

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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Table of Contents Memo History 2014 Trial

1. Understanding the eBook Memo History 2014 Trial
 - The Rise of Digital Reading Memo History 2014 Trial
 - Advantages of eBooks Over Traditional Books
2. Identifying Memo History 2014 Trial
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Memo History 2014 Trial
 - User-Friendly Interface
4. Exploring eBook Recommendations from Memo History 2014 Trial
 - Personalized Recommendations
 - Memo History 2014 Trial User Reviews and Ratings
 - Memo History 2014 Trial and Bestseller Lists
5. Accessing Memo History 2014 Trial Free and Paid eBooks

- Memo History 2014 Trial Public Domain eBooks
- Memo History 2014 Trial eBook Subscription Services
- Memo History 2014 Trial Budget-Friendly Options
- 6. Navigating Memo History 2014 Trial eBook Formats
 - ePub, PDF, MOBI, and More
 - Memo History 2014 Trial Compatibility with Devices
 - Memo History 2014 Trial Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Memo History 2014 Trial
 - Highlighting and Note-Taking Memo History 2014 Trial
 - Interactive Elements Memo History 2014 Trial
- 8. Staying Engaged with Memo History 2014 Trial
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Memo History 2014 Trial
- 9. Balancing eBooks and Physical Books Memo History 2014 Trial
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Memo History 2014 Trial
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Memo History 2014 Trial
 - Setting Reading Goals Memo History 2014 Trial
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Memo History 2014 Trial
 - Fact-Checking eBook Content of Memo History 2014 Trial
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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