

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CAROLE MALLORY — PETITIONER
(Your Name)

vs.

SIMON and Schuster ^{etal} — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Philadelphia Federal Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CAROLE MALLORY
(Your Name)

2803 STANBRIDGE St. B108
(Address)

NORRISTOWN, Pa. 19401
(City, State, Zip Code)

610 805 8955
(Phone Number)

QUESTIONS PRESENTED:

Michael Lennon wrote *Norman Mailer: A Double Life* published by S&S in which Lennon defamed Carole Mallory who had an 8 year relationship with Norman Mailer, but why did the District Court rule on credibility of "on the make" rather than a jury to determine intent of this comment that Lennon has quoted out of context, changing intent of Mr. Mailer's quote meant as a woman with literary ambition to portray Ms. Mallory as a slut while the District Court violated Rule 56, Fed. Rules of Civ. Procedure, by inserting its credibility determinations for the jury's by assigning "meaning" to quotes plainly disputed by plaintiff?

Why wasn't the cumulative effect of passages claimed to be defamatory not taken into consideration that were said by people who did not like Ms. Mallory, but instead these comments were judged singularly as hyperbolic opinion instead of proven lies and not a conspiratorial whole?

If S&S intended actual malice is a question of fact that should be for a jury in light of conflicting interpretations, and Lennon's admission in his deposition that the comment was made by Mailer about another woman, therefore, summary dismissal of plaintiff's defamation claims are an example of "Victim Blaming", silencing women's voices and makes Ms. Mallory's claim prece-dential and with the public interest of #Me Too movement how is it justice that a 76 yr old single Ms. Mallory who has proven malice, that S&S has gotten her case dismissed.?

Carole Mallory Pro Se
2803 Stanbridge St. B108
Norristown, Pa. 19401

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LIST OF PARTIES

- ☐ All parties appear in the caption of the case on the cover page.
- ☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Simon & Schuster

MICHAEL LENNON

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at Justia 3/29/18; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at Justia 5/9/17; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 3/29/2018.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Constitutional and Statutory Provisions Involved.....

Federal Statutes 28 U.S. C. section 1332

State Statutes...42 Pa. Cons. Stat. Ann. Section 8343

Rules:.....

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Statement of Case

Mallory v S&S et al is a case of defamation against the publisher S&S and Michael Lennon for his biography **Norman Mailer; a Double Life.**

The U.S. District Court in Philadelphia erred in summary judgment on 5/ 9/ 17, by ruling, “Mallory has failed to set forth specific facts showing a genuine issue of material fact on actual malice.” (pg 20 line 18 Appendix B)

The Plaintiff outlines fact proving actual malice which was served on the court on 5/11/2017 in Appendix E. This fact was filed seven times. Lennon quoted Mailer in his deposition as saying, “she was totally on the make” in reference the literary ambition of Mailer’s cousin Millie Brower with whom he compared the plaintiff (Appendix R Doc 107-1 pg 60-61, pg 68). Lennon commits malice by quoting Mr. Mailer’s quote in reference to Plaintiff, not in reference to literary ambition, but to sexual ambition. He contextually implies Ms. Mallory is a slut.

On page 595 of Biography Appendix D, Lennon quotes Mailer's sister B.

Wasserman saying,

"One of the manuscripts was about the men she slept with. Norman was not in in. I figured he had asked her to keep him out of it." When asked her motivation, Norman said, "She was totally on the make."

Lennon took the Mailer quote out of context implying plaintiff was 'totally on the make' for sex, not literary ambition. Later in his deposition Lennon lies that he did not take this quote out of context. (Appendix R Doc 107-7 pg 62 lines 4.5 and doc 114 pg 4) Lennon lies under oath committing malice with intent. He is aware that his quote is out of context and that Mailer was comparing Brower to Mallory in their literary ambition yet Lennon implied Mallory was "totally on the make" for sex.

In **Masson v New Yorker** 501 U.S. 496 1991 Chief Justice Kennedy ruled:

"Quotation marks around a passage indicate to the reader that the passage reproduces the speaker's words verbatim. They inform the reader that he or she is reading the statement of the speaker, not a paraphrase or other indirect interpretation by an author."

Lennon made an indirect interpretation of Mr. Mailer's words.

The Supreme Court ruling continues:

"Put another way, the statement is not considered false unless it "would have a different effect on the mind of the reader from that which the pleaded truth would have produced."

Lennon's effect on the mind of the reader is to imply Plaintiff was "totally on the make" with Mailer for sex not literary pursuits.

The Supreme Court ruling continues,

"Our definition of actual malice relies upon this historical understanding. Where, however, a writer uses a quotation, and where a reasonable reader would conclude that the quotation purports to be a verbatim repetition of a statement by the speaker, the quotation marks indicate that the author is not involved in an interpretation of the speaker's ambiguous statement, but attempting to convey what the speaker said. This orthodox use of a quotation is the quintessential 'direct account of events that speak for themselves.' More accurately, the quotation allows the subject to speak for himself instead,"

Lennon was involved in a malicious interpretation of Mailer's quote not the interpretation intended by Mailer.

" The Court states that deliberate misquotation does not amount to New York Times malice unless it results in a material change in the meaning conveyed by the statement Court Opinion Holding That Libel Rests On 'Material Change' to Quotation 1991

Lennon made a material change in the meaning to "Totally on the make" when he wrote it contextually to mean "totally on the make" for sex on pg 595

Justice Anthony M. Kennedy's opinion for the Court was joined by Chief Justice William H. Rehnquist and by Justices Thurgood Marshall, Harry A. Blackmun, John Paul Stevens, Sandra Day O'Connor and David H. Souter. In a separate opinion, Justice Byron A. White, joined by Justice Antonin Scalia, argued for a stricter standard of liability for the press.

Ironically it was Norman Mailer who was "totally on the make" with the Plaintiff and kissed her on her cheek when they first met. This was documented on pg 13 of Loving Mailer (Appendix I) which Lennon used for research therefore Lennon knew this fact. Loving Mailer is evidence that Lennon intentionally gave the impression that the Plaintiff was 'totally on the make' with Mr. Mailer when it was Mailer who offered to be Plaintiff's mentor. The Plaintiff wanted Mailer to read a manuscript she had written

for his editorial advice. Plaintiff had documented in Loving Mailer the fact that Mailer had called Plaintiff weekly for six months before they met at the Bel Air Hotel in 1983. He gave her writing lessons over the phone. With his permission she recorded these conversations which are in her archive owned by Harvard, Mailer's alma mater.

On pg 5 of The Appellate ruling 5/ 29/18 (Appendix A) the Court errs regarding the 'totally on the make" argument by stating,

"Were Mallory accurately representing the record, this could potentially raise a triable issue even under an actual malice standard. However, Lennon's deposition transcript contradicts Mallory's assertion that "Mr. Mailer was actually talking about a Ms Millie Brower not the Plaintiff." BR. At 7

Ms. Mallory does not understand this ruling because the ruling does not address the malicious context on page 595 in which Lennon quotes Mailer to contextually imply that Mallory was "totally on the make" for sex which is not what Mailer intended with his words.

Evidence is in Lennon's deposition (Appendix R Doc 114 pg 2-18 pg 3-10 Doc 107-1 pg 60-61) that Mr. Mailer was talking about Ms Millie Brower.

This enclosed deposition (Appendix R) is proof of a triable issue.

The Court continues, *"Instead it appears that Lennon's only misstatement on this point in the Biography is that Mailer was asked specifically about Mallory, when according to the deposition testimony Mailer was asked about Brower and then responded with a reference to Mallory. That minor inconsistency cannot sustain a defamation claim."*

Please refer to page 595 of the biography because it appears that this is not a minor inconsistency since on pg 595 of his biography Lennon

took this quote from Mailer and changed its meaning contextually by writing that Mallory was 'totally on the make' for sex, not literary pursuits which was the interpretation Mailer had meant when he uttered this phrase originally in reference to Millie Brower.

In Lennon's deposition (Appendix R...Doc 107-1 pg 59-62 Doc 114 pg 2-6) beginning on pg 59 the direct quotes are:

A. "He (Mailer) also ...I can't find any other direct quote that --that he said about Mallory. No.

Q. Okay why did you put quotation marks around this particular quote?

A. Which one is that, the...

Q. She was ...

A. Because she was...it was stated...it was stated to me in an interview that...the context of that is I was talking to Mr. . Mailer about somebody else a friend of his named Millicent Brower. And I was not referring to Ms. Mallory But what happened was I was talking about a woman that he had known all his life named Millicent Brower and I said to him something about her and he answered, speaking of this woman, Millicent Brower, he said she was totally on the make, referring to Millie, and she was as much on the make as, say, Carole Mallory without Carole's gifts, if you know what I mean, That came...was given by him without any prompting from me. And the way I understand it is that she was ambitious she was forwarding herself, she was interested in rising in the literary world, the literary profession. Millie was a writer. She was an actress and she was always looking for opportunities to advance her career and so that's what he meant when referring to Millie Brower. And he brought in Carole Mallory to say that Carole Mallory was the same way, but she didn't have Carole's gifts. By that I assume that he meant that she was more—perhaps, more personally attractive or beautiful or, perhaps, she was more talented in other ways. I'm not sure how he meant it.

Q. So I want to make sure I understand this correctly. When Mailer said, quote, she was totally on the make, end quote that quote was not even referring directly to Carole Mallory?

A. I'll read it again. She meaning Millicent Brower was totally on the make and she was as much on the make as, say, Carole Mallory without Carole's gifts, if you know what I mean. So he was saying that both of them were exactly the same way on the make totally on the make. He meant it to refer to both. He used one to refer to the other, equating them precisely.

On Appendix D Plaintiff's Motion to Reopen Case Denied on 7/6/ 17, the Court again errs in its ruling, "pg 2 paragraph 3

"When questioned about this statement during his deposition, Lennon explained that he and Norman Mailer had been talking about another woman named Millie Brower who Mailer said was "totally on the make (doc no 118 at 6) Immediately after that, however Lennon testified that Mailer compared Millie Brower to Mallory stating that she Millie Brower was as much on the make as say Carole Mallory without Carole's gifts." (Id). When reading the deposition in its entirety it is clear that Mailer was stating that both Brower and Mallory were 'Totally on the make' and that such a statement was not published with actual malice as Plaintiff contends here"

Again the court inadvertently could not have read page 595 of Lennon's biography because on pg 595 Lennon commits malice by using Mailer's quote stating Mallory was "totally on the make" for sex implying contextually she is a slut. Yet in his deposition Lennon quotes Mailer saying Mallory was "totally on the make" for literary pursuits.

As to the reference that "Millie Brower was as much on the make as say Carole Mallory without Carole's gifts. " The Court is assuming the word gifts means sexual performance as this is what Lennon implies on pg 595, The word gifts according to Miriam Webster does not have a synonym for sex. This is the court erring in its interpretation of the word gift as Lennon goes on to maliciously defame Plaintiff on pg 595 when he writes.

"One of the manuscripts was about all the men she slept with. Norman was not in it. I figured maybe he asked her to keep him out of it." Lennon writes, "When asked about her motive, Mailer said, "She was totally on the make."

This is malice with intent.

As to gifts Mallory possessed, (on pg 61 line 7 Appendix R Doc 107-1)

Lennon says,

"By that I assume that he meant that she was more...perhaps more personally attractive or beautiful,..."

Celebrated photographer Francesco Scavullo who photographed Plaintiff for her cover of **Cosmopolitan** and her cover of her novel **Flash** (Appendix O) had asked her to be in his book **"The Most Beautiful Women in the World."** Instead the court rules in favor of Ms. Mallory being defamed for her beauty which Lennon equates with sexual performance in his malicious passage on page 595. Lennon denies her beauty and in the process implies she is a slut.

In granting Summary Judgment 5/9/17, the District Court made credibility decisions that were instead the province of the jury. There were issues of material fact as proven in the "totally on the make" argument, which the court should have honored and allowed the case to go forward. (See deposition Appendix R Doc 114 pg 2-18 pg 3-10 Doc 107-1 pg 60-61)

Reasons for Granting the Writ:

Carole Mallory is a former cover girl and an actress who was a **Stepford Wife** in the iconic film, and who authored five books. Additionally she reviewed Kurt Vonnegut's biography for the **Philadelphia Inquirer** by Charles Shields. Ms. Mallory has taught courses at Rosemont College, Cheltenham Adult School and Widener University. Her work has been syndicated by the **New York Times**. In 1983 she became involved in an eight-year, multi-faceted relationship

with celebrated author Norman Mailer. Unbeknownst to Ms. Mallory, he was a sexual predator with whom she fell in love. Overall Ms. Mallory believed Mr. Mailer loved her and she accepted him as he was. She wrote in court documents theirs was a long time love affair. As time went on it became increasingly apparent that she had been used by Mr. Mailer who never loved her. Because of his massive debt, their affair was a scheme concocted by a conspiracy of fixers for Norman Mailer, the powerful predator. The result was damaging to Ms. Mallory's sense of self and perception of who she is. This defamation was executed with the collaboration of publishers, his wife, his sister, his agent, his lawyer and his biographer Michael Lennon who is executor of the Mailer Estate and who inserted his malicious, hyperbolic opinions in the form of lies throughout his biography along with the long list of Mailer cohorts. All of these people who defamed Ms. Mallory knew of her function as a tax deduction for predator Mailer. In Lennon's biography Ms. Mallory is defamed by these fixers who have contributed to Ms. Mallory's malicious portrait to protect and to shield Mr. Mailer from his scheme to use Ms. Mallory for a tax deduction while telling her he loved her. These protectors of Mailer's legacy formed a **conspiracy to defame** Carole Mallory. See

Auld V. Mobay Chemical Company 300 F. Supp 138 (W.D.) Pa. 1969

"Plaintiff alleges that on August 3, 1966 he was summarily dismissed from his employment by Messrs. Nason and Koch, the individual defendants, and alleges that since that time said individual defendants have conspired wilfully and intentionally to make false and defamatory statements about plaintiff calculated to injure his good name, reputation, business and profession and to keep plaintiff from procuring other employment.

"<https://law.justia.com/cases/federal/districtcourts/FSupp/300/138/1820789/>
(See p165-201 **Loving Mailer** Appendix H)...

Biographer Michael Lennon, a professor Emeritus at Wilkes University, has published exclusively biographies of Norman Mailer. Because of his limited scope in subjects about whom he has written, he is often referred to in literary circles as "A pen for hire". Lennon employed a practice frowned upon by ethical authors of allowing Mr. Mailer to edit all of Mr. Lennon's writings and quotes from and about Mr. Mailer which hid the truth of sexual predator, Norman Mailer. Mr. Lennon was Norman Mailer's "yes man". Because of Lennon's relationship with Mr. Mailer and because he is executor of the Mailer Estate, he was contracted by Simon and Schuster to write **Norman Mailer: A Double Life.**

Mr. Mailer's sixth wife, co-conspirator Norris Church, was aware of the Mallory/Mailer relationship as Ms. Church and Mr. Mailer had an arrangement. She benefited financially from Ms. Mallory's relationship with Mr. Mailer. In 1983 when Ms. Mallory met Mr. Mailer, because he was \$3 million in debt, he needed Ms. Mallory for a tax deduction so Norris Church looked the other way. Norris Church's abandoned her infant son and left him in Arkansas. After miscarrying once, she became pregnant again and then Mr. Mailer divorced and married her. Norris Church had to sign the tax return; therefore she had to know about Ms. Mallory as a tax deduction and her relationship with her husband, though she feigned the opposite to maintain her status in the literary world. When Mr. Mailer gave Ms. Mallory trichonomas, Ms. Mallory offered her medicine to Mr. Mailer for Norris Church, but Mr. Mailer refused this courtesy. (See **Loving Mailer** pg.189 Appendix I) It was then that Ms. Mallory knew the Norman Mailer/Norris Church marriage was one of convenience. "She was an Arkansas hick", the **Guardian**, writes in its obituary about Norris Church, born Barbara

Davis. Norris Church was the name created by Norman Mailer. When she was sixteen, Barbara Davis Church Mailer worked in a pickle factory, got into a fight with an employee, threw a jar of pickles at her and was demoted to the onion factory. "To this day I do not cry..." she said on page 44 of Loving Mailer. (Exhibit I). Norris Church as well as Norman Mailer craved being accepted into society which had ostracized Mailer when he had stabbed his wife, Adele, in an alcoholic blackout. Escaping jail by the kindness of Adele, Mr. Mailer did not escape public derision. Norris Church was eager to be accepted into society. Ms. Mallory offered love, respect for his intellect and a sex life to Norman Mailer. Mr. Mailer told Ms. Mallory that Norris Church could not write (page 45. Loving Mailer Appendix I). Yet suddenly after the Mallory/Mailer relationship ended, Norris Church became an author. Lennon also stayed at Church's NY apartment when he wrote part of his biography which Church also helped him edit. (See NOTES in biography.) In 1983 when Ms. Mallory met Mr. Mailer, he was beginning his big book, Harlot's Ghost. In it he created a character partially based on Ms. Mallory called Chloe. In 1991 sexual predator Mailer terminated their relationship upon Harlot's Ghost's publication when she was no longer of financial use to the Mailers. (See enclosed pages 165-201 from Loving Mailer Appendix I)

On pg 2 of Summary Judgment (Appendix B) it is written "Mallory alleges that the Biography suggests false perceptions of her relationship with Norman Mailer, implying that their relationship was based solely on sex, money and publicity." Doc 101 at 15.

Lennon made a material change and grossly distorted the meaning of the quote "totally on the make" by making the meaning sexual rather than literary,

The contextual gross distortion of a quote is in violation of the below
Lanham Act.)

"15 U.S.C. § 1125 - , false descriptions, likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person."

Eastwood v National Enquirer utilized the Lanham Act. In his suit, Eastwood alleged that the *Enquirer* published the interview knowing that he had not spoken to Gentile, thus violating the federal Lanham Act, which prohibits deceptive trade practices:

Eastwood V Enquirer: In a suit in Federal District Court, Eastwood alleged that the article misrepresented its origin, association and/or endorsement in violation of section 43(a) of the Lanham Act, 15 U.S.C. § In fact, Eastwood never spoke to the Enquirer; the interview, he claims, is a fabrication.

It is Lennon who deceived the reader in his context by surrounding Mr. Mailer's quote "totally on the make" with sexual references and implied Ms. Mallory was a loose woman -- when Mr. Mailer never meant this quote to refer to sex. This gross distortion of Mailer's quote is proof of defamation and actual malice and in defiance of the Supreme Court's 1991 ruling Masson v The New Yorker. Lennon has contextually implied Ms. Mallory was in the relationship with Mr. Mailer solely for sex which is illogical. Norman Mailer was overweight, had six wives, nine children, was 29 years her senior, had stabbed his second wife in an alcoholic blackout, had erectile dysfunction, had given her trichomonos, was three million in debt and was forced to hire red baiting Roy Cohn as his literary agent (what would his Left Wing buddies think?) and facing the possibility of Debtor's Prison! Ms. Mallory was attracted to Norman Mailer's intellect, literary knowledge and wit.

See Appendix K **“The Literati: It’s Embarrassing to Sell Your Soul, but It Pays Well. An illustrated account of the depths to which Norman Mailer sank in order to settle his debts.”** 2/23/18 NYT Book Review E. Sorel. If the truth of Mr. Mailer’s unconscionable character personified by hiring red baiting Roy Cohn as his literary agent and using his long time paramour for a tax deduction then ending their friendship when she was no longer a viable tax deduction were made public-- these facts would become part of his legacy. His books sales could be damaged. His image of the crusader of the Left Wing which won him the Pulitzer and the National Book Award for **Armies of the Night** would be tarnished. The Keepers of Mailer’s Flame had to silence Ms. Mallory. Defaming Ms. Mallory was a solution for S&S and Lennon as executor of the Mailer Estate. The diabolical gross distortion of Mailer’s quote, “totally on the make” is actual malice with intent. Philadelphia Federal Court has erred by denying Ms. Mallory due process by ruling she has failed to prove malice. (Appendix B Summary Judgment 5/19/17)

But Mr. Mailer was a good teacher and in 2008 Ms. Mallory's archive-- her writings with his edits-- was sold to Mailer’s alma mater Harvard. It was then in 2008 that Norris Church became a writer. The Keepers of his Flame realized that Ms. Mallory could publish a literary tomb which could be respected and could reveal the truth about this powerful literary lion yet sexual predator Norman Mailer. Hence Mr. Lennon was contracted to do his Book with Simon and Schuster for three quarters of a million for old rehashed material about Mr. Mailer and to defame Ms. Mallory. S&S had published Ms. Mallory's first novel, **Flash** (88) which received good reviews.

Gloria Steinem wrote: “Flash is fast, smart, and irresistible.”

Ms Mallory’s archive is worth an estimated \$2 million as it contains new material about Mr. Mailer and several books, one of which is titled “**When I Fall in Love**”, whose value is now damaged due to S&S and Lennon’s defamation.

*In Appellate Courts dismissal of Ms. Mallory’s case it states:
“She failed to plead, if any pecuniary loss resulting from biography. “Appendix A)*

Ms. Mallory’s former attorney whom she dismissed ignored her claim. However when malice is proven which has been done repeatedly, damages need not be proven.

2007 Raytheon Tech. Servs. Co. v. Hyland, 273 Va. 292, 641 S.E.2d 84.

“The issue of qualified privilege was overcome by the jury instruction on punitive damage, which required that the statements were made knowing they were false or made so recklessly as to amount to a willful disregard for the truth. If those facts exist, that overcomes the qualified privilege and also serves as a basis for punitive damages.”

Wikipedia’s definition of malice is:

“Actual malice is different from common law malice, a term that indicates spite or ill will. It may also differ from malice as defined in state libel law, as reflected in the 1983 case of Carol Burnett v National Enquirer although states may not define a lower threshold for defamation claims than that required by the First Amendment.^[6] The existence of actual malice may be shown in many ways, as long as the claim is properly supported by admissible evidence.^[7] Malice may be proved through any competent evidence, either direct or circumstantial. All of the relevant circumstances surrounding the transaction may be shown, provided they are not too remote, including threats, other defamatory statements, subsequent statements made by the defendant, any circumstances that indicate the existence of rivalry, ill will, or hostility between the parties, and facts that tend to show a reckless disregard of the plaintiff’s rights on the part of the defendant.”

Rivalry, ill will and hostility existed between all of Lennon's quoted sources who were quoted maliciously with intent and lied in his biography. They were: Norris Church, (Mr. Mailer's wife), Barbara Wasserman (Mr. Mailer's sister), Ivan Fisher, (Mr. Mailer's attorney), Jack Scovil (Mr. Mailer's agent)

In 2010 Ms. Mallory published her memoir, **Loving Mailer**, revealing hidden truths that could be considered by many to wrinkle the fabric of Mr. Mailer's legendary status. (See Appendix I)

Because Carole Mallory was significant in Norman Mailer's life, the choice of using information about Ms. Mallory and the validation of facts about her relationship with Mr. Mailer in a balanced biography would necessitate an interview with her. For his research Mr. Lennon used nothing but **Loving Mailer** and a few interviews of other people and Mr. Mailer's friends and Keepers of his Flame-- who did not like Ms. Mallory and who knew of Mailer's scheme to use Ms. Mallory as a tax deduction. Nevertheless Ms. Mallory is alive, 76, but in frail health. Lennon's choice to not interview Ms. Mallory is unethical journalism and was calculated intentionally to design a malicious, unbalanced picture. At the time of publication of Mr. Lennon's biography she just had undergone a brain operation for hydrocephalus. Why would Mr. Lennon write about Ms. Mallory, who for eight years was Mr. Mailer's muse, without interviewing her? For whom she did public relations for which he paid her as his employee? Ms Mallory was able to arrange a cover photo for a 65 year old Mr. Mailer see **M Magazine** (88) (appendix S_) for her interview with him with the caption, **The Power of Sex**. She revitalized his ageing image.

In the Appellee's brief for defendants (p 32) , it is written, "Lennon of course did not interview everyone that was mentioned in the Book, including Mallory. Lennon like all good biographers, prioritized his interviews, focusing on those sources for whom he did not have much information, or that were older and might not live much longer." (Appendix U 10/16/17)

Ms. Mallory is 76, had undergone brain surgery at publication of Lennon's tomb, lives with a shunt in her brain for her hydrocephalus, and lives each day with gratitude. She knows how little time remains. Why would Lennon not consult with Ms Mallory about her health? How malicious of Lennon to dismiss the importance of interviewing her and to withhold information which he was intending to write about her without conferring with her unless he intended to defame her? Affidavits from 32 "average readers" testified they were aghast about the defamation in **Norman Mailer: a Double Life** including Richard Johnson from **The New York Post**. Affidavits of "average readers" potential trial witnesses were presented to the Court (Appendix J). Mr. Lennon intentionally presented a one-sided dark image of Ms. Mallory. She was not consulted because Mr. Lennon was not concerned with accuracy about her. His intent was to defame her. Ms. Mallory was no more than collateral damage to the predatory pen of Michael Lennon as well as to Mailer. Lennon had already decided to portray Ms. Mallory as contemptible and a slut while Mr. Mailer's wife was feigning the socialite. Norris and Norman were buddies, friends, but not lovers or he would have given her medicine for the Trichomonas that Ms. Mallory offered to him for his wife. Lennon's slander flies in the face of what was an intense eight year relationship during which Ms. Mallory did nine interviews with Mr. Mailer and

was able to keep his name in the press which helped him to sell books. Because as a model she had been on the covers of New York Magazine, Cosmopolitan, Newsweek, etc. she had connections in the magazine world which a predatory Norman Mailer observed early in their relationship when he would study her modeling portfolio. During her cover girl career, she had many corporate clients and achieved fame for representing their products in advertising. She was the image of Faberge's Tigress, Almay, Bulova, Danskin, Tabu, Sardo, Kayser Roth, De Beer's diamonds, Jantzen, Bali, Lady Remington, Brown Shoe, Revlon, among others and the spokeswoman for one of fifty TV commercials **English Leather**, she filmed. A predatory, manipulative Mr. Mailer saw early on in their relationship the use he could make of Ms. Mallory and how her connections with the magazine world could get him interviews. Thus she was able to get nine magazines interested in Mr. Mailer. She agented and produced these interviews. Mr. Mailer's agent, Jack Scovil, had nothing to do with this. Mr. Lennon he has no right to hide behind the First Amendment and feigned hyperbolic opinion while he victimizes Ms. Mallory with malicious lies. The choice of not interviewing Ms. Mallory does not afford a complete representation of a multifaceted relationship and is manipulative. A complete representation of Ms. Mallory would have avoided the obvious, but desired defamation. **Not interviewing Ms. Mallory proves Lennon malicious intent to defame.** However, since Simon and Schuster and Mr. Lennon are among The Keepers of the Flame, more recently known as 'fixers' for sexual predator Mailer's iconic status, it would appear—that without conferring with Ms. Mallory about what they have presented as fact—they chose to defame Ms. Mallory. All the while these 'fixers' knew of

Mr. Mailer's diabolical plot to use Ms Mallory as a tax deduction and were co-conspirators to the defamation while Norman Mailer feigned he loved her. The defendant's rebuttal contends that under legal precedent none of the comments can be deemed to be defamatory:

"We must consider the full context of the article to determine the effect the article is fairly calculated to produce, the impression it would naturally engender, in the minds of the persons among whom it is intended to circulate." (Doc. 37-at 19-20)

Plaintiff agrees with this statement from the Defense. Having reviewed the rebuttal and having done more research, Ms. Mallory now contends that the "context" in and of itself of the entire narrative involving Ms. Mallory was designed as an elaborate "ruse" to characterize her in a "false light" by co-conspirators - Mailer's friends -so that his scheme of using her for a tax deduction to avoid Debtor's Prison to quote E. Sorrel from the NY Times Book Review 2/23/18 (Appendix K) would go undiscovered. It was a conspiracy of Mr. Mailer's friends to discredit her with malice and defamation

In Burnett V the National Enquirer, Judge Roth states malice is "a state of mind arising from hatred or ill will, evidencing a willingness to vex, annoy, or injure another person..." (1983 Roth Judge 144 Cal. App. 3d 991, 1993 Ca. Rptr. 206) (Appendix Q)

Ms. Mallory contends that when the "average reader" reads the entire narrative containing Carole Mallory, the reader will come away with the impression that Ms. Mallory is a minimally talented, angry, venal slut who was only interested in Mailer for sex. This impression is intentionally created to deflect the conspiracy of defamation woven around Ms. Mallory by the Keepers of Mailer's flame.

Definition of conspiracy to defame is in case law Auld v Mobay Chemical Company 300 F.Supp. 138 (W.D.) Pa 1969):

"To willfully and intentionally make false and defamatory statements about Ms. Mallory calculated to injure her good name, reputation, business and profession and to keep plaintiff from procuring other employment."

Ms. Mallory will show how through misstatements, exaggeration, insults, lies of omission and lies of gross distortion which the defense defends as hyperbolic opinion but which the First Amendment does not defend, how Lennon spins the ruse and narrative of Ms. Mallory as a minimally talented, angry, venal slut. The below argument is proof of a lie of omission. Lennon writes on p 592

1. *"...new mistress, Carole Mallory, a former cover model for major magazines like New York and Cosmopolitan, who also had small rolls in a few films in the 1970s including Take This Job and Shove It. A large poster (which she gave to Mailer) for this film, depicting a curvaceous Mallory in a bikini bottom and torn, scanty t-shirt,...) (Appendix H)*

The implication is that the "persons among whom it is intended to circulate" would see Mallory as being a hot, sexy starlet with just enough talent to be in a cheap B movie. The only movie Lennon mentions was a low-rated film with a sexual implication in its title (*Shove It...*) He purposely left out better films mentioned in Mallory's conversation with Mailer in Loving Mailer. (See Appendix I pg 3) Lennon used Loving Mailer for research and when entered as evidence, the defense redacted that conversation to hide this dialogue." (Doc 38-1 at 17

Appendix I and V redacted pages

"Buzz told me you're an actress. Have you been in any films I might have seen?"

"Stepford Wives. Looking for Mr. Goodbar."

"Goodbar. Good film." Norman cleared his throat. "What part did you play?"

2. Lennon writes on pg 592 of biography, "Jack Scovil, said that he was "surprised that Norman would get involved with someone like that," referring to Mallory's reputation as a "star seducer". (Appendix H salient passages *Loving Mailer*)

Any reader would see that as the description of a sexually obsessed groupie. This is one of the two Scovil quotes that Lennon uses, both derogatory to Mallory.

Scovil was also Mallory's agent, which Lennon never tells the reader. He owed her "her own" money which she earned from her interviews.

3. The below argument is an example of Lies of Omission:

Lennon writes on pg 593 *"In several interviews, numerous gossip column snippets and a 2009 memoir, Mallory lists the men that she had "picked up" ... (Appendix H)*

But Lennon chose not to publish *"because of my looks,"* which explained how and why the stars came to Ms. Mallory. Because Ms. Mallory was a cover girl, she was a reputed beauty. (See Scavullo's photo of Mallory appendix 0). Also she had studied improvisational comedy for years and saw her experiences as an opportunity for irony which is what Mailer loved about her, or so he said.

On pages 77-78 of Loving Mailer, Mailer says, "The Warren Beatty chapter was terrific, you took the reader there." ... "You're telling the truth about him. How many women has he exploited." "...How you attracted those stars relates to your beauty, Some of those guys (stars) must have been aware of what you looked like before they met you..." "Warren Beatty had seen me on the newsstand in March 1971. I was on three cover that month...." "You were the star of the newsstand that March." (Doc 38-1 at 86-87 Loving Mailer) Appendix I)

4. Below is an example of Lennon's portrayal of Ms. Mallory shows Lennon's lies of omission:

"They met, he read some of the manuscript—a chapter describing her night with Beatty—and she left some lipstick on his face as well as her number in LA. That summer, when he was in LA doing publicity for Tough Guys Don't Dance, they had their first tryst at the Bel Air Hotel. Soon, she was seeing him when he was in LA and she was in love with him. She loved his fame, his wit, his sexual equipment, he detailed writing advice." (Biography p 593) (Appendix H)

What is missing is pg 13 of **Loving Mailer** in which Ms Mallory writes "Suddenly he kissed me on the lips." (Appendix I)

Norman Mailer was the aggressor and made the first move to seduce Ms. Mallory which proves that it was Mr. Mailer who was "totally on the make" not Ms. Mallory as Lennon maliciously writes.

In chapter 4 of *Loving Mailer* (pg 15-19) (Appendix I) Carole writes about the numerous phone conversations and mentoring that occurred from January until the summer before their first "tryst". Mailer was the initiator of the sexual "tryst" in LA, which is fully recounted in the chapter 5 of *Loving Mailer* (pg21-35 ***Appendix I.***) To make it look like Mallory jumped into bed with Mailer without getting to know him was Lennon's way of emphasizing Mallory was a loose woman rather than a woman in a growing relationship.

5. Below is proof of Lennon's defamation of Mallory as venal, and spun lies of omission,

Lennon writes, "*She also loved the money he gave her.*" (*Biography* p 593) ***Appendix H***

On p 56 of *Loving Mailer* Carole writes, "*I was in love with the man and was going to follow his advice. He told me to quite acting if I wanted to be a writer. I listened to him.*" (*Doc 38-1 at 65*) (Appendix I)

At Mailer's urging, Mallory foolishly quit acting and lost income. Lennon writes in multiple places in his biography about Mailer's growing financial debts from the 70s until it reached \$3 million. Mailer asked Mallory if he could claim her as a tax deduction for the character Chloe that he was creating for *Harlot's Ghost*. She lost her income and agreed to the deduction, feeling sorry for Mailer's financial plight and trusting this great man of letters, but she also needed money to compensate for her lost income. Her time was spent doing publicity for and querying magazines for interviews about Mr. Mailer since she was acting as his

agent. Mr. Mailer paid Ms. Mallory for transportation and typical office expenses, e.g. Xeroxes, phone calls, postage, etc. She was able to get items in the NYPost, the Daily News, USA Today etc. which helped resurrect Mailer's faded public image. He was \$3 million in debt, could not afford to and was not paying Mallory for the services of a "new Mistress" --how Lennon refers to Mallory (Appendix H)

Mailer earned money from Mallory's efforts:

On p 161 of Loving Mailer Mallory writes, *"After the success of our Smart and M Magazine interviews, my feelings of being used by Norman were confirmed when Norman asked me to ghost his self-interview for Cosmopolitan. Norman had told me he could not understand Helen Gurley Brown's questions and needed my help to rephrase them. After we completed it, he said he was pleased with his phone self-interview for Cosmopolitan. I wasn't pleased because he wouldn't give me a byline and because he was able to turn me into an employee by paying me \$1,000, Originally Cosmopolitan had wanted to excerpt second serial rights of my M Magazine interview, "The Power of Sex." I was told by a fellow journalist that foreign rights were worth between \$2,500 and \$4,500. For the piece alone, I had been paid \$10, 000. But Norman's agent (Scovil) or Norman had convinced the magazine (Cosmopolitan) to commission him to do a self interview about sex so that he would get this money and to pay me a fraction of my worth while eliminating my byline, After the interview Norman again asked me if he could claim me as a tax deduction."* Appendix I

Lennon's own comment, *"She also loved the money"* he used to fit the Mallory venal narrative. Mailer was the venal one.

6. Below is proof of Lennon maliciously defaming Ms. Mallory through lies of omission when he knew Scovil was Mallory's agent but did not tell the reader.

Lennon again portrays Ms. Mallory as minimally talented, angry and venal when Scovil owed Ms Mallory her own money for her journalism but withheld it.

"But at one point, her \$200 a week stipend ceased, as Scovil recalled, "Scott would never authorize giving Carole money unless Norman had authorized it. And there was a point where Norman wanted to cut her off and Carole had come up to

the office and caused a great scene and she was screaming and she was doing all kinds of thing, saying all kinds of things and that she deserved the money.

"Biography p 593 Appendix H

The impression is that Mallory is angry over being owed money from Mailer. Lennon hides the fact that Jack Scovil was also Mallory's agent. Scovil owed her royalties from Flash she never received from him. Scovil also never submitted her interview with George Plimpton to M Magazine which cost her \$5,000 (Doc7 at 15) (Appendix I) An agent misrepresenting her talents and owing her money for her work would have informed the reader that she was earning on her own, not for being Mailer's 'mistress'. This lie of omission by Lennon was intentional to create a false light of Mallory. Evidence of Scovil as Mallory's agent and money owed her from M Magazine (Doc 44 at 116-117)

7. Lennon writes, *"Another way of helping Mallory financially was to give her interviews, which he did on several occasions. One of their interview with Mailer included Vidal, and was the cover feature in May 1991 Esquire (he and Mailer had made up by this time.) but Mailer said it was a weak piece, even after he tweaked It.: (Biography p 594) Appendix H*

The impression here is that Mailer supplied Mallory with all of her interviews to pay her off. The only comment Lennon writes is Mailer saying that the Mailer/Vidal interview "was a weak piece", i.e. that Mallory is a poor interviewer. What Lennon does not want "the average reader" to know and has withheld through lies of omission is:

a.) Mailer had nothing to do with obtaining Mallory's interviews. She acted as his/her own publicist/agent and obtained the interest from magazines in having his interviews published and others of her own. Some magazines showed no interest in

a Mailer interview, but it was Mallory's promotional efforts that sold them on Mailer.

See *Mirabella* (Doc 44 107-8)

Governor Ann Richards's office to set up an interview for *Mirabella* (Doc 44 at 107)

Liz Smith (Doc 24 at 37, 38, 40)

Jesse Jackson/Mrs. Vincent Astor (Doc 24 at 25-28)

Penthouse (Doc 7-1 at 3)

Men's Life (Doc 7-1 at 8)

But Mallory was a friend of Gore Vidal before she met Mailer; the Mailer/Vidal interview was her idea; it took Mallory a year to get them in the same room. She was responsible for their making up after the feud. Proof letter from Mailer to Vidal (Doc 44 at 98)

c. Praise for Mallory's interviewing skills:

Mailer's letter to Mallory before the Mailer/Vidal interview. *"The two interviews you did with me are splendid—indeed they are two of the best I've ever done,"* (Doc 7 at 28-29)

Inscribed in one of Mailer's books... *"What a fine interview you did"* (Doc 44 at 124)

Praise from Kurt Vonnegut referring to Ms. Mallory *"...a keen observer..."* (Doc 7-1 at 18)

Mailer on the cover of *M Magazine* for the fine interview she did. (Doc 7-1 at 23)

Don Hewitt *60 Minutes* producer, to Mallory, *"Nice job"* (Doc 24 at 35)

Joseph Heller letter, *"I enjoyed seeing you and talking with you for Playboy"* (Doc 44 at 124)

Diane Sawyer letter *"I enjoyed the rap session with the boys."* Re Vonnegut/Heller Doc 24

These exhibits prove: Lennon was maliciously trying to claim Ms Mallory was minimally talented when she was vastly talented, that Lennon was maliciously trying to claim that Ms. Mallory was venal when she was earning her own money while helping Mr. Mailer, that lies of omission were used to hide her talents as a journalist, and what she had done for the career of aging Mailer.

8) The below quote illustrates Lennon's maliciously portraying Ms. Mallory as sexually obsessed with Mailer and uses lies of omission and a grossly exaggerated lie to create this defamation.

*"The relationship was based on passion, according to Mailer's lawyer, Ivan Fisher," And his relationship with Mallory was 100 % sexual. There wasn't the teeniest, tiniest, nanogram of anything other than sex involved here...if you're looking for an idea, read her book **Flash**...yes. And you'll know exactly what this affair was about."* (Biography pg 594) Appendix H

In rebuttal the defense said, *"Read in context the "100% sexual" comment is merely Fisher's hyperbolic, subjective assessment of Mailer's motivations for the affair, which is quintessential opinion."* (Doc 37-3 at 9) Appendix H

Lennon himself even said in **A Double Life**, *"Fisher's interpretation notwithstanding Mailer had more than one reason for continuing the relationship"* (Biography pg 595) Appendix H

Despite what else Fisher said and knowing it to be false, Lennon shows a reckless disregard for the truth by maliciously using the *"100% sexual"* quote to enhance his depiction of Mallory in a false light. Lennon cherry-picked this quote to create that impression. A defendant's statement about a plaintiff may not be used to save the defendant if the implication is false and the *"100% sexual"* is clearly false and a gross exaggeration.

Mr. Mailer suffered from erectile dysfunction, and could not keep a condom on with an erection which caused Ms. Mallory to eventually reject Mr. Mailer so Ms. Mallory's relationship with Mr. Mailer could not have been *"100 %"sexual*.

(Appendix H) pg 190 (**Loving Mailer** Appendix I) How can Fisher have an opinion of their sex life unless he were having sex with them or constantly in their company? Fisher's quote is proof that Fisher was intent on maliciously defaming Ms. Mallory by telling lies and discrediting her ability as a writer along with Mr. Mailer's support of her writing and was one of the conspirators to defame Ms.

Mallory. Even if one disregards all the evidence in this document, Mailer's blurb on the cover of Flash, is evidence they were aware of mentor/student relationship.

Norman Mailer wrote: "Flash is wicked and funny and marvelously penetrating about matters in sex which are usually seen as promiscuous and perverse. We see a woman grow despite her sexual foibles and yet because of them...the sort of feat that keeps one alive." Norman Mailer Doc 24 at 10) Appendix I... This blurb was from this letter that also said, "Feel free to show this letter. I'll be happy as soon as you get a publisher, to give your novel a blurb..." (Doc 7 at 27) Appendix M

Mr. Mailer believed in Ms. Mallory's writing which was enhanced through his mentoring.

9. The below passage from Lennon is an example of his committing a lie of omission, a grossly exaggerated lie and his portraying Ms. Mallory as a minimally talented, venal slut. Barbara Wasserman, Mr. Mailer's sister, edited the biography and was part of the conspiracy to defame Ms. Mallory which the below proves. Lennon writes. "Barbara met Mallory through her brother, "He sicced her on me when I worked at S&S," she recalled. "I didn't ask any questions, but I guessed he was trying to buy her off because she presented me with a couple of manuscripts which were just ghastly." (S&S bought one of these manuscripts which was Flash which Gloria Steinem wrote was "Fast, smart, and irresistible".) Lennon continues, "She realized there was nothing she could do with her work." (Lennon compounds the defamation with further lies), Wasserman continues, "I wished I could because this would be one way to help him—One of the manuscripts was about all the men she had slept with. Norman was not in it. I figured maybe he had asked her to keep him out of it." (In Appendix K in a memo to S&S Wasserman writes about this Mallory' manuscripts, 'She can also write...This

*could be a bestseller.) Lennon continues, "When asked about her motives in 2006, Mailer said, "She was totally on the make." Biography p 595 (Appendix H) For detail of this argument see pg 1 of statement of case. However it is important to emphasize that it is Lennon who writes "**When he is asked about her motives in 2006, Mailer said,**" This statement written by Lennon is a lie. Mailer did not answer this question. It is Lennon who transposed Mailer's quote in reference to Millie Brower's literary ambition and inserted it with intentional malice here to portray Ms. Mallory as a slut. Lennon maliciously used Mailer's quote to answer a question which Lennon never asked Mailer. Proof of actual malice. Lennon's ruse. In 1983 when they met because she wanted him to edit one of her manuscripts, it was Mailer who proposed being Mallory's mentor . This is the only direct dialogue with quote marks that Lennon prints of Mailer about Ms Mallory. It's also not in the book NOTES. How after an eight year affair and Lennon knowing and interviewing Mailer for decades, could this be the only direct quote used and for anything other than to degrade Ms Mallory? The book about the men Mallory slept with was her sexual inventory she was advised to write by doctors to become sober which Mailer and Wasserman knew.*

11) The below quote of Lennon proves a lie of omission. * *"She knew him but superficially, however. Convinced that he was an alcoholic, she took him to one of her AA meetings." (Biography p 596) (Appendix H)*

For Lennon to claim that "She knew him but superficially," is not an opinion, but proof of malice with intent—a lie to denigrate all aspects of what he actually knew about their relationship. From his knowing Mallory during that time, to her writings in *Loving Mailer*, to the nine interviews she did with Mailer, to the 8

years of mentoring, to the sexual relationship, to the lie that she took him to (only) one of her AA meetings. To the numerous phone conversations, to the dinners, films, theatre, parties, events, etc. that they attended together, to Mallory's Mailer archives purchased by Harvard in 2008 (Doc 44 at 109-110 (Appendix P) Lennon knew it all. Lennon even used a portion of Mallory's **ELLE** interview to write about Mailer's early life. (Biography p 13. Doc 38-4 at 22 Book notes pg 778 doc 38-11 at 32.)

Another example that proves the intentional malice is Lennon's use Mailer's "self-interview" in *Cosmopolitan*.

"When he was asked by Cosmopolitan his opinion of a woman if...." (Biography 596) (Appendix H)

In *Loving Mailer* p 161) Mallory explains how she was convinced to "ghost his self-interview for *Cosmopolitan*" was given no byline, which is why her name doesn't appear in page NOTES (biography p 879) and was paid far less than it was worth. This was a powerful interview where Mailer answers very substantive, personal questions. Mailer had gone to many AA meetings with Mallory, as she wrote in *Loving Mailer*.

"You need one of your meetings," Norman says.

"Sure do after that remark. Come with me?" I say.

"Not this trip, but I like those meetings," Loving Mailer p 99 Appendix. I

Also Mallory who is 37 years sober has a history of compassion for helping other alcoholics, so it's not logical that she took him to only one meeting:

Letter from Geraldine Smith "She took me to my first AA meeting. I have been sober since the 80s." (Doc 44 at 81-82)

Letters from the DUI Association (Doc 44 at 104 105)

Letter from NAADAC (Doc 44 at 106)

Plaque from PDUFA (Doc 24 at 106)

Letter from Paul Fishkin *"Thank you for saving my life."* (Doc 48 at 10) Appendix J

As a speaker at The Conference for MADD. (Doc 7-1 at 25)

Due to Mailer's respect for the quality work that Ms Mallory does, he gave her informal permission to also write a biography. His handwritten letter (see Appendix M)

Throughout the Mailer/Mallory narrative Lennon attempts to portray Mallory as venal. Although the average reader would certainly interpret it that way, due to Lennon's lies of omission and hyperbolic lies he creates a false light interpretation of her. "Learned something about venality" is not in quotes, so is that what Mailer actually said, or is **Lennon paraphrasing his conversation with Mailer and slandering Ms. Mallory in the process?** Is it that Mailer was actually saying that he learned about his own venality?

16. Below is a lie by Norris Church which Lennon published.

"At the Random House party at the "21" club, Carole Mallory showed up. She was "shockingly brazen", Norris said and kept bringing photographers over to take her picture with Mailer. She seemed to be taunting Norris, or seeking to create a scene of physical altercation. Norris ignored her, then told her quietly that she might as well enjoy herself because, "she had gotten the last nickel she was going to get out of Norman." Norris was correct. Mallory lost her sugar daddy."
Appendix H

Lennon has written lies, proof of actual malice. Mallory never talked to Norris Church. Mallory did not respect Church and had no reason to talk to her. But as Lennon and the fixers have done throughout their defamation, they have inverted the truth. It was Norris who lost her tax deduction and lost the last nickel she would be able to deduct in Ms Mallory's name.

See Appendix T for actual dialogue in Norris Church's *A Ticket to the Circus* from which Lennon sources the above passage. It never happened. Lennon maliciously changed the names from Norris Church's passage to "Linda"="Carole Mallory" and "Norman=Mailer". At any rate, whoever it is, is portrayed as angry and venal. Ms Mallory has no recollection of attending that party and had no reason to speak to Norris Church and avoided having any contact with her because Ms Mallory did not respect her. To complete the denigration, Lennon throws in his on unsubstantiated "sugar daddy". Because of her tax deduction status Ms, Mallory had been the Mailer's "sugar daddy" as Mailer was in debt millions (NYT 2/23/18 Appendix K). Bully sexual predator and serial assaulter Mailer punched Ms. Mallory in the stomach when he did not like what she had written about his Vidal /Mailer feud. *Esquire* had assigned her to write this information. She reported Mailer's assault in Court documents and in *Loving Mailer* which Lennon used as research, yet the Court erred by not taking into account the fact that Ms. Mallory published this assault. The fact that she put this assault in the Court record is motivation for malice by Lennon who is the Administrator of the Mailer Estate. The court dismissed Ms. Mallory as a victim of Norman Mailers assault as not being a motivating factor behind malice with intent.

Conclusion:

The District Court should not grant summary judgment unless there is no substantive issue of material fact. Here there are material facts at issue and thus the court should have let the case go forward to a jury. The court seemed to explain away all the mistakes biographer Lennon made, but his intent and motives

were for the jury to decide. Plus, the district court seemed to take each one in isolation, and never considered the cumulative effect of all of them in presenting a false picture of Ms Mallory and her eight year multi-faceted relationship to Norman Mailer.

Ms. Mallory has been trying to show there are two completely different sides to this story, as to what was said by Mailer and what was meant by the "Totally on the make" comment, and that it was thus, inappropriate for the district court to decide it on summary judgment . It's a factual issue that needs to be resolved by a jury. The District Court erred on the credibility of the "totally on the make comment by not allowing a jury to determine the intent of this comment which Lennon has maliciously quoted out of context. He changed the intent of Mr Mailer's quote meant as a woman with literary ambition to portray Ms. Mallory as a slut. **The district court violated Rule 56 of Civil Procedure by asserting its own credibility determinations for the jury's and by assigning "meaning" to the quotes in question that are plainly disputed by the plaintiff. Then the court denied Ms Mallory her Constitutional right to the Fifth, Seventh and Fourteenth Amendment by denying her due process and her right to a jury trial.**

The defense asserts that the Mallory narrative is a "nuanced" presentation that is not defamatory, but the malicious disregard for truth has led to a defamatory portrait of Ms Mallory . Through lies of omission, cherry-picked quotes and Lennon's own hyperbolic lies masquerading as 'opinions' Lennon and S&S have made it impossible to make a fair conclusion regarding Ms Mallory and her relationship with Mailer. The defense has proven its desire to maliciously defame

Ms. Mallory by quoting a conspiracy of those friends of Mailer who did not like Ms Mallory and who were willing to lie about her to protect Mailer from his role of sexual predator in debt for \$3 million. Mr. Mailer had to use and to deceive a woman to become solvent. The defense claims that the nuance comes from Lennon writing about her modeling , films, writing, interviews and that she was mentored by Norman, but they don't delve into that major part of their relationship. However although they mention some major magazine covers she graced, they only describe the popular sexy, slutty poster she modeled for. The only movie mentioned is one of her worst and there's no mention of her many TV roles. All that Lennon lets you learn about her writing is that it was 'ghastly', about sex, she's a "weak" interviewer and only got interviews because Norman helped her. She's a slut and a "star seducer" and is presented as venal throughout. Through Lennon's lies of omission every aspect is belittled. Every quote Lennon uses and every comment he has supposedly learned through interviews and research is derogatory towards Mallory yet he chose not to interview her for a more balanced perspective. Did no one, especially Mailer have anything positive to say about her? Lennon used *Loving Mailer* as source material, yet chose to find nothing positive he could have used about the relationship?

Lennon writes, "Among Mailer's close friends, the affair caused consternation..." biography p 594) (Appendix H)

Lennon admits to his motivation for intentional malice. These friends would be Lennon and the Keepers of the Flame of Norman Mailer's iconic status. Carole Mallory's book reveals some very unflattering truths regarding some of those people. By diminishing her status, the average reader wouldn't pursue any further

knowledge regarding Mallory and ignore her book. And never publish her writings respected by Harvard which bought three manuscripts ripe for publication and valued at far more than Lennon was paid for his rehash of old Mailer information in **Norman Mailer: A Double Life**.

Before Mallory even knew that **A Double Life** was published she confronted Lennon on pg 101 of **Loving Mailer**. (Appendix I) She wrote,

"After we broke up, his son John Buffalo, interviewed him and then his biographer, J. Michael Lennon. Norman could control both of these men just as he controlled his image for history, these men allowed Norman to edit his quotes, which was his way of hiding the truth, and while Jon Buffalo and J. Michael Lennon felt honored they were also being manipulated as was the public by being presented with an inaccurate portrait of Norman Mailer."

Lennon, not pleased with Mallory's insight about his lack of journalistic integrity, got revenge with his maliciously cherry-picked quotes and his own negative prose about her, his lies masking as hyperbolic opinion which further proves his lack of journalistic integrity and intent to defame Ms. Mallory. Ms. Mallory's case has the public interest of the #Me Too Movement which is of national prominence.

Women, victims of famous sexual predators and their fixers, their networks, are finally being believed. Vindicated. The courts have been reluctant to rule in Ms Mallory's favor and to convict the famous predators. A Court or jury must think, "Do we care? Do we think this is serious?" Mailer like Bill Cosby used his image to lure women into his lair. "I'll be your mentor. Trust me." Mailer's network of powerful fixers have turned their backs on Ms. Mallory's victimization despite the fact that powerful men have been victimizing women sexually for centuries and getting away with this. Ms. Mallory's case is emblematic of one more victimization

of a powerful sexual predator and his fixers, his keepers of his flame, his conspiratorial cohorts. Biographer Lennon lied under oath on his deposition when he said he quoted Mr. Mailer in context when he did not. Mailer was saying "She was totally on the make" under the context of literary pursuits, not sexual. This is not the factual meaning of Mr. Mailer's quote nevertheless Lennon wrote it was and S&S published it and thus implied Ms Mallory was a slut. Yet the courts repeatedly have erred by ignoring Lennon's lie under oath and ruling against Ms. Mallory's case. (Doc 114 filed 4/25/17 pg. 4 of 8, Doc 107-1 filed 2/27/17 pg 62 of 108 see case 2-14-cv-05702 JHS). (Appendix D)

District Attorney Steele after the Cosby verdict, said, "To all others working cases against powerful men, may this office be your beacon." Ms. Mallory is praying the Supreme Court is her beacon and decides a precedential ruling in her favor by granting her a Writ of Certiorari.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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