAWRENCE  
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FOR THE DEFENDANT:

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 BY: TIMOTHY G. RONAN, ESQ.

Sharon L. Masse, RMR, CRR  
Official Court Reporter

1 (Proceedings commenced at 1:57 p.m.)

2 THE COURT: Good afternoon. We're here in the  
3 matter of Lawrence v. Altice.

4 Mr. Lawrence, you're here representing yourself?

5 MR. LAWRENCE: Yes, sir. Yes, Your Honor.

6 THE COURT: All right. And may I have  
7 appearances for Altice?

8 MS. BOLGER: Good morning, Your Honor. I'm  
9 Katherine Bolger from the law firm of Davis Wright  
10 Tremaine on behalf of the defendant.

11 MR. RONAN: Good morning, Your Honor. Tim Ronan  
12 from Pullman & Comley, on behalf of the defendant Altice  
13 USA.

14 THE COURT: All right. Obviously, we're here on  
15 the motion to dismiss.

16 Let me raise an initial issue, which is subject  
17 matter jurisdiction. The complaint seems to rely upon 28  
18 U.S.C. Section 4101 as a basis for jurisdiction in this  
19 case, and that statute does not give rise to a cause of  
20 action. It doesn't support federal jurisdiction. In  
21 other words, there's various ways you can be in federal  
22 court. One is to have a statute that says you're in  
23 federal court, and there's a statute that's violated, or  
24 you claim to be violated, and that's one basis for federal  
25 jurisdiction. And 28 United States Code, Section 4101, is

1 not one of those statutes because defamation is an issue  
2 of state law rather than federal or constitutional law.  
3 So the claim has to be brought under state law. All  
4 right?

5 MR. LAWRENCE: That's strange. I assumed  
6 because Altice is a national company and that the  
7 broadcasts and the material was shared nationally that  
8 federal courthouse was -- was appropriate.

9 THE COURT: Well, it may be because another  
10 basis for federal jurisdiction is what we call diversity  
11 of citizenship, and it appears that you're a citizen of  
12 Connecticut, and Altice is a citizen of New York and  
13 Delaware.

14 MR. LAWRENCE: Right.

15 THE COURT: It may be a technical issue, but you  
16 need to cite that as a basis for bringing the case here in  
17 this court. So you need to rely upon the diversity of  
18 citizenship statute and allege that there's more than  
19 \$75,000 at issue. So you have to allege you're from  
20 Connecticut, they're from New York, and there's more than  
21 \$75,000 at issue, which appears to be the case. I assume  
22 you're claiming more than \$75,000.

23 MR. LAWRENCE: You know, I -- you know, this is  
24 very strange what you're putting in front of me. I really  
25 thought something like this would have been clarified

1 sooner, but --

2 THE COURT: Well, this is our first --

3 MR. LAWRENCE: Yeah.

4 THE COURT: This is our first time in court, so  
5 this is as soon as we can do it. I mean, I could have  
6 issued a written notice dismissing the complaint, but I  
7 decided not to do that and call you in and let you try to  
8 fix it.

9 MR. LAWRENCE: Okay. So you're saying that I  
10 can fix this with some motions, and then we can  
11 reassemble?

12 THE COURT: Well, we're going to argue the case  
13 today --

14 MR. LAWRENCE: Okay.

15 THE COURT: -- as we planned.

16 MR. LAWRENCE: Okay.

17 THE COURT: I'm telling you that to the extent  
18 that this case continues --

19 MR. LAWRENCE: Yeah.

20 THE COURT: -- you need to file an amended  
21 complaint --

22 MR. LAWRENCE: Okay.

23 THE COURT: -- that sets forth the basis for  
24 federal jurisdiction. Okay?

25 MR. LAWRENCE: Okay. I'll do my best. I won't

1 waste the Court's time with trying to get more  
2 explanation. I'll just refer to the minutes and go over  
3 that as much as possible, rules of jurisdiction.

4 THE COURT: All right. Look, just look at 28  
5 United States Code, Section 1332.

6 MR. LAWRENCE: 1332.

7 THE COURT: Yes. Look at that, see what it  
8 says, and --

9 MR. LAWRENCE: This is federal?

10 THE COURT: This is federal, right.

11 MR. LAWRENCE: Okay.

12 THE COURT: This is another technical issue, but  
13 I just want to -- when you file something in court, you  
14 need to have what's called a caption. So if you look at  
15 the defense papers --

16 MR. LAWRENCE: Okay.

17 THE COURT: -- it says the court, it says the  
18 names of the parties, it lists the number of the case.  
19 That's all helpful to the clerk's office because they then  
20 know where this piece of paper is supposed to go.

21 MR. LAWRENCE: Okay. Yeah, I want to address  
22 that really quick. I'm sorry about the -- the single  
23 spacing. I was told that if people were having a hard  
24 time with the single spacing, that I would have been  
25 informed. I thought just because we were dealing with two

1 or three motions and that we're all fairly educated people  
2 that we could handle it, but I am totally receptive to  
3 fixing that too. Like I said, I'm new to this.

4           There's just two other things I just want to  
5 just clear up right away. In the documents I used two  
6 words that I just want to clear up. I was a little  
7 unclear about, there is a difference between arrest  
8 warrant and police report, and so we're obviously dealing  
9 with the arrest warrant. So anything that is written that  
10 says "police report" is obviously referring to the arrest  
11 warrant. I finally did get the police report to which I  
12 referred to in my last response where I was talking about  
13 an analogy to Joe Biden's ordeal and the issue of  
14 violating personal space, which hopefully everyone has  
15 read. That is where I will show an argument within a  
16 police report. But obviously the vast majority of the  
17 case has to do with their interpretation of the arrest  
18 warrant. So that's one thing.

19           And another thing on wording, I used this word  
20 "dox," and I know there could be other words. It is a  
21 word heading to the dictionary, d-o-x or d-o-x-x. It is a  
22 top word now that's being used because there is a big  
23 trend now of digging up stuff on people that has nothing  
24 to do with any legal convictions or even charges or  
25 anything. It's just basically gray matter, so unproven

1 gray matter or unproven charges or accusations. So  
2 hopefully the word "dox" is not offending anyone, and I'm  
3 using it in a very generalistic sense. There's a lot of  
4 different definitions, from urban dictionaries to what  
5 have you. So that's one thing.

6 Last -- and thank you for what you said. Just  
7 one more thing I just want to clear up, the issue of me  
8 going pro se. And I know we got off to kind of like a  
9 very intimidating start, and I just want you to understand  
10 that I'm hoping to have some kind of fair treatment.

11 Why I'm going pro se? Obviously, I really do  
12 feel I have a very strong grip on the details of not only  
13 the case but also the issues involved in the case, being  
14 someone who's been a writer. And though I know we're  
15 going to have some kind of little kind of technical  
16 glitches sometimes, I'm willing to, like I said, learn and  
17 do my best to -- to address that.

18 I'm going pro se because I do have two or three  
19 people I have to sue. It is expensive. But my experience  
20 in interviewing various lawyers, they seem to have a -- an  
21 idea of this stuff that you're talking about, some of  
22 these technical jargon, but because they have multiple  
23 clients and because a lot of them are kind of piped into a  
24 certain kind of lifestyle, conventional lifestyle, I find  
25 that their awareness of a lot of the connotations to which

1 I'll be addressing, which I have addressed, which  
2 hopefully everybody has read. So the pro se thing, I know  
3 at times we're in a different time, and I know right now  
4 pro se a lot of times is viewed in a certain way.

5 Slander defamation is a tough area right now  
6 because of the current zeitgeist and social media, but I  
7 think this is an exceptional case, and I'm open to any  
8 kind of suggestions to make it easier for everybody.

9 THE COURT: Okay. Well, let me assure you, I  
10 intend to treat everybody fairly, and I've read all the  
11 papers.

12 MR. LAWRENCE: Okay, thank you.

13 THE COURT: Okay?

14 All right. Ms. Bolger, your motion is premised  
15 on the fair report privilege, and I think it probably --  
16 well, actually, before I get there, let me ask Mr.  
17 Lawrence one other question.

18 Mr. Lawrence, you have in your complaint the  
19 suggestion that the woman you identify as Wendy Higgins  
20 Chambers --

21 MR. LAWRENCE: Yes.

22 THE COURT: -- so that's what I'm focusing on  
23 now -- are you claiming that Altice defamed you by what  
24 Ms. Chambers said? Or are you --

25 MR. LAWRENCE: It's a combination of both.

1 There's a lot of mystery.

2 THE COURT: Let me finish.

3 MR. LAWRENCE: Okay.

4 THE COURT: Or are you claiming, as it seemed in  
5 your briefing, that Ms. Chambers is evidence of malice by  
6 Altice?

7 MR. LAWRENCE: I would say both. It's -- it's  
8 very hard because all I know is that this person made a  
9 beeline to News 12. I don't know how she did it. I know  
10 she did it before she went to the police. I know she did  
11 it after she read my arrest warrant. I also know that she  
12 did it after -- nine or ten months after we had an  
13 innocuous conversation at a market which had cameras and  
14 videos, and there was no report to the police, no report  
15 to a manager.

16 THE COURT: No, I've read it. I just wanted to  
17 get an answer to that question. So you claim that the  
18 filming of her statement constitutes defamation by Altice?

19 MR. LAWRENCE: I'm not aware of any filming of  
20 her statement -- oh, you mean -- oh, you mean the actual  
21 report?

22 THE COURT: Right.

23 MR. LAWRENCE: I'm most concerned with the  
24 following two areas. I listed eight areas of complete  
25 insane misconduct and false treatment; but the two areas,

1 obviously, number one is stalking. Being reported on for  
2 something, saying that I was arrested for stalking women,  
3 that's number one.

4           Number two, though, which is the, once again,  
5 doxing -- I'll use that word -- of a narrative, of an  
6 unproven narrative that requires all kinds of further  
7 investigation, that is, once again, unproven narrative  
8 that became in conjunction -- I'm sorry. I'm sorry about  
9 the phone. They were supposed to turn it off. I don't  
10 know why they didn't turn it off. They gave it to me.  
11 All right, let me just turn this off.

12           THE COURT: Okay. So you're concerned about the  
13 stalking, and what's your second concern?

14           MR. LAWRENCE: All right, the second is the  
15 overall narrative, is the interpretation of the arrest  
16 warrant where they're trying to make incidents and  
17 unproven -- and associating it with criminal conduct;  
18 where there were incidents that, once again, were  
19 investigated long ago, incidents from 2001 -- like I said,  
20 I've only been back here for two years -- anything in my  
21 life that was investigated and never resulted in any  
22 arrest and never had any witnesses.

23           And keep in mind, this is what's so amazing  
24 about this case, is that anyone reading that arrest  
25 warrant sees that there's, okay, like with Joe Biden,

1 there's like, oh, seven, eight women who came out and said  
2 that he did something. That was all filmed, okay?

3 I basically am at a market, at worst flirting,  
4 or at this particular arrest just trying to talk to  
5 someone, ask a question. And these are places that are  
6 wired big time, we're talking inside and out, and the  
7 police don't have one recorded evidence.

8 THE COURT: All right. But whatever might be  
9 out there --

10 MR. LAWRENCE: Right.

11 THE COURT: -- what we're focusing on today is  
12 whether what was reported by Altice, Channel 12, is a fair  
13 report of what was in the arrest warrant. That's what  
14 we're focusing on today.

15 MR. LAWRENCE: Right. And, once again, I would  
16 argue that because the inclusion of Wendy Higgins Chambers  
17 and the fact that she then went to the police, and the  
18 police didn't even view her complaint as worthy of a  
19 separate incident report. You'll see it in the police  
20 report -- not the arrest warrant, but the police report --  
21 that she's listed at the end as an additional narrative,  
22 and she doesn't have her own incident report. The police  
23 never contacted me about this, never warned me about her.

24 THE COURT: Okay.

25 MR. LAWRENCE: And nothing ever became of it.

1 So, yeah, I'm saying that it's very highly unusual that a  
2 person would come, anonymous, talking about something  
3 ridiculous like being a creep and handing someone their  
4 business card --

5 THE COURT: All right, Mr. Lawrence --

6 MR. LAWRENCE: -- and having it part of --

7 THE COURT: Mr. Lawrence. So let me just  
8 explain what we're doing today --

9 MR. LAWRENCE: Yeah.

10 THE COURT: -- okay? What we're doing today,  
11 we're not arguing the case, the merits of the case. This  
12 is not summary judgment. We're not concerned with  
13 evidence at all.

14 MR. LAWRENCE: Okay.

15 THE COURT: Doesn't matter what the evidence is.  
16 This is a technical legal argument. They're moving to  
17 dismiss your complaint, saying that the words in this  
18 complaint are legally insufficient to bring a claim  
19 because of what they call the fair report privilege.

20 MR. LAWRENCE: Right.

21 THE COURT: That's all we're talking about  
22 today. So it doesn't matter what actually happened. It  
23 doesn't matter what's on film. It doesn't matter who said  
24 what to the police --

25 MR. LAWRENCE: Is it fair that Wendy Chambers is

1 included in this perhaps because that seems to be the  
2 trend that's going on? Most of the times you find, like  
3 in Joe Biden's case --

4 THE COURT: Sir, sir, are you listening to me?  
5 Are you listening to me? We are looking at the legal  
6 sufficiency of the words in your complaint.

7 MR. LAWRENCE: Okay.

8 THE COURT: We are not worried about Joe Biden.  
9 We are not worried about what happened, what's on film,  
10 what isn't on film, and whether you're guilty or not.  
11 None of that matters today.

12 MR. LAWRENCE: So what's your particular  
13 question about the Wendy Chambers? I'll try to answer it  
14 very simply.

15 THE COURT: Yes. So the question is, in your  
16 complaint it's unclear to me --

17 MR. LAWRENCE: Okay.

18 THE COURT: -- whether you are claiming that  
19 what Altice permitted her to do is somehow defamation by  
20 Altice.

21 MR. LAWRENCE: And that's why I argue for a  
22 trial because I don't know. I can't give you an answer  
23 because I don't know.

24 THE COURT: Okay.

25 MR. LAWRENCE: I have no idea.

1 THE COURT: All right.

2 MR. LAWRENCE: I don't know how -- I don't know  
3 how they corresponded. I don't know what was said. I  
4 don't know if --

5 THE COURT: Okay.

6 MR. LAWRENCE: -- they directed her to the  
7 *Westport News*.

8 THE COURT: Doesn't matter. Doesn't matter.  
9 None of that matters today. It doesn't matter.

10 All that matters today is, are you claiming, is  
11 it your complaint that Channel 12, allowing her to speak  
12 in some way, or publishing what she said, or whatever, is  
13 defamation by them?

14 MR. LAWRENCE: I would say yes. Yes,  
15 definitely.

16 THE COURT: Okay, that's your claim. All right,  
17 great.

18 MR. LAWRENCE: Yes, because --

19 THE COURT: So let me hear from Ms. Bolger.  
20 It's her motion to dismiss, and you'll get a chance to  
21 speak in just a minute.

22 MS. BOLGER: Your Honor, we actually moved on  
23 the grounds of fair report, although I think the  
24 subsequent filings move us also to saying, Your Honor, the  
25 subsequent filings establish the truth of some of the

1 things that are defamatory even if they weren't  
2 privileged. But I'll start with privilege.

3 So the fair report privilege, of course, is  
4 designed so that we, as citizens, know what our government  
5 is doing, people they arrest. And in Connecticut, the  
6 fair report privilege protects the publication if the  
7 publication accurately reports, fairly reports on a police  
8 proceeding, in this case an arrest warrant. That level of  
9 accuracy is described as substantial accuracy, not literal  
10 accuracy. You're not supposed to have a lexicographer's  
11 precision, a word I like to say just because it's the only  
12 time you ever get to say "lexicographer."

13 But in this case, Your Honor, I don't think Mr.  
14 Lawrence disputes that the broadcast would be entitled to  
15 invoke the fair report privilege if it was fair. The  
16 arrest warrant is clearly part of an official proceeding,  
17 and the journalist is holding it. So I think the question  
18 really is whether this was fair.

19 Thinking specifically about the concerns that  
20 Mr. Lawrence raised this morning, there are others, but  
21 the biggest one he mentioned this morning was the stalking  
22 allegation and his claim that being arrested for stalking  
23 is somehow misrepresenting the arrest warrant. I think,  
24 Your Honor, that that is -- you're right, the word  
25 "stalking" is not in the arrest warrant, but there's

1 nothing in the fair report that requires it to be so.

2           The arrest warrant itself describes specific  
3 conduct. That conduct is following the victim around the  
4 store while she was shopping. And it talks about  
5 following her out to the car and just standing there. It  
6 also talks about ten other incidents in which Mr. Lawrence  
7 engaged in that behavior, according to the police report.  
8 That is the kind of behavior that a normal person would  
9 describe as stalking, and by "normal person" of course I  
10 mean a reporter.

11           THE COURT: Well, the difficulty I have with the  
12 argument is that in a number of these reports they say:  
13 "A Westport man is facing charges tonight for allegedly  
14 stalking."

15           So the fair implication there is that the police  
16 are charging him, or intend to charge him, or have  
17 arrested him for stalking.

18           MS. BOLGER: I understand that, Your Honor, but  
19 I think that when you look at the fair report privilege or  
20 even assess defamatory meaning, of course the instructions  
21 are to look at the report as a whole. So, in other words,  
22 to understand one set of the words, you have to read the  
23 whole report. And I think the report is actually the --  
24 the report is itself specific that he was charged with a  
25 breach of peace for an event in November, and that there

1 were additional reports, and that there is an existing  
2 protective order, and that he faced similar charges in  
3 California, right?

4           So the report, as a whole, talks about the  
5 specific crime he's been charged with, which is the breach  
6 of peace for an incident back in November, but then it  
7 discusses additional incidences in his -- in his life.

8           THE COURT: Right, okay. But I've got to view  
9 this in the light most favorable to the plaintiff, and  
10 when I do that, what I see is the opening is he is facing  
11 charges tonight for allegedly stalking.

12           And when we get to breach of peace, it implies  
13 that it was a different charge. "Police charged him with  
14 breach of peace for an incident back in November." So  
15 that's more of a history, especially it follows where it  
16 says Lawrence has a history of doing this, and then the  
17 report indicates police charged him with breach of the  
18 peace.

19           So it's not at all apparent that the breach of  
20 peace is what he's currently facing.

21           MS. BOLGER: Well, Your Honor, I think,  
22 obviously, on a 12(b)(6) you take the inferences in favor  
23 of the plaintiff; but, actually, in the fair report  
24 context, you're actually instructed to look broadly at the  
25 context of the article and to not parse what every

1 sentence says, but to get a sense whether the report has a  
2 sting or a gist or an implication beyond what's in the  
3 arrest warrant. And here it simply doesn't have a sting  
4 beyond the arrest warrant. It may have an -- it may have  
5 words that Mr. Lawrence finds more inflammatory, but these  
6 allegations, each of them, are picked from the arrest  
7 warrant, right?

8           The arrest warrant says the incident happened in  
9 November, and he was charged with breach of peace. The  
10 arrest warrant talks about ten other incidents. That's in  
11 paragraph 11. The arrest warrant talks about criminal  
12 history in California. That's 12, that's paragraph 12.  
13 And it talks about the protective order. That's paragraph  
14 10.

15           So I agree with you, Your Honor. I would  
16 prefer, in an ideal world, that the word "charges" in the  
17 first graph was "charge," but it isn't; it's "charges."  
18 And the --

19           THE COURT: "Charged" would be problematic as  
20 well.

21           MS. BOLGER: Well, he was charged.

22           THE COURT: He wasn't charged with stalking.

23           MS. BOLGER: Well, he was charged with following  
24 victim around the store while she was shopping, followed  
25 her out to the car and just stood in front of the car

1 staring at her.

2 THE COURT: But --

3 MS. BOLGER: And the police report says --

4 THE COURT: That's the factual basis, and the  
5 charge was breach of peace. So if you had said: A  
6 Westport man allegedly followed a woman around the store,  
7 etc., etc., police are charging him with breach of peace,  
8 that would be a fair report.

9 MS. BOLGER: Although the Connecticut Supreme  
10 Court, in a case called *Strada*, actually said that  
11 embellishments, which are meant to just explain something  
12 to the reader, are protected, right? And the idea of that  
13 is that you don't have to use the technical legal term to  
14 invoke the fair report privilege.

15 In our brief we cited the case of *Weber v.*  
16 *Lancaster*, which actually the fair report privilege  
17 applies when the article read "threatened," but the police  
18 report read "harassed."

19 We cited *Pastet*, which said that he was a  
20 multiple murderer. He only murdered one person, so that  
21 was considered a fair report. Or *Gianetti*, where the  
22 article said that the doctor had sued 200 patients, and he  
23 only sued 100. You are allowed to make mistakes or things  
24 that are vaguely imprecise within the meaning of the fair  
25 report.

1           The other case that's really instructive here is  
2 the *Dellacamera* case, which is a Connecticut case. In  
3 that case, the article -- and forgive me, Your Honor, this  
4 is not a thing I like to talk about in court -- but the  
5 article said that a man was arrested for masturbating in  
6 his car. The police report said that he was found with  
7 his erect penis in his hand. It didn't use the word  
8 "masturbating." It described an activity that, to a  
9 layperson, was perceived as masturbation. That's the same  
10 thing here.

11           This article doesn't say -- sorry, the police  
12 report doesn't say that the plaintiff was stalking, but it  
13 describes an activity, which is to say following women  
14 around the parking lot, there being ten incidents, there  
15 being a protective order out against him, there being a  
16 stalking charge in California. All of those activities  
17 are described as stalking. Remember, this is a very short  
18 sound bite on the evening news. And, of course, the  
19 evening news is using this document to inform this  
20 community about what's happening.

21           So the level of precision that Your Honor is  
22 asking about just isn't required by the case law. In  
23 fact, the case law cautions against construing things that  
24 narrowly.

25           So that, Your Honor, is my response to the

1 stalking allegation.

2           And then the bit about Ms. Chambers, I'm not  
3 totally sure I quite understand. Ms. Chambers isn't named  
4 in the broadcast. In fact, I didn't know her name was  
5 Ms. Chambers until I read the plaintiff's report, and I  
6 don't know if that is her. So I'm not totally sure that I  
7 understand wholly the Ms. Chambers argument, but she's  
8 describing activity that's exactly the same as the  
9 information contained in the arrest warrant. And the  
10 cases we cited in our brief, including *Fishof* and  
11 *Gonzalez*, talk about the fact that that activity is also  
12 privileged.

13           And finally, Your Honor, in both cases, the  
14 plaintiff's pleadings have borne out the truth of the  
15 statements made in the article. If you look at the  
16 plaintiff's pleadings -- and it's mostly the second  
17 supplement, I think -- he admits there's a protective  
18 order against him. He describes six incidents in which  
19 women either talked to the police about their fear that he  
20 was following them, or other people talked to the police  
21 about their fear that women were following him. He talks  
22 about facing similar charges. He talks about the fact  
23 that he met Ms. Chambers and gave her a business card.  
24 And he says that these incidents happened at Whole Foods  
25 and Stop & Shop and Trader Joe's. And all of the things

1 that the plaintiff says in his papers -- and I agree he  
2 puts a different spin on them -- bear out the truth of the  
3 broadcast. And, of course, truth is an absolute defense  
4 to defamation. So, Your Honor, I think it is --

5 THE COURT: Well, it is, but it's not apparent  
6 on the face of the complaint. So I'm here on a 12(b)(6)  
7 motion to decide the legal sufficiency of what's in the  
8 complaint, and you're citing the evidence --

9 MS. BOLGER: In his own papers, Your Honor. I'm  
10 only saying it's within the four corners of the actual  
11 pleadings. I hear you, Your Honor, I know it's not in the  
12 complaint, but it would be exalting form over substance to  
13 allow an amendment when the papers themselves bear -- and,  
14 actually, the *Dellacamera* case actually relies on the  
15 plaintiff's statements to establish the truth.

16 THE COURT: Well, okay. I don't remember if  
17 that was a motion to dismiss or a motion for summary  
18 judgment.

19 MS. BOLGER: It was a motion for summary  
20 judgment, actually.

21 THE COURT: Right.

22 MS. BOLGER: Well, I hear you --

23 THE COURT: You can file a motion for summary  
24 judgment at the appropriate time, but --

25 MS. BOLGER: Your Honor, the fair report

1 privilege is actually designed specifically so that news  
2 organizations don't have to be put to the defense of a  
3 costly litigation that's burdensome on a claim that's  
4 meritless. And that's why we're here this morning, Your  
5 Honor, is that Connecticut, actually, in particular, is  
6 really emphatic about the fair report privilege.

7 THE COURT: Yes, I understand that. And you and  
8 I seem to disagree about whether it's a fair report to say  
9 that he is facing charges for stalking. I mean, that's  
10 really what it comes down to.

11 I agree with you with respect to the similar  
12 charges in California. I agree with you with respect to  
13 the arrest state claim. I agree with you with respect to  
14 the protective order. All of those things are a fair  
15 report of what's in the arrest warrant.

16 The difficulty I'm having is stalking has a very  
17 pejorative connotation, and he wasn't charged with  
18 stalking. He was charged with breach of the peace, which  
19 sounds like he was yelling at a policeman.

20 MS. BOLGER: Well, Your Honor, he was charged  
21 with stalking in California. So he was, in fact, charged  
22 with stalking --

23 THE COURT: That's not the issue here. The  
24 issue --

25 MS. BOLGER: But it's in the arrest report.

1 THE COURT: But it doesn't say: "A Westport man  
2 is facing charges in California years ago for stalking  
3 women around town."

4 MS. BOLGER: But, Your Honor, the cases I cited,  
5 and in particular *Dellacamera*, Your Honor, specifically  
6 say that if a news organization uses a different word than  
7 the words in the arrest warrant, as long as the arrest  
8 warrant described that behavior, it doesn't matter if the  
9 article itself does.

10 THE COURT: You can't say that because he faced  
11 charges allegedly in the arrest warrant in California  
12 years ago that he is now facing charges for stalking.

13 MS. BOLGER: Well, he was charged with breach of  
14 peace for following a woman through a parking lot, which  
15 he had done ten other times before. That's what the  
16 arrest warrant says. The arrest warrant doesn't just say  
17 breach of peace, Your Honor. The arrest warrant goes on  
18 to say because he followed a woman through a parking lot,  
19 because he'd done it -- and he had done this ten other  
20 times before, and actually the arrest warrant itself goes  
21 on to say that the reason he came back to the parking lot  
22 was fabricated, right? So it describes a pattern of  
23 conduct --

24 THE COURT: I understand that. You don't  
25 mention that in the report, but --

1 MS. BOLGER: We don't need to, Your Honor.

2 THE COURT: I know.

3 MS. BOLGER: The report need not be perfect.

4 THE COURT: I understand. The term "allegedly  
5 stalking, facing charges tonight for alleging stalking,"  
6 the police never intended, apparently, to charge him with  
7 stalking the women.

8 MS. BOLGER: Well, it's a breach of peace  
9 arising out of the behavior of following women around the  
10 parking lot.

11 THE COURT: Had you said: "A Westport man is  
12 facing charges tonight for following several women around  
13 town," that would be great.

14 MS. BOLGER: But, Your Honor, if you read the  
15 whole article -- I'm sorry, if you read the whole  
16 report --

17 THE COURT: I've read it.

18 MS. BOLGER: -- watch the whole report, that is  
19 what it says.

20 THE COURT: No, it's not.

21 MS. BOLGER: You know, the courts instruct you  
22 to look at the article as a whole rather than one  
23 specific --

24 THE COURT: Exactly. I agree. I've read the  
25 whole article, the whole article. I've read it.

1 MS. BOLGER: There's actually like several  
2 versions of it, Your Honor.

3 THE COURT: I've read every version. I've read  
4 every version.

5 MS. BOLGER: Right.

6 THE COURT: They all start with the headline:  
7 "A Westport man is facing charges tonight for alleging  
8 stalking." Every report starts that way.

9 MS. BOLGER: Your Honor, I think *Dellacamera*  
10 would be the case most directly on point. I think  
11 *Dellacamera* is the case that makes the point that if you  
12 are accurately describing the information, even if you use  
13 a different word, you're still entitled to the fair report  
14 privilege, and we would submit that we are accurately  
15 describing the information.

16 And then I would also submit, Your Honor, that  
17 the plaintiff has admitted the behavior described is true.

18 THE COURT: I understand your argument. Thank  
19 you.

20 Mr. Lawrence, do you want to be heard?

21 MR. LAWRENCE: Well, I -- first I want to -- I  
22 know she's citing this fair report privilege, and I'm  
23 looking at the *Burton v. American Lawyer Media*. And like  
24 I said, it seems that in their responses that they're just  
25 not addressing the stuff that I put in the responses, in

1 my responses, in particular this idea that the report is  
2 an accurate and complete or a fair abridgement. Well,  
3 they took their fair abridgement offline, first of all.  
4 But when you talk about abridgement, which I showed in my  
5 response, we're talking about to reduce, to curtail,  
6 diminish or deprive. But when you really look at it, it  
7 was a heightening, an increase, an accentuation, let alone  
8 outright lies, and it wasn't an abridgement of the actual  
9 charge.

10 As for the *Dellacamera* case, I just would like  
11 people just to reread all my arguments. I mean, I could  
12 sit here and reread this verbatim, you know, that, once  
13 again, which I was showing that there is -- which in the  
14 *Dellacamera* case I feel like I would just ask you to  
15 reread my argument with that because I could constantly go  
16 over this, you know, the idea that, you know, this kind of  
17 case would be used. In fact, my lawyer at the time was  
18 the actual lawyer on the *Dellacamera* case, a guy named J.  
19 R. Williams, which is a fascinating synchronicity that  
20 this was their big case that they were relying on.

21 I just want to give an analogy. I know that we  
22 want to refer to these precedents from 1980 or 1990 as if  
23 it had some kind of significance, and we live in a very  
24 different time. We have a perfect storm right now of not  
25 only the increase of social media and access to

1 information 24/7 that lives and breathes out there for  
2 everyone, but then we also have that coupled with the Me  
3 Too zeitgeist, the Nasty Woman zeitgeist, and the Time's  
4 Up zeitgeist. And so the combination of the two --

5 THE COURT: You know, we're not really into  
6 that --

7 MR. LAWRENCE: Okay.

8 THE COURT: -- today. Today we're just talking  
9 about --

10 MR. LAWRENCE: Okay.

11 THE COURT: -- whether your complaint survives a  
12 legal challenge. It doesn't matter all the zeitgeists  
13 that are out there. What matters is the words in your  
14 complaint.

15 MR. LAWRENCE: All right. So I'm addressing the  
16 idea of abridge in the fair and accurate. And, like I  
17 said, I find that it was not an abridgement. It was  
18 definitely a heightening, an extremity -- a hyping, more  
19 like.

20 I do ask that the legal definition of stalking  
21 take precedent here, although I did show in my third  
22 response the actual dictionary definition of stalking  
23 doesn't even apply either. And I would refer to you my  
24 third response where I was addressing the Joe Biden ordeal  
25 about the violation of personal space issue that was

1 written in the arrest warrant.

2           So as for the *Dellacamera*, I mean, it's their  
3 number one issue, it seems, the number one case that they  
4 try to rely on. And I wish I could just start talking  
5 about it outside of having you just reread what I call  
6 Outrage Number 10 about the *Dellacamera* and constantly,  
7 you know, this idea, like, you know, the gist and this  
8 word "gist." Like I said, I just find that the gist  
9 was -- was -- they didn't come anywhere near the gist, the  
10 "gist" being the actual arrest, a single charge of second  
11 degree breach of peace, not "charges," and certainly not  
12 stalking of any kind. Like I showed that when you're  
13 saying the word "stalking," I refer to three levels of  
14 stalking you don't know. I talked about the issue of  
15 stalking; the very serious desire for me to, when I  
16 consulted *Psychology Today* with the [FederalResources.com](http://FederalResources.com),  
17 and none of this referred -- is under any of these  
18 definitions in what I showed in these particular aspects.

19           I even drew the cultural definition of stalking  
20 for how it's used in art and tried to show a difference  
21 between, you know, being referred to as a stalker or a  
22 breach of peacer, you know, and it's obvious.

23           What really is outrageous is this arrogant claim  
24 like you know the effects on the minds of the viewer, and  
25 I could put that to test big time. The damages that I've

1 had and what has happened to me I can talk about in  
2 detail.

3           So I would just ask you to refer to my Outrage  
4 Number 10, which is from page 22 to 24 on my first  
5 response. Their big argument, I do show how this  
6 *Dellacamera* was from a police blotter section, and from a  
7 local newspaper, all before the internet, once again,  
8 and -- with threatening, okay. And like I said, outside  
9 of just reading every paragraph from this, which I would  
10 love to do, but, once again, I just feel that I will refer  
11 you to pages 22 to 25, Outrage Number 10 on *Dellacamera*  
12 and address any more questions that you have.

13           THE COURT: Okay, thank you.

14           MS. BOLGER: Your Honor, may I make two very  
15 quick points?

16           THE COURT: Sure.

17           MS. BOLGER: The first is that the news reports  
18 actually say: "A Westport man is facing charges tonight  
19 for allegedly stalking several women around town."

20           Doesn't say he was charged with stalking, right?  
21 It says he was charged -- facing charges for stalking  
22 women around town.

23           I think there's a significant difference between  
24 being charged with stalking and being charged for  
25 stalking. And when the affidavit in support of the arrest

1 warrant says that what he was doing was following women  
2 around town, that to me is consistent with being charged  
3 for allegedly stalking several women around town.

4 THE COURT: Well, it's unclear from the report  
5 and the arrest warrant. The arrest warrant application,  
6 paragraph 10, describes how Mr. Lawrence was yelling and  
7 swearing. That is breach of the peace conduct. So it's  
8 not clear that he was even arrested for following anybody  
9 around town.

10 MR. LAWRENCE: "Stalking" has connotations of  
11 repeated behavior.

12 THE COURT: Okay, I understand. I understand,  
13 Mr. Lawrence.

14 So how do we know, as a matter of law, that the  
15 arrest warrant is using "following the women," which is  
16 never referred to as a violation of any kind, how do we  
17 know that that's not Number 10, yelling at the cops?

18 MS. BOLGER: The reason for that, Your Honor, of  
19 course, is that the plaintiff has pled that he was  
20 arrested for -- the plaintiff's complaint characterizes  
21 his arrest as for his behavior with the women. So  
22 that's -- the plaintiff has himself pled that the falsity  
23 here is that he wasn't stalking the women. So that's  
24 the -- I mean, the plaintiff has pled that that's what  
25 this means.

1           But, in addition, Your Honor, I would just  
2 mention that if you read paragraph 7, it talks about he  
3 was questioned about following the complainant around the  
4 store prior to leaving and then standing in front of her.  
5 And it also says there were ten instances where Lawrence  
6 was seen following the complainants around a store or a  
7 coffee shop.

8           So a reasonable reader, reading this, thinks  
9 that he has been stalking women around town. I'm not  
10 suggesting it's the charge, Your Honor; I'm just  
11 suggesting this behavior could be described as stalking.

12           And I also just wanted to say, Your Honor, that  
13 the *Dellacamera* case, the charge in that case was breach  
14 of peace.

15           MR. LAWRENCE: Two charges.

16           MS. BOLGER: The article described masturbation,  
17 and the Court said it was a fair report of the conduct  
18 described in the arrest warrant even though the actual  
19 charge was breach of peace and public indecency, right?  
20 So there was a charge, breach of peace, and the conduct  
21 was masturbation. So the --

22           THE COURT: Masturbation would be a breach of  
23 peace.

24           MS. BOLGER: Your Honor, when you're sitting in  
25 your room, watching the 5:00 news, you're not thinking

1 that your newscaster is telling you the technical legal  
2 charge when they say sentences like this one, which is:  
3 "A Westport man is facing charges tonight for allegedly  
4 stalking several women around town."

5 That's an idiomatic way of describing the  
6 behavior described in the arrest warrant, and that  
7 idiomatic way is completely appropriate according to all  
8 of the case law, including *Burton*, and *Strada*, and  
9 *Dellacamera*, and *Gianetti*, and all of the great  
10 Connecticut cases that say you, newscaster, are allowed to  
11 idiomatically describe what's in these proceedings as long  
12 as you get it right.

13 THE COURT: Okay. But they didn't get it right.

14 MS. BOLGER: But they did, Your Honor, if you  
15 don't read stalking like it's a legal charge. If you read  
16 it like someone is describing the behavior, to me  
17 following women around a supermarket is stalking them.

18 THE COURT: Okay, but here's the point. You're  
19 asking me to assume, to look at the evidence -- to look at  
20 the allegations in the light most favorable to you, the  
21 defendant, when the report is fully consistent with his  
22 breach of peace charge being, one, in paragraph 7, he  
23 became very agitated, and two, in paragraph 10, he's  
24 yelling and swearing.

25 MS. BOLGER: But, Your Honor, I'm not asking you

1 to do that. What I'm asking you to do is follow the  
2 precedent that says in this case the tie doesn't go to the  
3 runner.

4 THE COURT: It's not a tie.

5 MS. BOLGER: I know, but you are supposed to not  
6 put your -- in this context, you are to construe things  
7 broadly, with an eye toward dispatching meritless cases  
8 early so that the media organization -- it's an impossible  
9 standard, Your Honor, to suggest that a media  
10 organization, doing a breaking news story, can't describe  
11 conduct in a police report, which says that a man followed  
12 a woman around a grocery store, as stalking, when he's  
13 done it to ten other women in that same police report.  
14 That misstates the purpose of the privilege.

15 The purpose of the privilege is not to get your  
16 local news organization tied up with having to guess what  
17 the right word is. It's supposed to be able to report  
18 idiomatically and quickly about what they're reading in  
19 the government's -- in a government proceeding. The  
20 standard you're setting would make it impossible to bet  
21 that you are accurately reporting what you are holding in  
22 your hand. Remember, he's got it in his hand. He's  
23 trying to report what's in his hand. And that, to me, is  
24 the point of the fair report privilege, is that a local  
25 news organization is supposed to have latitude to

1 idiomatically describe what's in an official proceeding.  
2 And holding them up to some kind of hyperprecision  
3 undercuts the purpose of the privilege, particularly when  
4 here they're not saying he was charged with stalking,  
5 right? They're saying he was charged for allegedly  
6 stalking women around town, facing charges for allegedly  
7 stalking women around town.

8 THE COURT: Well, we're just going to have to  
9 disagree about this one.

10 I am going to grant, in substantial part, the  
11 motion to dismiss. I am going to deny the motion to  
12 dismiss with respect to the claims that Mr. Lawrence was  
13 facing charges for allegedly stalking several women around  
14 town.

15 In my view, that is not, as a matter of law, a  
16 fair report of the arrest warrant. A fair report of the  
17 arrest warrant would have said that police claim he  
18 followed several women around town, or through grocery  
19 stores, or whatever, and was charged with breach of the  
20 peace. That's not what it says.

21 MS. BOLGER: That would be technical, Your  
22 Honor, and the point of the fair report privilege is not  
23 that level of technicality. My objection, Your Honor, is  
24 just that you're writing that -- forgive me, Your Honor --  
25 like a lawyer or a judge, and the fair report privilege is

1 supposed to provide latitude for the press not to write it  
2 like a lawyer or a judge.

3 THE COURT: I understand the purpose.

4 MR. LAWRENCE: There was no descriptions of any  
5 of these alleged incidents that were already investigated.

6 THE COURT: All right.

7 MR. LAWRENCE: So I think that --

8 THE COURT: All right. So, Mr. Lawrence, this  
9 is what you have to do.

10 MR. LAWRENCE: Okay.

11 THE COURT: You have to file an amended  
12 complaint in the next thirty days.

13 MR. LAWRENCE: Okay.

14 THE COURT: The only incident that you can  
15 complain about is the reports that you were facing charges  
16 for allegedly stalking. You have to set forth, in  
17 addition, the basis for federal jurisdiction.

18 MR. LAWRENCE: As for the -- okay, basis for  
19 federal jurisdiction. Okay. Yeah, I guess that makes  
20 sense to me. All right.

21 The -- the issue -- what I'm having a hard time  
22 with, and I was wondering if we could just go over this  
23 just once more, is just this whole idea of being able to  
24 dox someone of -- she mentioned about these ten  
25 incidences. Now, they got into the game after. They

1 never even did a first report. And then they get into the  
2 game afterwards, and they botch it.

3 And this issue that I was bringing up, these two  
4 issues of stalking, obviously, but also the idea of doxing  
5 people of these gray areas that are out there now and that  
6 the layperson can't distinguish between a charge and a  
7 conviction, arrest and a conviction, or an incident and an  
8 arrest. And I take -- I really want that to be  
9 considered, also, because I have a problem right now with  
10 this narrative out there where I am being targeted  
11 everywhere from a pool that I wanted to join, to  
12 everywhere else, which I have to address, but it all  
13 started with Mark Sudol and Wendy Chambers and releasing  
14 this kind of information, once again unproven --

15 THE COURT: That information is in the arrest  
16 warrant, so it's a fair report on what's in the arrest  
17 warrant. So you don't have a defamation claim based upon  
18 the doxing issue. You don't.

19 MR. LAWRENCE: It is very unusual because if you  
20 look at it, 99 percent -- this I want, the statistics --  
21 99 percent of the times when someone is arrested, they  
22 just stick to the police blotter. I can show you the  
23 police blotter --

24 THE COURT: All right.

25 MR. LAWRENCE: -- and the Westport police --

1           THE COURT: Here we have an arrest warrant.  
2 They had the arrest warrant. They relied on the arrest  
3 warrant. Maybe the arrest warrant is wrong, but it's an  
4 arrest warrant. And so it's an official document, sworn  
5 to and provided to a judge, and it says "I learned that  
6 there were ten case incidents logged from 2002 to the  
7 present."

8           When they say that on TV, it's all good. You  
9 may not be happy with it that somebody is digging this  
10 up --

11           MR. LAWRENCE: Yeah, but usually the normal  
12 protocol, even with what's going on, when they say this  
13 stuff, there are names behind it. There are no names  
14 associated with any of these cases.

15           THE COURT: The arrest warrant application  
16 doesn't have names in it. It simply says "ten." They can  
17 report that. They can report that.

18           MR. LAWRENCE: Well, that's obviously an issue I  
19 have with the police. At least your decision will help me  
20 with my argument against the police because it is  
21 definitely something that is creating a bias and is --  
22 yeah, it's very disturbing. So...

23           THE COURT: Okay. Do you understand what you  
24 need to do?

25           MR. LAWRENCE: Yes. I need to file an amended

1 motion --

2 THE COURT: Amended complaint.

3 MR. LAWRENCE: Complaint, amended complaint that  
4 is the basis for the jurisdiction of the stalking  
5 complaint for federal jurisdiction.

6 THE COURT: You need to set forth that there's  
7 diversity jurisdiction over the case, 1332 --

8 MR. LAWRENCE: 1332, okay.

9 THE COURT: -- and you need to set out your  
10 claim regarding the defamation claim that they have  
11 defamed you by saying that you were facing charges for  
12 stalking women. That's the claim in the case.

13 MR. LAWRENCE: Okay. And I have thirty days to  
14 do that?

15 THE COURT: You have thirty days, and then they  
16 can move to dismiss again. If they think your complaint  
17 is not good, they can move to dismiss again.

18 MR. LAWRENCE: Will we have another hearing?

19 THE COURT: Perhaps.

20 MR. LAWRENCE: Perhaps? Okay.

21 What is the timeframe, because I live in Europe  
22 and I'm just trying to get an idea of how I -- when to  
23 come back, how much money I spend on coming and going. If  
24 I file this within the next week, what is the general idea  
25 of when I would need to return? I'm just curious.

1 THE COURT: Well, all right. For one thing, you  
2 don't have to return.

3 MR. LAWRENCE: Oh, okay.

4 THE COURT: You don't have to be here.

5 MR. LAWRENCE: Okay.

6 THE COURT: We can either do it on the papers or  
7 we can do it by video.

8 MR. LAWRENCE: Okay.

9 THE COURT: Okay? So don't fly back here for an  
10 argument.

11 MR. LAWRENCE: Because we've covered most of it,  
12 okay.

13 THE COURT: But you're clear what you need to  
14 do?

15 MR. LAWRENCE: Yes, the issue of diversity  
16 jurisdiction. I need to file an amended complaint --  
17 complaint. You said it was 1332?

18 THE COURT: 28 U.S.C. 1332.

19 MR. LAWRENCE: 28 U.S.C., and I'll get the  
20 minutes just to go over it again because a lot of this  
21 technical stuff I'm having a hard time. I'm sorry I  
22 created a delay with all this. I thought I was aware of  
23 what I was doing. But I'll get some consultation to help  
24 me with that, yeah, and I'll have this to you as soon as  
25 possible.

1           THE COURT: Okay. The other thing I would say,  
2 just for advice, is when there is a motion and you want to  
3 submit a brief, it's called a brief.

4           MR. LAWRENCE: Okay.

5           THE COURT: So 28 single-spaced pages is a lot  
6 of paper, and there's some repetition in what you've done,  
7 and so I think it was --

8           MR. LAWRENCE: Unfortunately, when they list a  
9 lot of precedence, it just seems to be a chain of having  
10 to regurgitate stuff, and hopefully you're aware that on  
11 my second response that I was not trying to regurgitate.  
12 I kept it to ten pages and referring you back to the  
13 original response, the first one. But I'll be very  
14 cognizant. And I think we're over the hump for the most  
15 amount of information. This information certainly is  
16 worthy of a novel, at least, and I've kept it to like  
17 about 40 or 50 pages, and I don't foresee any more  
18 problems with that. I'll keep it very simple.

19           THE COURT: Okay. We have a local rule that  
20 says 40 pages is the limit for a brief.

21           MR. LAWRENCE: For a particular one. Yeah, I  
22 was aware of that. Does that include the supplements to  
23 it, or is that just --

24           THE COURT: If you attach exhibits, no, that  
25 does not.

1 MR. LAWRENCE: Right, okay.

2 THE COURT: All right. Anything further?

3 Does anybody want me to articulate, more than I  
4 have, the basis of the ruling?

5 MS. BOLGER: No.

6 MR. RONAN: No thank you, Your Honor.

7 MR. LAWRENCE: I have a lot of questions, but I  
8 guess that's -- yeah, I think I have it clear, and I'll  
9 consult if there's any other problems. But you don't want  
10 to go over anything else, any other -- nothing else, okay.

11 THE COURT: All right? Thank you. We'll stand  
12 in recess.

13 MR. LAWRENCE: Thank you, Your Honor.

14 (Adjournment: 2:50 p.m.)  
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## C E R T I F I C A T E

No. 3:18-cv-01927 (SRU)

James Lawrence v. Altice USA

I, Sharon L. Masse, RMR, CRR, Official Court Reporter for the United States District Court for the District of Connecticut, do hereby certify that the foregoing pages are a true and accurate transcription of my shorthand notes taken in the aforementioned matter to the best of my skill and ability.

February 12, 2020

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