

Subject: Re: Clarification(s)
From: Walt Tuvell <walt.tuvell@gmail.com>
Date: 08/30/17 07:55
To: jamproethics@verizon.net

Gut-check time:

Yesterday, Sarah Palin lost her defamation suit against NYT, because NYT published a retraction/correction as soon as it discovered its error. <https://www.nytimes.com/2017/08/29/business/media/sarah-palin-lawsuit-new-york-times.html>; <https://www.documentcloud.org/documents/3983101-ruling-in-palin-times-suit.html>.

You now know, with 100% certainty, your defamatory claim that I was trying to sneak an free "expert opinion" out of you to use in my case was a wholly false statement of fact (not opinion), knowingly or negligently (it doesn't matter which, since I'm not a public figure, and special damages needn't be shown, as all lawyers know). But you haven't yet issued a retraction/correction.

You are ethically (and legally) required to do so. Promptly. Got guts? <https://ethicsalarms.com/about/>:

This is a blog that aspires to help keep everyone's ethics alarms in good working order...[including mine.](#)

On 08/29/17 08:22, Walt Tuvell wrote:

Jack —

#1: I first learned about you on Aug 2 (not the "couple of months" I said without checking, sorry), when I cited you approvingly (to Elie Mystal) for calling Mystal a racist. [Proving, BTW, I'm no "American Left sycophant/familiar" as you falsely portrayed me.] Attached (Emails=2017-08-02.pdf). So, in particular, when you cited the balance exhibited by your writings in July, I haven't seen any of them. Though, you did verify the "right-leaning" impression I got of you, when you baldly wrote (apparently without irony):

"good"), but I know from whence the impression arises: [the fact that the entire American Left, along with its sycophants and familiars, the universities, show business and the news media, have gone completely off the ethics rails since November 8, 2016.](#) I don't know

#2: You say, "I sandbagged you." What do you mean by that? I was very clear from FIRST CONTACT where my interests with you lie, and I never wavered one iota from that initial position:

Walter E. Tuvell

August 27, 2017 at 1:08 pm



I am the author of “Item #1” in Jack’s Morning Ethics Warm-Up for Aug 27 2017. For the record, here is the content of the email I sent him, which instigated Jack’s response:

Jack –

I’ve been following your website (<https://ethicsalarms.com>) since I “discovered” it a couple of months ago. Its About page is especially lucid and luring.

The problem is, your posts don’t live up to the About advertisement. Specifically, the About page speaks only about whole-life ethics (a very laudable goal, what I was looking for), but says nothing about partisan/political rants. Yet, it seems like that’s what the website does, and only that. Further, everything you say appears to be entirely one-sided (right/conservative/republican is good, left/liberal/democrat is bad).

Is that the way you really see things? Or am I missing something?

Thx.

– Walter Tuvell (PhD, Math, MIT & U.Chicago – i.e., “not-a-crank”)

I counter-respond as follows:

First: I am not an “academic” (well-educated, yes, but worklife has been in the computer industry). Nor am I an American leftist, sycophant, familiar, university, show business, news media, etc. Rather, I’m just a guy looking for serious ethical guidance in uncertain times, of the sort Jack mentions/advertises on his About page (<https://ethicsalarms.com/about>).

Second: My note was not, I think, an “accusation,” but rather an “observation,” based on the deviance of the website’s content vs. the wording of its About page. Granted I’m a relatively new reader, so don’t have the benefit of long-term familiarity, but from what I’ve seen to date, everything has decidedly political/partisan, in one particular direction (from left to right). That seems biasedly unbalanced (black-and-white, no gray) to me.

Third: I maintain a website documenting a major cultural/governmental (but not “political/partisan”) phenomenon affecting many thousands of Americans yearly, namely Judicial Misconduct (<http://JudicialMisconduct.US>). THAT’S the sort of thing I wonder what a non-political/partisan (though legally trained/savvy) ethicist thinks about. Start, say, with the “Smoking Gun” at <http://JudicialMisconduct.US/CaseStudies/WETvIBM/Story#smokinggun>.

– Walter Tuvell

#3: You write that I "was not honest," and "caused you to miss" my interest in Judicial Misconduct (which I put in all-caps, indicating the formal "properly so-called" meaning of that word), but I don't what it is that you missed (I was very clear in my original post, supra), and I don't know what "other commenter" you're talking about (I merely cited my website, supra):

political topics, then denied he had done that, then said the all he was looking for was a discussion of a judicial conduct issue (but did this initially with a link in a comment to another commenter, causing me to miss it)

I'm sorry for Walt's troubles, but he was not honest, and misrepresented his purpose by the charming device of insulting my integrity. Obviously, he wanted to check and see whether my sympathies would be with his cause before submitting it for consideration. As I tell my clients, I can't be bought, and you take your chances.

#4: You write the following, which are obviously false (my own case is merely one case-study/example of several on the site, with more in-process):

Walt's "issue" is about his own case, and the link goes to his single issue website, which you can try to wade through here

Then I read as much of the entry on his blog—which purports to be about judicial misconduct in summary judgments generally, but is in fact only about his case—

The proof that these are false comes from my website itself, where I write (top of page <http://judicialmisconduct.us/CaseStudies/WETvIBM/Story>):

Underlying Case-In-Chief

*NOTE — Some readers (esp. those interested only in **judicial misconduct**) may wish to skip this introductory section upon first reading — because, knowledge of the underlying **factual (substantive) background** is **completely unnecessary** for understanding the **judicial misconduct (procedural) aspects** of the case(!).*

Another of course the Smoking Gun itself immediately proves this (to any lawyer, a layperson will need some ramping-up):

THIS IS PRECISELY WHERE THE JUDICIAL MISCONDUCT ORIGINATED (recurring/**covered-up** many times, as related *infra*): In arriving at her (false) decision/opinion on the Summary Judgment motion, the District Judge (falsely) refused to “hear” any part of plaintiff’s side of the case at all — by **WHOLLY IGNORING/EXCLUDING** plaintiff’s **REQUIRED PSOF (Dkt#83)**, as marked “***X**” *supra*, and **paying attention ONLY** to defendant’s **DSOF (Dkt#74)** — recalling that the court is **ABSOLUTELY NON-DISCRETIONALLY REQUIRED** to do the **exact opposite: consider and credit PSOF (Dkt#83) over DSOF (Dkt#74)** for the purposes of summary judgment (by rule: the **“nonmovant-trumps-movant” tenet of the SJTOR**). Indeed, Judge Casper herself **explicitly/expressly admitted/vouchsafed** such, by authoring/signing the following **self-contradictory “SMOKING GUN”** passage in her **Decision/Opinion ¶2** (annotated here):

the production of evidence that is ‘significant[ly] probative.’” *Id.* (quoting *Anderson*, 477 U.S. at 249) (alteration in original). The Court “view[s] the record in the light most favorable to the nonmovant, drawing reasonable inferences in his favor.” *Noonan v. Staples, Inc.*, 556 F.3d 20, 25 (1st Cir. 2009).

III. **Factual Background** This “Factual Background” (at SJ) is a **TOTALLY INSANE/ILLEGAL LIE!** By SJ RULE/LAW (Rule # 56 + LR # 56.1 + “Standard of Review” just stated), the court **‘MUST’ CREDIT PSOF (Dkt.# 83), TRUMPING DSOF (Dkt.# 74)!**

The facts are as represented in IBM’s statement of material facts, D. 74, and undisputed by Tuvell, D. 82, unless otherwise noted. DSOF(Dkt.# 74) & PSOF(Dkt.#83) are **REQUIRED** (by LR # 56.1). RespDSOF (Plf.’s Response to DSOF, Dkt.# 82) is **OPTIONAL**. RespDSOF pointed into PSOF 19 times, but the judge **DIDN’T FOLLOW** those pointers, not even once.

Tuvell is a white male, born in 1947, who claims to suffer from post-traumatic stress

SMOKING GUN BIG LIE Elephant-in-the-Room (from District Court Decision/Opinion ¶2)

This (mis)behavior constitutes/proves obvious/blatant/egregious criminal/impeachable Judicial Misconduct — Falsification of Facts, Obstruction of Justice, Fraud Upon the Court (by a Judge) [and, later, Cover-Up, see *infra*] — pure and simple. **QED.**

That Smoking Gun is, of course, merely an EXAMPLE, which is paraphrased in non-WET-v-IBM terms this way (http://judicialmisconduct.us/sites/default/files/2017-04/08_JudicialTwilightZone_0.pdf#page=1):

The American Federal judiciary is widely regarded as populated by a powerful and “all-but-infallible” cabal of super-beings — in the sense that they collectively steward the country’s legal business professionally and “perfectly” (never making uncorrected mistakes, at least not in the “procedural” sense) — largely due to the judicial system’s “due process” protection, and rigorous practice of self-policing via a robust appellate overview program.

Does this view admit of any serious limitations or reservations? What is the “worst-case scenario”?

For the sake of argument let’s suppose, “hypothetically speaking,” that a District Judge sitting in judgment over a civil action (on any topic; the facts are not important), were to grant Defendant’s Motion for Summary Judgment (the final pre-trial step before trial), “paraphrasing” her Opinion as follows (“**Smoking Gun**”):

At Summary Judgment stage, the Court is strictly required, by law and by judicial rule, to blindly credit (“believe”) the Plaintiff/non-movant’s “story” as “true”: to view all purported/alleged “facts” (“events,” “transactions,” “happenings”) in the light most favorable to the Plaintiff, resolving all disagreements and inferences therefrom to Plaintiff’s benefit. But arbitrarily, in this case, we completely ignore Plaintiff’s story, and inexplicably accept Defendant/movant’s biased story as “true.” On the basis of that known-falsification, we find no laws were broken, so the case is dismissed.

#5: You write the following, which is obviously false. What “messy” post are you referring to, and what “edge of madness”? Judges are NOT PERMITTED (THIS IS THE POINT) to “decide the case is lousy” at Summary Judgment time (as all lawyers know), hence the judge (an Obama appointee, BTW, though that’s neither-here-nor-there) was indeed unethical/misconduct. For a recent excellent mainstream academic/lawyerly book in this topic, see Thomas & Sperino, “Unequal,” <https://www.amazon.com/Unequal->

Americas-Undermine-Discrimination-Current/dp/0190278382 (esp. the "Look Inside the Book" feature).

The case is **Tuvell v IBM**, and skimming his messy post that teeters on the edge of madness, I discern that the reason Walt is interested in judicial misconduct is that the judge decided that his case was lousy, and dismissed it. That obviously means that the judge is unethical.

#6: You write the following, which is a plain *ad hominem*, based solely on blind/ignorant stigmatization of PTSD (well-known by EEOC/case-law to be protected under ADA, Americans with Disabilities Act, as amended, as all lawyers know). Why the bias against PTSD? That's the province of unscrupulous employers and the stupid last-century uninformed, not a professional ethicist.

as I could stand, and realized that Walt is, in technical terms—this is an opinion, Walt, not an assertion of fact, you can't sue me: put down the banana—**a few cherries short of a sundae**. This became clear in this passage..

*Tuvell suffered severe shock/dismay/devastation, and worse. For, Tuvell was/is a long-term victim of whistleblowing/bullying-instigated **PTSD**, stemming from previous defamatory/abusive workplace incidents he'd experienced more than a decade previously while at another employer, but which was since in remission ("passive"/"dormant" phase). Knabe/Feldman's accusation immediately caused/"triggered" Tuvell to reexperience an acute/"active" PTSD "flashback"/relapse.*

#7: You write the following, claiming I "abused" EthicsAlarms. False. I wrote to you privately (as you invite on your About page: ""). YOU took it to EthicsAlarms (without even informing, I had to find it for myself). Further, I sent you no "long, rambling" emails, instead I cited my (very-)well-written/organized website.

I used to get **letters** from people like this, **long rambling** things with court cites and exclamation points. I answer phone calls from people like Walt, and try to help them if possible, but it's usually futile, and often they keep calling and calling until I have to just duck the calls. And I get **e-mails** with **long, rambling** court documents. This is the first time, however, someone has **abused** **Ethics Alarms for a personal agenda**.

#8: You write the following, which is obviously false. True, from my initial post, I made it clear that I was interested in your free expert opinion (that's "what you do," right?). However, it is LITERALLY IMPOSSIBLE to

"use" anything like that in my case. For, the current posture of the case is that it's undergoing formal Judicial Misconduct review, at Judicial Council and Judicial Conference, which is a CLOSED PROCESS. NO "third party evidence" can possibly be injected into that process (not even an amicus brief), by law/rule. As all lawyers know (especially self-proclaimed ethics/misconduct experts). Instead, I was only trying to engage your wisdom about cases like this (not "my case"!), exactly like you advertise you do on your website.

Walt was also obviously looking for a cheap, as in free,
expert opinion that he could use in his crusade against
the judge.

#9: You write the following, based solely on all your false inventions, supra. Why? I've been nothing but polite and straightforward from Day One (Sunday, 2 days ago), and you yourself have recognized/acknowledged that you misinterpreted me from the beginning. As you continue to do. Why?

What an asshole! The fact that he may be a desperate
asshole doesn't justify wasting my time, and others who
responded to him and misrepresenting his motives.

#10: You write the following, which is based wholly upon constructs you've invented inside you own mind, not on anything externally tangible, as discussed/proven supra. Why?

For this, Walt earns the ultimate ban. He will not be re-
instated, and if he submits one more comment having
been so warned, I will delete every one of his comments
so the stench of his abuse no longer lingers here.

— Walt