

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

EDWARD T. SAADI,)	CASE NO.: 07-CV-01976-SCB-MAP
)	
Plaintiff,)	Judge Susan C. Bucklew
)	Mag. Mark A. Pizzo
v.)	
)	
PIERRE A. MAROUN, et al.,)	<u>OPPOSITION TO DEFENDANTS'</u>
)	<u>MOTION TO DISMISS AMENDED</u>
)	<u>COMPLAINT</u>
Defendants)	

OPPOSITION TO DEFENDANTS' MOTION TO DISMISS AMENDED COMPLAINT

Plaintiff EDWARD T. SAADI, *pro-se*, hereby responds in opposition to the Defendants' Motion to Dismiss Amended Complaint.

I. INTRODUCTION

The Defendants' motion seeks dismissal of the Plaintiff's Amended Complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure. They assert three grounds for their motion: First, the Defendants argue that the false and defamatory statements at issue are statements of opinion and are therefore not actionable. Second, the Defendants assert the alternative ground that the Plaintiff has not alleged that the Marouns were responsible for publishing the defamatory statements. Third, the Defendants contend that publication of the defamatory statements complained of herein is not the sort of "extreme and outrageous conduct" which gives rise to a claim for intentional infliction of emotional distress.

The Defendants are flatly wrong on all three points. Their motion should be denied in its entirety.

II. LAW & ARGUMENT

In evaluating a motion to dismiss, the complaint must be construed in the light most favorable to the Plaintiff, and all facts alleged by the plaintiff are accepted as true. See Murphy v. Federal Deposit Ins. Corp., 208 F.3d 959, 962 (11th Cir. 2000)(citing Kirby v. Siegelman, 195 F.3d 1285, 1289 (11th Cir. 1999)). The threshold of sufficiency that a complaint must meet to survive a motion to dismiss is “exceedingly low.” Rey v. Kmart Corp., 1998 WL 656070 (S.D. Fla.). Dismissal under Federal Rule 12(b)(6) is proper only where “it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The Federal Rules of Civil Procedure “do not require a claimant to set out in detail the facts upon which he bases his claim.” Id. at 47. All that is required is “a short and plain statement of the claim.” Fed. R. Civ. P. 8(a)(2). The standard on a 12(b)(6) motion to dismiss is not whether the plaintiff will ultimately prevail on his or her theories, but whether the allegations are sufficient to allow the plaintiff to conduct discovery in an attempt to prove the allegations. See Jackam v. Hospital Corp. of Am Mideast, Ltd., 800 F.2d 1577, 1579 (11th Cir. 1986).

A. The Statements In Question Are Not Statements Of Opinion.

In a defamation claim, a plaintiff must allege that the statements published by the defendant are false and defamatory. Hay v. Independent Newspapers, Inc., 450 So.2d 293, 295 (Fla. 2d Dist. Ct. App. 1984); Rasmussen v. Collier County Publishing Co., 946 So.2d 567, 571 (Fla.2d Dist Ct. App. 2006). The Plaintiff herein made that allegation. See Amended Complaint, ¶¶1, 19, 20, 21, 25, 26, 27, 28, 29, 30, 31, & 32. Nevertheless, Defendants claim that the statements in question (i.e. those shown in Exhibits “A,” “B,” and “C” of the Amended Complaint) are statements of opinion and are therefore not actionable.

1 Pure opinion occurs only “when the defendant makes a comment or states an opinion
2 based on facts which are set forth in the article or which are otherwise known or available to the
3 reader or listener as a member of the public.” From v. Tallahassee Democrat, Inc., 400 So.2d 52,
4 57 (Fla 1st DCA 1981).

6 The law “distinguishes between pure expressions of opinion, which are constitutionally
7 protected, and mixed expressions of opinion, which, like factual statements, are not.” Johnson v.
8 Clark, 484 F.Supp.2d 1242, 1247 (M.D. Fla. 2007). Mixed expression of opinion and fact occurs
9 when an opinion or comment is made which is based upon facts regarding the plaintiff or his
10 conduct *that have not been stated in the article* or assumed to exist by the parties to the
11 communication. From, 400 So.2d at 57. A statement is *not* protected as pure opinion if it
12 implies the existence of undisclosed defamatory facts as its basis. LRX, Inc. v. Horizon Assocs.
13 Joint Venture, 842 So.2d 881, 885 (Fla. 4th DCA 2003); Stembridge v. Mintz, 652 So.2d 444,
14 446 (Fla. 3d DCA 1995)(quoting Restatement (Second) of Torts §566(1977)).

17 The questions of whether a statement is one of fact and susceptible of defamatory
18 interpretation is a question of law for the court. Hay v. Indep. Newspapers, Inc., 450 So.2d 293,
19 295 (Fla. 2d DCA 1984); Johnson, 484 F.Supp.2d at 1247. Likewise, the question of whether a
20 statement consists of mixed opinion and fact is also a question of law for the court. Colodny v.
21 Iverson, Yoakum, Papiano & Hatch, 936 F.Supp. 917, 923 (M.D. Fla. 1996). If a court finds that
22 a statement(s) is a statement of fact, or of mixed opinion and fact, and reasonably capable of
23 defamatory interpretation, a motion to dismiss should be denied. Stembridge, 652 So.2d at 446.

25 1. *The Statements In Exhibit “A” Of The Amended Complaint Are Not*
26 *Expressions of Opinion.*

27 In Exhibit “A,” the Defendants refer to the Plaintiff as a “stalker form [sic] Ohio.”
28 Stalking is a crime, and sometimes a felony, both in the Defendants’ home state of Florida, and

1 in the Plaintiff's home state of Ohio. Fla. Stat. Ann. §748.048; Ohio Rev. Code §2903.211.
2 Exhibit "A" also states that the Plaintiff "claims to have a law degree but never worked or tried a
3 case," which is a statement clearly intended to imply to readers that the Plaintiff (a practicing
4 attorney) does not really have a law degree, but merely claims to have one, and is incompetent in
5 his profession. Statements that impute to a person a condition which is incompatible with the
6 proper exercise of that person's trade or profession are defamatory *per se*. Exhibit "A" also
7 states that the Plaintiff is "mentally unstable." As one court held, "[M]ost assuredly, a
8 publication which suggests an impairment in plaintiff's mental faculties...is one which imputes
9 to him a condition incompatible with the proper exercise of his trade or profession..." Eastern
10 Air Lines, Inc. v. Gellert, 438 So.2d 923 (Fla. App. 3 Dist. 1983). The statement that Defendants
11 published about the Plaintiff in Exhibit "A" constitute defamation *per se*, as they impute serious
12 criminal conduct to the Plaintiff, and impute to Plaintiff a condition which is incompatible with
13 the proper exercise of Plaintiff's trade or profession.
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17 Contrary to the Defendants' assertions, none of the statement in Exhibit "A" meet the test
18 for "pure opinion" set forth in From; that is, the Defendants have not made these statements
19 about the Plaintiff based on facts which they set forth in the article, or which are otherwise
20 known or available to the reader. Actually, no additional "facts" whatsoever are set forth in
21 Exhibit "A" besides additional false and defamatory statements about other individuals who are
22 not parties to this case.¹ Additional defamatory statements about other individuals are certainly
23 not the kinds of "facts" contemplated by From which might transform a defamatory statement of
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27 ¹ For example, in Exhibit "A" the Defendants refer to another individual as a "gas station boy" and to two others as
28 "disturbed individuals." In addition, in other statements made contemporaneously with those in Exhibit "A," (true and correct copies of which are attached hereto as Exhibit "G"), the Defendants refer to a particular woman as a "recovered alcoholic," [sic] a "sex addict," and a "call girl."

1 fact into a protected statement of pure opinion. Plaintiff is, frankly, at a loss to understand how
2 the statements in Exhibit “A” could by any stretch of the imagination be described as opinion.

3 They are purely statements of fact and are therefore actionable.
4

5 If the statements made in Exhibit “A” are not purely statements of fact then they are, at
6 best, mixed statements of opinion and fact. When a statement is made based on facts regarding a
7 person that are neither stated in the publication nor assumed to exist by a party exposed to the
8 communication, then the statement is a mixed statement of opinion and fact. From 400 So.2d at
9 57. In such instances—where the speaker implies that a concealed or undisclosed set of
10 defamatory facts would confirm his opinion—the statements are actionable. Here, the Plaintiff
11 has been accused of “stalking,” of being “mentally unstable,” and, in essence, of not really being
12 an attorney. These naked accusations imply the existence of unstated facts regarding the
13 Plaintiff, namely, that Plaintiff has committed the crime of stalking, or that the Plaintiff has some
14 mental problem, or that the Plaintiff’s law degree is somehow inauthentic. So, at best, the
15 statements shown in Exhibit “A” are statements of mixed opinion and fact, and are therefore
16 actionable.
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19 *2. The Statements In Exhibit “B” Of The Amended Complaint Are Not*
20 *Expressions of Opinion.*

21 In Exhibit “B” the Defendants start off with a story about a “theft” of money purportedly
22 committed by former Lebanese Prime Minister Michel Aoun against the Government of Lebanon
23 in 1990 (on being forced into exile after leading a battle to liberate Lebanon from Syrian
24 occupation forces). The Defendants then ask the rhetorical question, “where is that money and
25 who is benefitting from them [sic]?” The Defendants then answer the question by saying, “Well,
26 after some thorough investigations, it became clear that more than one person is investing this
27 money in coordination with Aoun.” The Defendants then state that various other individuals not
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1 parties to this case received such “stolen” funds, and that the Plaintiff “did not get any money for
2 investment. But they bought him a new car” (with the purportedly “stolen” funds). Again, here,
3 the Defendants accuse the Plaintiff of criminal conduct. See Ohio Rev. Code §2913.51
4 (Receiving stolen property); See also Fla. Stat. Ann. §812.019 (Dealing in stolen property). In
5 truth, Defendant Pierre Maroun is fully aware that the “car” in question was purchased from his
6 brother, a used car dealer, and financed through a bank. There is not a hint of opinion in Exhibit
7 “B”; it is purely an assertion of fact.
8

9 If the statements in Exhibit “B” are anything less than statements of pure fact, then they
10 are statements of mixed opinion and fact because they are based upon facts regarding the
11 Plaintiff or his conduct that have not been stated in the article. From at 57. Because the
12 Defendant imply the existence of undisclosed defamatory facts as the basis for these statements,
13 they are actionable.
14

15 In fact, the Defendants statements in Exhibit “B” may be textbook examples of mixed
16 expressions of opinion and fact. The Defendants state, “Well, *after some thorough*
17 *investigations, it became clear* that more than one person is investing this money...” This
18 language states—explicitly—that “facts” exist regarding the Plaintiff or his conduct which were
19 revealed by the Defendants’ “investigation.” The Defendants, of course, do not disclose the
20 “facts” uncovered by their “investigation.” Clearly then, in Exhibit “B,” the Defendants made
21 defamatory statements about the Plaintiff based upon additional undisclosed defamatory “facts.”
22 Therefore, the statements in Exhibit “B” are, at best, mixed expressions of opinion and fact, are
23 *not* protected as pure opinion, and are actionable.
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26 Furthermore, the law is clear that even if the speaker does state the facts upon which he
27 bases his opinion, “if those facts are either incorrect or incomplete, or if his assessment of them
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1 is erroneous, the statement may still imply a false assertion of fact. Simply couching such
2 statements in terms of opinion does not dispel these implications.” Milkovich v. Lorain Journal
3 Co., 497 U.S. 1, 18-19 (1990); See Also Anson v. Paxson Commc’ns Corp., 726 So.2d 1209,
4 1211 (Fla 4th DCA 1999). In that event, the statement is not protected as pure opinion. Although
5 the Defendants have has set forth purported “facts” in Exhibit “B” to support their defamatory
6 statements about the Plaintiff, those “facts” are incomplete, incorrect, or are being erroneously
7 assessed by the Defendants. Therefore, they imply a false assertion of fact, and are not protected
8 as pure opinion.
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11 3. *The Statements In Exhibit “C” Of The Amended Complaint Are Not*
12 *Expressions of Opinion.*

13 In Exhibit “C,” the Defendants clearly state—as fact, not opinion—that the Plaintiff has a
14 “highschool girlfriend” who “already turned 18, so it’s legal now...” Amended Complaint,
15 Exhibit “C.” This is a crystal-clear imputation of fact, not opinion, which leaves the reader with
16 the impression that the Plaintiff has committed statutory rape. Once again, this is an imputation
17 of felony criminal conduct to the Plaintiff. Fla. Stat. Ann §794.05.
18

19 Again, in regards to Exhibit “C,” the From test is not met. Pure opinion “occurs when the
20 defendant makes a comment or states an opinion based on facts which are set forth in the article
21 or which are otherwise known or available to the reader or listener as a member of the public.”
22 From, 400 So.2d at 57. Therefore, the statements in Exhibit “C” are not pure opinion. At best,
23 the statements in Exhibit “C” are, like those discussed above, mixed expressions of opinion and
24 fact because they are based upon facts regarding the Plaintiff that have not been stated in the
25 article, i.e., that the Plaintiff has engaged in sexual activity with a minor. Because the “facts”
26 upon which the Defendants’ defamatory statement is based is itself defamatory, the statements in
27 Exhibit “C” are actionable.
28

1 4. *The Context In Which The Statements Were Made Confirms The Defamatory*
2 *Character Of The Statements.*

3 The Defendants correctly point out that in determining whether a statement is pure
4 opinion, the court must “construe the statement in its totality,” and must examine “not merely a
5 particular word or phrase or sentence, but all of the words used in the publication” and that the
6 court must “consider the context in which the statement was published and accord weight to
7 cautionary terms used by the person publishing the statement.” Hay, 450 So.2d at 295.

8 Strangely, however, the Defendants failed to provide such context, perhaps because they know
9 that the context in which the statements were published is just as bad as the statements
10 themselves.
11

12 The statements shown in Exhibits “A,” “B,” and “C” of the Amended Complaint were
13 published on an Internet “blog” formerly² located at <http://biggestlosers.blogspot.com> (the
14 “Blog”.) Plaintiff has attached hereto a document labeled as Exhibit “G”³ which is a print-out of
15 the majority of the Blog in which the statements in Exhibits “A,” “B,” and “C” were published.
16 The Plaintiff (unlike the Defendants, apparently, as they failed to provide it) invites the court to
17 review this context and to make a determination as to whether anything therein alters the
18 inescapable conclusion that the statements shown in Exhibits “A,” “B,” and “C” are actionable.
19

20 Examination of the Blog reveals that the it contains little more than disturbed ramblings,
21 and is devoid of any real content besides defamatory statements about others. The Blog exists
22 for the specific purpose of giving the Defendants a platform to engage in vicious defamation
23 against a particular group of individuals. The Blog—the “context” in which the statements about
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27 ² After leaving the Blog up for more than two years, the Defendants removed the Blog from public view only after
being sued and served in this case.

28 ³ The Plaintiff begins his exhibits with the letter “G” because letters “A” through “F” were used in the Amended
Complaint.

1 the Plaintiff were made—consists only of more defamatory statements about others. For
2 example, besides the statements it contains about the Plaintiff, the Blog compares one individual
3 to a gorilla, publishes digital pictures of other individuals with their heads replaced by heads of
4 donkeys or the head of the horror-movie character “chucky,” calls several upstanding individuals
5 “disturbed,” “unstable,” and “perverts,” and attacks the chastity of a woman by labeling her a
6 “call girl” and a “sex addict.” So, contrary to the Defendants’ assertions, an examination of the
7 context in which the statements at issue in this case were published only confirms the defamatory
8 nature of the statements.
9

10
11 Hay also requires a court to consider the “cautionary terms” used by the Defendant. Hay
12 at 295. In this case, the Defendants have used no cautionary terms. To the contrary, as Exhibit
13 “G” shows, the top of every page of the Blog declares proudly the following: “**ALTHOUGH**
14 **WE ARE SLOPPY AND WE DON’T CARE FOR POLITICAL CORRECTNESS OUR**
15 **STORIES ARE TRUE.**” So, not only do the Defendants herein fail to use any cautionary terms
16 whatsoever, they do exactly the opposite—they proudly declare to readers that the statements are
17 not opinions, but are, rather, “true.”
18

19 *5. Neither The “Qualified Privilege Doctrine” nor the “Fair Comment Doctrine”*
20 *Apply.*

21 The Defendants argue that the Blog was “a political blog focused on the posting of
22 opposing views regarding the political situation in Lebanon.” The Defendants therefore argue
23 that the statements at issue in this case are constitutionally protected. Again, the Plaintiff
24 respectfully invites the Court to examine the Blog—Exhibit “G”—and determine for itself (1)
25 whether it is a “political blog,” (2) whether any “opposing views” have been posted, and (3)
26 whether there is any real discussion of the political situation in Lebanon; surely the Court will
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1 see the obvious, that the Blog was nothing more than a means for the Defendants—hiding behind
2 a pseudonym—to perpetrate sickening libel upon individuals that they dislike.

3
4 In any case, in arguing that the Blog was of a “political nature,” the Defendants seem to
5 be invoking the type of “qualified privilege” discussed in Nodar v. Galbreath, 462 So.2d 803
6 (Fla. 1984). The Defendants also appear to be raising what is known as the “fair comment
7 doctrine.” Even if the Blog could somehow be construed as “political,” neither of these
8 doctrines apply to this case.

9
10 **The “Qualified Privilege” of Nodar:** The Defendants are attempting to shield
11 themselves from liability by applying the “qualified privilege” set forth in Nodar, which states
12 that “A communication made in good faith on any subject matter by one having an interest
13 therein, or in reference to which he has a duty, is privileged if made to a person having a
14 corresponding interest or duty, even though it contains matter which would otherwise be
15 actionable.” Nodar, 462 So.2d at 809 (citing 19 Fla.Jur.2d Defamation and Privacy §58 (1980)).

16
17 In Nodar, the defendant was the father of a high school student who had expressed, at a
18 school board meeting, certain concerns which he had about his son’s English teacher. In that
19 case, the speaker was an interested party—the father of a high school student—who had a duty to
20 speak out on behalf of his son. The student’s father made the statements in question at a school
21 board meeting for the school at which his son was a student. The recipients (the “hearers”) of his
22 statements were the school board—who also had an interest in the subject and a duty to oversee
23 the school. Id.

24
25 In Nodar, the Supreme Court held that the defendant had a qualified privilege to say
26 words—words which might otherwise be actionable—because he was an interested party (the
27 father of a student) speaking to another interested party (the school board) on a subject of mutual
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1 interest and duty to both the speaker of the statements, and the hearer of the statements. Id.(“
2 The concern of a parent for the welfare of his child provides a privilege for the occasion of
3 speaking to one having the power or duty to take action for the benefit of the child.”) The Nodar
4 court also stated that the father’s statements were privileged because they were statements of a
5 citizen to a political authority regarding matters of public concern, i.e., the school curriculum and
6 the performance of a public employee. Id. at 810.

8 The case at bar is entirely different from Nodar. Here, the Defendants are not, in any way
9 analogous to the facts of Nodar, “interested parties” with regard to the subjects of any statements
10 made in Exhibit “A,” “B,” or “C” of the Amended Complaint. The statements were not made in
11 the context of anything similar to the limited context of a school board meeting, nor to any
12 particular “hearers” who were interested in the subjects discussed by the Defendants. To the
13 contrary, the statements at issue here were made to millions of Internet users, any one of which
14 might stumble upon the Blog merely by typing the Plaintiff’s name into an Internet search
15 engine. Finally, the statements at issue here were not statements of a citizen to any political
16 authority on any matter of public concern; they were, instead, statements regarding the Plaintiff
17 to the public at large. Therefore, here, unlike in Nodar, no qualified privilege exists.

19 **The Fair Comment Doctrine:** The Defendants also appear to be invoking the “fair
20 comment doctrine” which in Florida “allows an *interested person* to make a ‘*fair comment*’ on a
21 *public matter* relating to an *individual who has voluntarily made himself newsworthy.*”

22 Colodny, 936 F.Supp. at 927 (M.D. Fla. 1996)(citing Gibson v. Maloney, 231 So.2d 823, 836
23 (Fla.), cert. denied, 398 U.S. 951, (1970))(emphasis added).

24 This doctrine is inapplicable, *first*, because the Defendants are not “interested persons” in
25 the subject of whether the Plaintiff is a stalker, or mentally unstable, or really an attorney, or
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1 whether his car was paid for by himself or with purportedly “stolen” money, or whether the
2 Plaintiff committed statutory rape. **Second**, as Exhibit “D” shows, the Blog is devoid of any
3 “public matters”; in truth, it consists of virtually nothing but defamatory—and somewhat
4 deranged—personal attacks against individuals.
5

6 **Third**, it is patently obvious that the statements at issue in this case do not qualify as “fair
7 comment.” The statements at issue here are utterly devoid of such “comment”; rather, they are
8 purely malicious false and defamatory personal attacks.
9

10 **Fourth**, the doctrine permits “fair comment” on public matters relating to an individual
11 “*who has voluntarily made himself newsworthy.*” Colodny, 936 F.Supp. at 927 (emphasis
12 added). The Plaintiff herein is merely a private individual who has done nothing to “voluntarily
13 make himself newsworthy.” At least two Florida courts agree that “There is ‘no qualified
14 privilege to defame a private individual simply by value of the matter being of public concern.’”
15 Trujillo v. Banco Central del Ecuador, 17 F.Supp.2d 1334, 1338 (S.D. Fla. 1998)(citing Ortega
16 v. Post-Newsweek Stations, 510 So.2d 972 (Fla. Dist. Ct. App. 1987)). Therefore, the privilege
17 does not apply.
18

19 Finally, the Plaintiff respectfully points out to the Court that both the “fair comment
20 doctrine” and the “qualified privilege doctrine” can be destroyed where there is actual malice
21 present. No privilege applies unless a communication is made in “good faith” and is “not so
22 made as to unnecessarily or unduly injure another, or to show express malice.” Abraham v.
23 Baldwin, 52 Fla. 151 (1906). The Plaintiff has alleged such malice. Amended Complaint, ¶31.
24 Therefore, neither of these privileges apply.
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1 6. *It Makes No Difference Whether The Statements Were Published On Websites*
2 *Related To Lawyer Referral Services.*

3 The Defendants claim that none of their statements were published on websites related to
4 business marketing or legal services referral, or on websites that the public would visit for the
5 purposes of finding a lawyer. The Defendants appear to have included this “factoid” in their
6 motion because Hay requires a court to consider—in determining whether a statement is
7 “opinion” or “fact”—“the medium by which [a statement] was disseminated and the audience to
8 which it was published.” Hay at 295. The Defendants appear to be postulating that because the
9 Plaintiff is a practicing lawyer, and their statements were made on a website which is unrelated
10 to attorney referrals, then their statements are therefore “pure opinion” and not “fact.”
11

12 Not surprisingly, the Defendants cite no authority whatsoever for the ridiculous
13 proposition that statements can only be defamatory when published in media directly related to a
14 plaintiff’s business. However, in response, the Plaintiff states that more than half of the
15 Plaintiff’s clients come from the Lebanese-American community. In terms of the Plaintiff’s
16 business, there is scarcely a worse location that such defamatory statements could have been
17 published.
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20 **B. The Plaintiff Has Attributed The Statements To The Defendants.**

21 As a second basis for their motion to dismiss, the Defendants assert that the Plaintiff has
22 not made factual allegations attributing the statements in question to them. With all respect to
23 Defendants’ counsel, the Plaintiff is baffled by this argument, as there are no less than 17
24 instances in the Amended Complaint in such factual allegations were indeed made.
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26 A list of such allegations is below:
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Amended Complaint Paragraph	Allegation
1	“This is an action...arising out of the posting of false and defamatory statements...by or with the assistance of participation of the Defendants.”
4	“Defendants...engaged in unlawful conduct...specifically, by publishing false and defamatory statements...”
19	“Defendants PIERRE A. MAROUN [and] HALA FAKHRE...have posted false and defamatory statements regarding Saadi on the Blog using the alias ‘Losers.’ Examples of these postings are attached hereto as Exhibits ‘A,’ ‘B,’ and ‘C.’”
20	“Defendants PIERRE A. MAROUN, HALA FAKHRE, and JOHN DOES #3-12 have re-posted said false and defamatory statements regarding Saadi to the Forums using the aliases ‘Bashir4Ever,’ ‘Bush,’ and ‘b2a3kafra.’ Examples of these re-postings are attached hereto as Exhibits ‘D’ and ‘E.’”
22	“On February 1, 2008, Saadi served Pierre A. Maroun and Hala Fakhre Maroun with a written notice pursuant to Fla. Stat. Ann. §770.01 of the false and defamatory material and demanded that defendant remove, and publish a retraction of, said statements, but said Defendants have failed and refused to remove or retract any of the defamatory material. A copy of Saadi’s written notice and demand for retraction is attached as Exhibit ‘F.’”
25	“Defendants published, and re-published, false and defamatory statements about Saadi, including those contained in the postings to the Blog and the Forums.”
26	“The false and defamatory statements published by Defendants regarding Saadi, as reasonably understood, impugn the integrity and competence of Saadi, discredit Saadi’s business methods, undermine the confidence of the public and Saadi’s clients in Saadi’s business, and/or drive away the public and Saadi’s clients from using Saadi’s services.”
27	“The false and defamatory statements published by the Defendants, when considered alone, without innuendo, tend to subject Saadi to hatred, distrust, ridicule, contempt, or disgrace, tend to injure Saadi in his trade or profession, and/or attribute to Saadi conduct, characteristics, or conditions incompatible with the proper exercise of a lawful business, trade, profession, or office.”
28	“The false and defamatory statements published by the Defendants accuse Saadi of having committed, or having participated in the commission of, serious crimes.”
29	“Defendants owed and owe a duty to Saadi to not publish false and defamatory statements about Saadi. In publishing the false and defamatory statements about Saadi, Defendants breached that duty.”
30	“In publishing the false and defamatory statements about Saadi, Defendants knew, or in the exercise of reasonable care should have known, that the statements were false.”
31	“In publishing the false and defamatory statements about Saadi, Defendants acted with malice, actual malice, with knowledge that the statements were false, and/or with reckless disregard for their truth or falsity.”

Amended Complaint Paragraph	Allegation
32	“As a result of the foregoing publications of defamatory statements by Defendants, Saadi has been damaged, including but not limited to damage to his reputation, and loss of business.”
33	“In carrying out the foregoing conduct, Defendants acted negligently, willfully, maliciously, and/or with reckless indifference to the consequences of their actions and the rights of Saadi.”
35	“The Defendants, by and through the making of such false, defamatory, and libelous statements, behaved intentionally and/or recklessly.”
36	“The Defendants, by and through the making of such false, defamatory, and libelous statements, intended to cause emotional distress upon Saadi.”
37	“The Defendants’ making of such false, defamatory, and libelous statements was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.”

Although the Defendants are attempting to conjure up some sort of internal inconsistency in the Plaintiff’s Amended Complaint, no such inconsistency exists. The Plaintiff has, in the Amended Complaint, attributed the alias “Losers” to Pierre A. Maroun and/or Hala Fakhre. However, as stated in the Amended Complaint, the Plaintiff has not yet uncovered the identities of the persons using the other aliases, and has therefore sued them as John Does. It is possible that, when the identities behind these aliases are uncovered, additional parties will be named and served in amended pleadings; it is also possible that the other aliases are being used by Defendants already named herein, and that no addition of new parties will be necessary.

The law permits the Plaintiff to plead his claims broadly. The Federal Rules of Civil Procedure “do not require a claimant to set out in detail the facts upon which he bases his claim.” Conley, 355 U.S. at 47. All that is required is “a short and plain statement of the claim.” Fed. R. Civ. P. 8(a)(2). This is precisely what the Plaintiff has done, and it is not by any means a grounds for dismissal of the Amended Complaint.

1 Contrary the assertions made in the Defendants' motion, the Plaintiff need not "establish"
2 that the Marouns published defamatory statements; he need only allege it. See Anson v. Paxson
3 Communications Corp., 736 So.2d 1209 (Fla. App. 4 Dist. 1999)("It is well settled that when a
4 trial court considers a motion to dismiss...the allegations in the complaint must be taken as true
5 without regard to the pleader's ability to prove them.") The Plaintiff need not demonstrate that
6 he will ultimately prevail on his theories, but, rather, whether the allegations are sufficient to
7 allow the him to conduct discovery in an attempt to prove the allegations. See Jackam v.
8 Hospital Corp. of Am Mideast, Ltd., 800 F.2d 1577, 1579 (11th Cir. 1986). The threshold of
9 sufficiency that a complaint must meet to survive a motion to dismiss is therefore "exceedingly
10 low." Rey v. Kmart Corp., 1998 WL 656070 (S.D. Fla.).

13 Finally, the Plaintiff's use of the term "anonymous" in paragraph 18 of the Amended
14 Complaint is merely intended to illustrate, to those unfamiliar with the Internet, that oftentimes
15 users of Internet forums employ pseudonyms in an attempt to preserve their anonymity.
16 Obviously, however, as is obvious from the Amended Complaint, such anonymity is frequently
17 shattered by able attorneys.

19 **C. The Defendants' Publication of the Defamatory Statements Supports A Claim**
20 **For Intentional Infliction of Emotional Distress.**

21 Finally, the Defendants argue that their publications of the defamatory statements do not
22 rise to the level of outrageous conduct required to sustain a claim for intentional infliction of
23 emotional distress. The Plaintiff disagrees.

25 Accepted as true, the allegations of the Amended Complaint state that the Defendants
26 published, for millions to see, all of the following false and defamatory statements: (1) that the
27 Plaintiff has committed the crime of "stalking"; (2) that the Plaintiff, a practicing attorney, has
28 no law degree and has never tried a case; (3) that the Plaintiff is "mentally unstable"; (4) that the

1 Plaintiff drives a car paid for with “stolen” funds; (5) that the Plaintiff lives from his retired
2 father’s salary; and (6) that the Plaintiff has committed statutory rape. Each of these statements,
3 separately, are false, as the Plaintiff, in truth, (1) has never committed any crime worse than a
4 minor traffic offense, (2) practices law and “tries cases” on a daily basis, (3) is of completely
5 sound mind, (4) purchased his car from Defendant Pierre Maroun’s brother and paid for it using
6 his own funds, and (5) lives from the income he earns from his law practice. The publication of
7 any one of these statements on the Internet is, in and of itself, “outrageous.” And certainly,
8 publication of all of them is exponentially outrageous. Further, re-posting these statements to
9 other websites, as is alleged in the Amended Complaint, in an attempt to “keep the lies alive,” is
10 indicative of an organized campaign of defamation and character assassination aimed at the
11 Plaintiff and executed over an extended period of time.

12
13
14 In addition, the Plaintiff respectfully brings to the Court’s attention that Defendant Pierre
15 Maroun’s conduct has become, since service of the Amended Complaint was accomplished, even
16 more offensive and outrageous. In fact, Mr. Maroun is no longer even attempting to hide behind
17 a pseudonym. Attached as Exhibit “H” is a posting made to yet another website operated by Mr.
18 Maroun, located at www.alcc-research.com/news_articles/Aoun_VS_Maroun.html.

19
20
21 In it, Maroun attempts to cast the Plaintiff—and the present lawsuit—as somehow
22 associated with Hezbollah, a group which is on the U.S. Department of State’s list of terrorist
23 groups—a crime under federal law. In reality, Mr. Maroun is well aware that the Plaintiff is a
24 lifelong Catholic with no ties whatsoever to any such group. In this new posting, Maroun also
25 refers to the Plaintiff as “disgraceful,” “treacherous,” “unethical,” a “traitor,” and a “criminal.”

26
27 Plaintiff has served upon Defendants’ counsel the demand for retraction shown in Exhibit
28 “I” and will file, as soon as the period set forth in Fla. Stat. Ann. §770.01 expires, a Motion for

1 Leave to File a Second Amended Complaint in order (1) include an additional libel claim against
2 Mr. Maroun for posting Exhibit “H,” and (2) add, as an additional basis for Plaintiff’s claim for
3 intentional infliction of emotional distress, a claim that Mr. Maroun has, for more than two years,
4 engaged in a systematized campaign of defamation, libel, character assassination, intimidation,
5 and threats of physical violence against the Plaintiff and his family.
6

7 The present case is, therefore, very similar to Urquiola v. Linen Supermarkets, Inc., in
8 which the plaintiff brought a claim for intentional infliction of emotional distress based upon
9 verbal harassment, demeaning, and vulgar language, and threats to her physical safety which she
10 suffered over a long period of time. 1995 WL 266582 at *4 (M.D. Fla.). In Urquiola, the court
11 held that the “relentless campaign of verbal and physical abuse crossed all bounds of decency
12 and would lead the average member of the community to exclaim ‘outrageous!’” Id. The court,
13 finding valid basis for it, refused to dismiss the plaintiff’s claim for intentional infliction of
14 emotional distress.
15

16 Thus, if the statements contained in Exhibits “A,” “B,” and “C” of the Amended
17 Complaint are not, in and of themselves, sufficient to sustain a claim for intentional infliction of
18 emotional distress, then surely, those statements, combined with the newest statements added in
19 the Second Amended Complaint, the systematic campaign of character assassination undertaken
20 against the Plaintiff over a period of more than two years, combined with the physical threats
21 issued from Defendant Pierre Maroun, are, taken together, sufficient basis for the Plaintiff’s
22 claim of intentional infliction of emotional distress.
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1 **III. CONCLUSION**

2 For all of the foregoing reasons, this Court should deny, in its entirety, the Defendants'
3 Motion to Dismiss Amended Complaint.

4 Dated this 30th day of March, 2008

5 **s/ Edward T. Saadi**
6 EDWARD T. SAADI
7 *Pro-Se* Plaintiff
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9 Boardman, Ohio 44512
10 (330) 782-1954
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13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on March 30, 2008, I electronically filed the foregoing with the Clerk
15 of the Court by using the CM/ECF system. I further certify that I mailed the foregoing document
16 and the notice of electronic filing by first-class mail to the following non-CM.ECF participants:

17 NONE.

18 **s/ Edward T. Saadi**
19 EDWARD T. SAADI
20 *Pro-Se* Plaintiff
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23 (330) 782-1954
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