

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MICHAEL SKAKEL

Plaintiff,

vs.

NANCY GRACE, TIME WARNER INC.,
TURNER BROADCAST SYSTEM, INC.,
and BETH KARAS

Defendants.

Case No. 3:12-cv-01669 (VLB)

March 20, 2014

**MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION FOR
RECONSIDERATION OF THE DENIAL OF THEIR MOTION TO DISMISS**

Defendants respectfully submit this memorandum in support of their motion for reconsideration of the Court's March 10, 2014 order [Dkt. 22] denying their Rule 12(b)(6) motion to dismiss (the "Order"). In finding the Complaint sufficient, the Court overlooked or misperceived constitutional burdens imposed on this plaintiff that bear directly upon the grounds advanced for dismissal.

First, the Court failed to recognize that the First Amendment *reverses* the common law burdens when a libel plaintiff challenges a statement on a matter of public concern, which Skakel does here as a matter of law because the statements he challenges discuss a murder prosecution. Citing Connecticut cases involving private libels alleged against non-media defendants, the Court mistakenly considered it to be defendants' burden to establish truth as an affirmative defense, and found it premature to resolve truthfulness at the pleading stage. Under binding Supreme Court precedent, it is *plaintiff's* burden to plead

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