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10   SUPERIOR COURT OF THE STATE OF CALIFORNIA

11   IN AND FOR THE COUNTY OF LOS ANGELES

12

13 JAMES WOODS, an individual,   Case No.: BC 589746

14   Plaintiff,   [Hon. Mel Recana, Dept. 45]

15   vs.   PLAINTIFF'S OPPOSITION TO JOHN DOE'S
                                              SPECIAL MOTION TO STRIKE;
16 JOHN DOE a/k/a "Abe List" and DOES 2   DECLARATIONS OF MICHAEL E.
                                              WEINSTEN, PROFESSOR EDWARD
17 through 10, inclusive,   FINEGAN, Ph.D. AND JAMES WOODS IN
                                              SUPPORT THEREOF
18   Defendants.
                                              [Evidentiary Objections to the Declaration of
19   Kenneth P. White filed concurrently herewith]
20
                                              Date: February 2, 2016
21   Time: 8:30 a.m.
                                              Dept: 45
22
23   Complaint Filed: July 29, 2015
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MEMORANDUM OF POINTS AND AUTHORITIES

I.   INTRODUCTION

This case arises from the publication of a malicious and fabricated accusation leveled against actor James Woods by an individual who hides behind the Twitter name "Abe List" (hereafter "AL") and whom his own lawyer calls "a jackass." Weinsten Decl. ¶ 14. In July 2015, AL falsely accused Mr. Woods of being a "cocaine addict" on the widely popular social media site Twitter- a message blasted to hundreds of thousands of Mr. Woods' followers and now seen by millions throughout the world. After Twitter refused to remove the libelous statement, and to protect his good name and reputation, Mr. Woods was forced to file suit for defamation and invasion of privacy by false light.

Hamstrung and without a legitimate defense, AL has chosen the most cowardly path possible- ***publicly*** attack the victim with false accusations and obstruct and delay a trial on the merits.[1] To this end, AL has filed an "anti-SLAPP" motion claiming his defamatory Tweet was mere "hyperbole," *i.e.*, he did not really mean what he said. Given this defense, the ***only*** question to be decided by the Court here is "whether a reasonable fact finder could conclude that [AL's false Tweet] declares or implies a provably false assertion of fact." *Sanders v. Walsh*, 219 Cal.App.4th 855, 862-863 (2013). As noted by numerous commentators opining on this case, the answer is an unequivocal "Yes."

Lest there be any doubt, Mr. Woods proffers the declaration and report of expert linguist Professor Edward Finegan, Ph.D., who has carefully examined the linguistic structure of AL's false Tweet and the context in which it was made. Based on his analysis, Professor Finegan concludes, as he must, that "many if not all readers of the 'cocaine addict' Tweet will understand and interpret Abe List to be making a factual claim about James Woods- namely that he is a cocaine addict." Exh. P, pp. 6-7. His report further blasts AL's hyperbole defense, noting that AL's motion "seriously misrepresents the meaning of 'hyperbole'." *Id.* at p. 4. As Professor Finegan aptly explains, "cocaine addiction is not

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[1] AL's Motion is replete with personal attacks and lies about Mr. Woods which have nothing to do with the issues at hand, but which are obviously calculated to draw the Court's ire. By way of example, AL *falsely* claims the defamatory Tweet was in response to a "homophobic" Tweet by Mr. Woods. In fact, there was nothing at all in Mr. Woods' initial Tweet that was disparaging to the GLBTQ community, and Mr. Woods is widely known to support GLBTQ causes. Indeed, in 1992, Mr. Woods was specifically selected to be a presenter at the awards by the Gay and Lesbian Alliance Against Defamation for positive portrayals of gays and lesbians in the media. *See http://articles.latimes.com/1992-04-13/entertainment/ca-216_1_fried-green-tomatoes.*

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1   something that can be exaggerated. It is something of an absolute and therefore not subject to

2   exaggerated measurement . . ." *Id.*

3   In contrast with this indisputable testimony, AL's entire motion rests feebly on a handful of

4   irrelevant and inadmissible Tweets from Mr. Woods and AL (some dating back three years) that have

5   nothing at all to do with AL's false Tweet and/or the exchange at issue. Indeed, conspicuously absent

6   from AL's motion is a sworn declaration from the defamer himself.

7   This Court need not and should not indulge AL in his frivolous delay tactics. AL's motion

8   should be summarily denied and this case should proceed expeditiously to trial.

9   **II.**   **STATEMENT OF RELEVANT FACTS**

10   **A.**   **Twitter, It's Content And Its Audience.**

11   Twitter is a self-proclaimed "information network made up of 140-character messages called

12   Tweets." Weinsten Decl., Exh. C, p. 9. The most common way for information to be shared on Twitter

13   is when a user posts a Tweet. *Id.* Once a Twitter user posts a Tweet, that Tweet is then posted on the

14   user's Twitter account home page as well as the home page of that user's "followers." *Id.* at p. 10. The

15   Twitter user's "followers" can then "reply" to the Tweet or "Retweet" the Tweet. *Id.* at pp. 3, 6. A

16   reply to a Tweet is accessible to anyone that received the original Tweet. *Id.* at p. 3. A "Retweet" is a

17   "Tweet that you forward to your followers," and it is "often used to pass along news or other valuable

18   discoveries on Twitter." *Id.* at p. 6.[2]

19   On its website, Twitter boasts it is "an easy way to discover the latest news related to subjects

20   you care about." Weinsten Decl., Exh. C, p. 9. Twitter likens its service with "being delivered a

21   newspaper whose headlines you'll always find interesting," telling its users "you can discover news as

22   it's happening, learn more about topics that are important to you, and get the inside scoop in real time."

23   *Id.* In fact, the Pew Research Center of Journalism and Media ("PRC") conducted a study and found

24   that 63% of Twitter users say that the platform serves as a source for news about events and issues for

25   them. Weinsten Decl., Exh. D, pp. 1-2. The study further found that the proportion of users who say

26   they follow breaking news on Twitter is nearly twice as high as those who say they do on Facebook. *Id.*

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28   [2] An example of the way information is transmitted on Twitter is as follows: If **A** follows **B** (and is therefore one of **B**'s followers) and **B** Tweets the statement, "There is a fire down the street that firefighters are responding to," this Tweet is then displayed on **A**'s Twitter account timeline. **A**, as well as anyone else that follows **B**, can then view this Tweet. Moreover, if **C** comments on **B**'s Tweet, **A** is able to see that comment by clicking on **B**'s Tweet. Weinsten Decl., Exh. C, pp. 3, 7, 10.

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1 | Indeed, cable news network CNBC recently proclaimed that "Tweets now move billions of dollars in the

2 | stock market, have delivered play-by-play of the killing of the FBI's most wanted terrorist and allow

3 | planet Earth to communicate directly with humans and machines residing in outer space." Weinsten

4 | Decl., Exh. E, p. 1. There is no question that Twitter has been adopted by the mainstream media and

5 | public at large as a reliable source of information, and that it has had an extremely influential impact not

6 | only on society, but society's perceptions and beliefs.

7 | While conversations on Twitter can (and do) include opinion, jokes and hyperbole, it cannot be

8 | ignored that people believe what they read on Twitter. Countless well-publicized instances exist where

9 | Twitter users, the general public and the media have believed utterly bogus statements simply because

10 | they were posted on Twitter. Some prominent examples include:

11 | • In 2012, a false report that Gov. Nikki R. Haley was to be indicted on tax fraud charges

12 | was quickly transmitted from a largely unknown blog to the mainstream media through Twitter. As

13 | reported by the *New York Times*, "[t]he item's rapid journey from hearsay to mainstream journalism,

14 | largely via Twitter, forced Ms. Haley to rush to defend herself against a false rumor." Weinsten Decl.,

15 | Exh. F, p. 1.

16 | • A Wall Street analyst under the Twitter account "ComfortablySmug" caused increased

17 | confusion and fear in the midst of Hurricane Sandy by posting rapid-fire tweets of false information

18 | including that Con Edison was going to shut down all power in Manhattan and that the NYSE was

19 | flooded. CNN reported: this "case reinforces how social media can spread misinformation at lightning

20 | speed and raises the question of whether users should face criminal prosecution for knowingly posting

21 | false information during a natural disaster or other emergency." Weinsten Decl., Exh. G, p.1.

22 | • In 2013, a suspicious Tweet on the Twitter feed of the Associated Press that there was an

23 | explosion at the White House sent the stock market into a plunge more than 100 points and wiped $136

24 | billion from the S&P 500 index in 2 minutes. Weinsten Decl., Exh. H.

25 | *The International Business Times* perhaps summed it up best when it reported: "[p]eople's

26 | proclivity to believe what they want to hear has found the perfect accomplice in microblogging sites

27 | such as Twitter. . ." Weinsten Decl., Exh. I, p. 3.

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B.   Plaintiff James Woods And His Twitter Account: @RealJamesWoods.

Plaintiff James Woods is a world-renowned, award-winning, actor who has appeared in over 130 films and television series including *The Onion Field, Once Upon a Time in America, Salvador, Casino, Nixon, Hercules, Shark* and *White House Down*. Woods Decl. ¶ 8. He has twice been nominated for an Academy Award, and has won four Emmy Awards as well as a Golden Globe Award. *Id*. For over forty-five years, Woods (68) has worked tirelessly to build a career and reputation as one of the most hard-working, prolific and recognizable actors of our time. *Id*.

Woods is a prolific user of Twitter and regularly tweets his opinions on entertainment, social and political issues of general interest. Woods has amassed over a quarter million followers under the handle @RealJamesWoods. Woods Decl. ¶ 2. His followers include newscasters, entertainment celebrities, professionals, employers, friends, enemies, fans and others interested in his views. *Id*.

C.   Defendant AL And His Twitter Account: @Abelisted.

Defendant AL is also an avid user of Twitter. In fact, as of July 30, 2015, AL posted over 61,000 tweets and had 2,000 followers. Weinsten Decl., Exh. J. AL's Twitter profile insinuates that he is a Harvard graduate and states that he is a "math dork in finance" and partner in private equity. *Id*. On a weekly (and even daily) basis, AL tweets on various subjects including politics, economics, gay rights, as well as national and international news, events and issues. He has also been a prolific poster of financial news and advice. *Id*. at Exh. J.

AL has openly shared on Twitter his disdain for Mr. Woods. In a December 2014 Tweet, AL referred to Mr. Woods on Twitter as a "joke," a "clown-boy," "ridiculous," and "scum." Woods Decl., ¶ 5, Exh. B. Mr. Woods does not contend that *these* statements arise to the level of defamation (although they do evidence malice), because they do not state or imply *any fact* at all. However, in July 2015, AL stepped over the line and defamed Mr. Woods by attacking him with false assertions *of fact*.

D.   The Defamatory Tweet By AL.

On July 15, 2015, AL falsely accused Plaintiff of being a "cocaine addict" on Twitter, a message sent to thousands of AL's followers and hundreds of thousands of Plaintiff's followers. Woods Decl., ¶ 3, Exh. A (stating "cocaine addict James Woods still sniffing and spouting"), hereafter "The AL False Statement." As acknowledged by AL's own counsel, the message conveyed by AL is "that Mr. Woods

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1   *is a 'cocaine addict.'"[3] See* Mot. p. 1:19 (emphasis added). Although AL now claims (***without a***

2   ***supporting declaration***) this was actually intended as "hyperbolic insult," ***AL did not qualify the***

3   ***statement in any manner whatsoever; nor did he couch it as opinion, joke or anything other than as***

4   ***fact.*** Indeed, as explained in the legal section below, "hyperbole" is an exaggeration of a fact. This was

5   not an exaggeration of anything, just a plain and false statement that Mr. Woods *is* a cocaine addict.

6   Expert linguist Professor Edward Finegan, Ph.D. agrees and states that "nothing in the Tweeted words

7   'cocaine addict James Woods still sniffing and spouting' suggests that it should be interpreted as

8   hyperbolic." Finegan Decl., Exh. P, p. 5. Indeed, others reporting on this case have come to the same

9   conclusion. Weinsten Decl. Exhs. M & N (discussed further below).

10   AL's defamatory Tweet followed a Tweet by Mr. Woods of a serious nature, criticizing the

11   media for not adequately covering a Planned Parenthood issue important to him. Exh. A. Significantly,

12   while other followers responded with commentary on the issue itself, AL made no mention at all of the

13   issue raised. *Id.* Instead, he chose to spread a false and malicious lie against Mr. Woods in a manner he

14   knew would inflict maximum harm. Indeed, there is no question that Woods has been damaged by AL's

15   lie. Woods Decl., ¶ 9. Moreover, contrary to AL's manufactured claim that the defamatory Tweet was

16   part of a "pattern of insult toward Plaintiff," and "echoed a Twitter-in-Joke," AL posits no actual

17   evidence of any such thing, let alone any evidence that Woods' Twitter followers would have seen AL's

18   December 2014 tweet and/or known of the so called "joke."

19   On the very same day, July 15, 2015, Plaintiff filed a complaint with Twitter regarding AL's

20   defamatory comment. Woods Decl., ¶ 4. The comment, however, was not removed. To clear his name

21   and mitigate the substantial damages caused, Mr. Woods had no choice but to file a lawsuit. *Id.*

22   **E.   The Defamatory Statement By AL Is Provably False.**

23   Contrary to AL's False Statement, Mr. Woods is not now, nor has he ever been, a "cocaine

24   addict." Woods Decl., ¶ 6. Indeed, Mr. Woods has never used cocaine. *Id.* This is a criminal

25   allegation that is simply not true and has no basis whatsoever.

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28   [3] AL's counsel claims in his Motion that AL's reply to Plaintiff's Tweet (i.e., the AL False Statement) was not sent to Mr. Woods' followers. That, however, is not true. *See* Weinsten Decl., Exh. C, p. 10, which explains that Plaintiff's "followers" would receive Plaintiff's Tweet (and have access to any replies thereto) on their Twitter account timeline.

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1 **III. LEGAL ARGUMENT**

2   A.   **Legal Standard For Anti-Slapp.**

3   *Cal. Civ. Proc. Code* § 425.16 establishes a two-step process for determining whether an action

4 should be dismissed as a SLAPP. First, the Court decides whether defendant has made a threshold

5 showing that the challenged cause of action is one arising out of a covered activity. *Cal. Civ. Proc.*

6 *Code* § 425.16(b). Second, if that showing is made, plaintiff must demonstrate a *probability* of

7 prevailing on the claims. *Id.* "Once a plaintiff shows a probability of prevailing on *any* part of his or

8 her claim, the plaintiff has established that his or her cause of action has some merit and the entire cause

9 of action stands." *Burrill v. Nair*, 217 Cal.App.4th 357, 379 (2013) (emphasis added), review denied

10 (Oct. 2, 2013); *see also Oasis W. Realty, LLC v. Goldman*, 51 Cal.4th 811, 820 (2011).

11   To establish a probability of prevailing on the merits, "the plaintiff must demonstrate only that

12 the complaint is legally sufficient and supported by a prima facie showing of facts sufficient to support a

13 favorable judgment if the evidence submitted by plaintiff is credited." *Navellier v. Sletten*, 29 Cal.4th

14 82, 89 (2002). The threshold for showing a "probability of success" is quite low—the plaintiff need

15 only establish that his claim has "minimal merit" to avoid being stricken as a SLAPP. *Soukup v. Law*

16 *Offices of Herbert Hafif*, 39 Cal.4th 260, 291 (2006). The court does not weigh credibility or

17 comparative strength of the evidence. *Id.* Rather, the court considers the defendant's evidence only to

18 determine if it defeats plaintiff's showing as a matter of law. *Id. See also, Overstock.com, Inc. v.*

19 *Gradient Analytics, Inc.*, 151 Cal.App.4th 688, 699-700 (2002)("We do not weigh credibility, nor do we

20 evaluate the weight of the evidence ... (W)e accept as true all evidence favorable to the plaintiff"). To

21 simplify matters, this Opposition will address only the second prong of the test, which is easily met.

22   B.   **The Law Of Defamation.**

23   Defamation is effected by either "Libel" or "Slander." *Cal. Civ. Code* § 44. "Libel is a false and

24 unprivileged publication in writing . . . which exposes any person to hatred, contempt, ridicule, or

25 obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his

26 occupation." *Cal. Civ. Code* § 45. The definition of libel is very broad and "includes almost any

27 language which, upon its face, has a natural tendency to injure a man's reputation, either generally or

28 with respect to his occupation." *Forsher v. Bugliosi*, 26 Cal.3d 792, 803 (1980). If a defamatory

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1 | meaning appears from the language itself without the necessity of explanation or the pleading of

2 | extrinsic facts, there is libel *per se*. *See Cal. Civ. Code* § 45a; *MacLeod v. Tribune Publishing Co.*, 52

3 | Cal.2d 536, 549 (1959). "Perhaps the clearest example of libel per se is an accusation of crime." *See*

4 | *Barnes-Hind, Inc. v. Superior Court*, 181 Cal.App.3d 377, 385 (1986). Simple statements of fact, even

5 | when couched as an opinion, are libelous. *See Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 19 (U.S.

6 | 1990) ("If a speaker says, 'In my opinion John Jones is a liar,' he implies a knowledge of facts which

7 | lead to the conclusion that Jones told an untruth.") "In deciding whether a statement is defamatory, one

8 | must consider that which is explicitly stated as well as that which is insinuated or implied." *Varian Med.*

9 | *Sys., Inc. v. Delfino*, 113 Cal.App.4th 273, 337 (2003), *rev'd on other grounds*, 35 Cal.4th 180 (2005).

10 | Indeed, it is not necessary that every reader might see the statement as defamatory. It is

11 | sufficient that *some* readers will interpret the statement in its defamatory sense. For example, in

12 | *MacLeod*, plaintiff sued the Tribune for publication of a false report that "the mouthpiece of the

13 | communist party" recommended plaintiff for public office. Defendant argued the report was not libel

14 | *per se* because it was susceptible to an innocent interpretation. The Court rejected this argument stating:

15 |
16 | The fact that an implied defamatory charge or insinuation leaves room for an innocent interpretation as well does not establish that the defamatory meaning does not appear from the language itself. The language used may give rise to conflicting inferences as to the meaning intended, but when it is addressed to the public at large, it is reasonable to assume that at least *some of its readers will take it in the defamatory sense.*
17 |

18 | *MacLeod, supra,* at p. 549 (emphasis added); *see also Varian, supra,* at pp. 337-338 ("[i]t is not

19 | necessary that anyone believe [the words] to be true, since the fact that such [defamatory] words are in

20 | circulation at all concerning the plaintiff must be to some extent injurious to his reputation . . .")

21 | **C.   Woods Has More Than Established A Probability Of Prevailing On The Merits.[4]**

22 | The Motion addresses a single issue, *i.e.*, whether the AL False Statement is a provably false

23 | statement of fact or mere hyperbole. Defendant concedes, as he must, that Woods will prevail on all

24 | other elements of the claim, *e.g.*, malice and damages (which are presumed as to defamation *per se*).[5]

25 |

[4] For the same reasons, Mr. Woods has demonstrated a probability of prevailing on his false light claim. *See Eisenberg v. Alameda Newspapers, Inc.*, 74 Cal.App.4th 1359, 1385 (1999)("When a false light claim is coupled with a defamation claim, the false light claim…stands or falls on whether it meets the same requirements as the defamation cause of action.")

[5] In opposing discovery, Defendant previously represented that there would only be one issue to address on the anti-SLAPP Motion, *i.e.* whether the false statement is hyperbole. The Court expressly acknowledged this representation in denying discovery, *see* Court Order dated October 26, 2015, pp. 6-7 ("The anti-SLAPP motion is limited to whether the statement was a provable fact…" and "…defendant conceded that in the context of the anti-SLAPP motion as to the second prong…if the court finds that the statement at issue was a statement of fact, then as to the element of malice, it has been met.")

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1   To determine whether a statement is actionable fact, courts use a totality of the circumstances

2   test of "whether the statement in question communicates or implies a provably false statement of fact."

3   *Sanders*, 219 Cal.App.4th at 862. Under the totality of the circumstances test, the language of the

4   statement is examined first, and then the context in which the statement was made must be considered.

5   *Id.* Whether or not a statement is "reasonably susceptible" to a defamatory interpretation "is a question

6   for the Court and, if so, whether or not it was so understood is a question for the jury." *MacLeod, supra,*

7   at p. 546. In making the initial determination, the "court is to place itself in the situation of the hearer or

8   reader, and determine the sense or meaning of the language of the [ ] libelous publication according to

9   its natural and popular construction." *Id.* at p. 547. "So long as the publication is reasonably susceptible

10   of a defamatory meaning, a factual question for the jury exists." *Piping Rock Partners, Inc. v. David*

11   *Lerner Associates, Inc.,* 946 F. Supp. 2d 957, 970 (N.D. Cal. 2013). Thus, the ultimate question to be

12   answered by the Court here (which is notably absent from AL's Motion) is ***"whether a reasonable fact***

13   ***finder could conclude the published statement declares or implies a provably false assertion of fact."***

14   *Sanders,* 219 Cal.App.4th at 862-863 (emphasis added); *Milkovich, supra,* at p. 21 (holding a newspaper

15   report implying that a high school coach had committed perjury could be deemed defamation *per se*, the

16   Supreme Court stated: "The dispositive question in the present case then becomes whether a reasonable

17   fact finder could conclude that the statements in [the newspaper] imply an assertion that [plaintiff]

18   perjured himself in a judicial proceeding.")

19   1.   **The AL False Statement Can Only Be Viewed As A Statement of *Fact*.**

20   Applying the totality of circumstances test, and examining the plain language of the Tweet, it is

21   clear that any reader of the AL False Statement could and indeed must view it as a statement of *fact*. As

22   described by Professor Finegan,[6] AL's use of a prenomial characterization (*i.e.,* "cocaine addict")

23   followed by a proper noun (*i.e.,* "James Woods") is a well-established linguistic structure widely used to

24   characterize people with shorthand ***factual*** information.[7] Finegan Decl., Exh. P, pp. 2-3. Indeed, this

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25   [6] Professor Finegan is a Professor Emeritus of Linguistics and Law at University of Southern California School of Law. His credentials and CV are attached as Addendum A to Exhibit P of his declaration.

26   [7] Expert testimony regarding whether a reader could have understood a statement to be implying or stating a defamatory fact has been held to be proper and is routinely considered by California courts. For example, in *Weller v. Am. Broad.*

27   *Companies, Inc.,* 232 Cal.App.3d 991, 1008 (1991), the court allowed the expert testimony of a linguist regarding "whether the average viewer would have understood the broadcasts as implying defamatory facts." The *Weller* court explained that the expert testimony was proper because it "provided the jury with information sufficiently beyond its common experience."

28   Specifically, the court stated, "[a]lthough the average juror no doubt could also listen to the broadcasts and understand their meaning, he or she is not as well equipped as is a linguist to explain the disparity between the words expressly stated and the

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linguistic structure—use of a person's name preceded by a factual characterization—is commonly used in news reports and is extremely familiar to ordinary persons, including Twitter users. *Id.* at p. 3. Based on this, and other characteristics of the defamatory Tweet, Professor Finegan concludes that "***readers would understand the language 'cocaine addict James Woods' to be making a <u>factual</u> statement characterizing James Woods as a cocaine addict.***" *Id.*, p. 3 (emphasis added). Prof. Finegan adds that AL's use of the words "still sniffing" goes one step further, as it references one method of cocaine use and "implies that Woods continues in the use cocaine . . ." *Id.*, p. 4. In short, Prof. Finegan's analysis compels the conclusion that the false Tweet is clearly susceptible to defamatory interpretation.[8]

Others reporting on this case have come to the same conclusion. *See* Weinsten Decl., Exh. M (wherein Eriq Gardner of the Hollywood Reporter explains: "but 'cocaine addict' is a statement that could be true or false and possibly qualify as defamation."); Exh. N (wherein, Clay Calvert, J.D., Ph.D., Professor of Mass Communications Univ. of Fla., states with respect to AL's tweet: "to say that somebody is a drug addict or cocaine addict is a false ***statement of fact,*** if it is false."[emphasis added]).

In light of the above, the plain language of the AL False Statement is clear—AL unambiguously, ***and without any qualification***, charged Mr. Woods with a crime: "**cocaine addict** James Woods still sniffing and spouting." No extrinsic facts and circumstances are required to reasonably understand the defamatory meaning of this statement. AL did not say "Mr. Woods must be on cocaine to believe this stuff," or "Woods, put down the crack pipe." The AL False Statement can only be interpreted in one way, *i.e.*, that Mr. Woods *is* a cocaine addict. As a matter of law, ***this is libel per se*** and is not protected by the First Amendment.[9] *See Yow v. National Enquirer, Inc.*, 550 F.Supp.2d 1179, 1190 (E.D. Cal. 2008) (complaint alleging that tabloid magazine article about a male celebrity's alleged drug use implied that plaintiff used cocaine with celebrity held sufficient to state claim for defamation *per se* based on

_____

implicit meaning conveyed." This case is no different. Indeed, Professor Finegan's testimony on this very issue has been considered by California courts before, including in opposition to an anti-SLAPP. *See Meyers v. Tempesta*, No. D060825, 2013 WL 93025, at *8 (2013)(unpublished)(denying anti-SLAPP and finding that plaintiff had a probability of prevailing on the merits after considering evidence, including the declaration of Dr. Finegan).
[8] AL mistakenly argues that the AL False Statement cannot be viewed as stating a fact because it was "not formal," "not labeled as a fact," and did not "include any *indicia* of reliability." (Motion, p. 14:11-23). However, California courts routinely hold that defamatory facts can be implied (*Milkovich*, 497 U.S. at 19; *Varian*, 113 Cal.App.4th 273), and therefore do not need to be labeled as fact or formally stated. Along the same lines, *indicia* of reliability are also not required for a statement to be viewed as a fact. *See Sanders*, 219 Cal. App. 4th at 865 ("Where specific, false factual allegations are published and they cause damage, *a defamation action will lie.*"[emphasis added]).
[9] If defamation consists of libel *per se*, damages are presumed. *Burrill, supra,* at p. 382.

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felony drug use.); *Pacquiao v. Mayweather*, 803 F.Supp.2d 1208, 1212 (D. Nev. 2011) (statements that plaintiff "has used, and is using, performance enhancing drugs" is sufficient to state a claim for defamation *per se*); *Liska v. United States*, No. CV09-8190-PCT-NVW, 2010 WL 1038652 (D. Ariz. 2010) (statements that plaintiff was a "drug user, a felon, and that the [plaintiff] had been criminally arrested and indicted" was sufficient to state claim for defamation *per se*.); *Ultimate Creations, Inc. v. McMahon*, 515 F.Supp.2d 1060, 1067 (D. Ariz. 2007)(statements that plaintiff "violated a stringent drug policy" tended to impeach plaintiff's "honesty, integrity and reputation" and qualified as defamatory *per se*). Accordingly, AL's Motion should be denied in its entirety.

2. The Context Of AL's False Tweet Further Proves It's Defamatory Nature.

In evaluating the context of a statement, courts may "examine the nature and full content of the particular communication, as well as the knowledge and understanding of the audience targeted by the publication." *Bently Reserve L.P. v. Papaliolios*, 218 Cal.App.4th 418, 427 (2013). In this case, the Court may examine: (i) Mr. Woods original Tweet and (ii) AL's reply thereto. There is no evidence of any other context that could reasonably apply here.

According to Professor Finegan, there is nothing in the context of these communications that would in any way suggest AL's Tweet is hyperbole. As he explains: "there is nothing in the [Woods] Tweet that even remotely hints at drug use of any kind by anybody, never mind a cocaine addiction. So to claim, as Abe List does, that readers of the 'cocaine addict' Tweet will understand it as hyperbole in light of its being a response to Woods' []Tweet is simply indefensible. The Woods Tweet is a straightforward claim of two facts . . ." Finegan Decl. Exh P, p. 6.

To obscure the issue, AL misrepresents the relevant context of his defamatory Tweet arguing, among other things, that the Court should consider *fourteen* Tweets from Woods dating as far back as *three years ago*. Mot. Exh. E. However, Tweets that Mr. Woods made to his followers years earlier on unrelated topics have nothing to do with the context of the AL False Statement. Moreover, it is not reasonable to assume that every reader, or any reader, of the AL False Statement had also viewed these fourteen Tweets out of thousands sent by Woods. Professor Finegan agrees. *See* Finegan Decl., Exh. P, p. 6 ("There is no reason, however, to believe that all those who read this Tweet are familiar with any other Tweets...Tweets may be retweeted, may be found on other Internet sites unrelated to Twitter, and

1   are often not accompanied by the context of other Tweets that may have been related to them.") Even if

2   one were to read Mr. Woods' prior Tweets, that would not compel a conclusion that *the AL False*

3   *Statement* was "hyperbolic." The same holds true for AL's prior Tweets. There is no reason to think,

4   and no evidence to conclude, that readers of the AL False Statement have read the *nine* Tweets which

5   comprise AL's Exhibit D from tens of thousands sent by AL over the years. Of course, had Woods'

6   followers actually investigated AL and his Tweet history, they would have seen that AL is a Harvard

7   graduate and partner in a private equity firm who regularly tweets about serious factual issues. In other

8   words, he is exactly the type of person one would take seriously.

9   AL further claims, *without actual evidence*, that Twitter is "known for hyperbole." To the

10   contrary, as demonstrated above, Twitter considers itself a legitimate news source and means of

11   spreading factual information. Weinsten Decl., Exh. C. AL would like this Court to conclude that no

12   one believes anything they read on the Internet, but numerous reputable news sources disagree. *See*

13   Weinsten Decl., Exhs. F, G, H. Indeed, AL has not, and cannot, proffer a single shred of admissible

14   evidence supporting his conclusory statement that "Twitter is known for hyperbole, overheated rhetoric,

15   and ad hominem attacks," (Mot. p. 3:7, 12:25-27) or that Twitter is known for being "relentlessly

16   insulting." Mot. p. 3:8-9. Instead, AL's Motion is full of conclusory and unsupported statements that

17   his counsel declares as absolute truth when they clearly are not.[10] If this Court considers the general

18   nature Twitter, it should consider it for what it is: a method of spreading information, including news.

19   Lastly, AL fails to cite a single case that would support his expansive interpretation of context.

20   For example, AL cites to *Seelig v. Infinity Broadcasting*, 97 Cal.App.4th 798 (2002), to support his

21   claim the Court should view Tweets made by Woods and AL years ago (Mot., p. 13:1-11), but *Seelig*

22   suggests the opposite. In *Seelig,* the plaintiff sued a radio station for derogatory comments made about

23   her during a radio talk show wherein she was called "a local loser," "chicken butt," and a "skank."

24   While the court held that none of these terms were defamatory because they were "too vague to be

25   capable of being proven true or false," *the court looked no further than the language of the actual*

26   *broadcast itself to make this determination. Id.* at p. 811.

---

27 [10] For instance, AL cites to the article entitled *Study: Twitter Opinions Don't Match the Mainstream* (Motion, p.3, fn 14) to support his statement that Twitter is known for insults. The foregoing article, however, *does not state that Twitter is known*

28 *for insults.* Instead, the foregoing article explains that opinions on Twitter do not mimic the opinion of the general population because not everyone expresses their political opinion on Twitter. In other words, Twitter only reflects the opinions of those that choose to Tweet about a particular political subject.

OPPOSITION TO SPECIAL MOTION TO STRIKE

1   In *Gregory v. McDonnel Douglas Corp.*, 17 Cal.3d 596, 603 (1976), the court considered

2   whether two written statements made ***during a labor dispute*** to the effect that union leaders "were

3   apparently willing to sacrifice the interests of the members of their union to further their own political

4   aspirations" were libelous. After acknowledging that labor disputes involve special first amendment

5   protections, the court held the statements were not factual in nature but rather opinion. *Id.* at p. 603.

6   Again, in *Gregory,* the court made its decision based almost entirely on the language of the statements

7   themselves. *Id.* Most interestingly, the court indicated that while first amendment protections would

8   apply to an attack on motives, no such protection would apply where, as here, there exist "accusations

9   that an individual has committed a crime or is personally dishonest." *Id.* at p. 604.

10   **D.   AL's False Statement Is *Not* "Rhetorical Hyperbole And Insult."**

11   As demonstrated by his Motion, AL's single defense is that his false Tweet was not a statement

12   of fact but mere "rhetorical hyperbole and insult." Mot. pp. 12-15. In so arguing, AL grossly distorts the

13   meaning of hyperbole. Merriam-Webster's online dictionary defines hyperbole as an "extravagant

14   exaggeration," which is also a definition employed by courts across the country.[11] *See* Weinsten Decl., ¶

15   10, Exh. K. Examples of typical hyperbolic statements include: "enough food to feed a whole army,"

16   "this book weighs a ton," "I could sleep for a year," and "to wait an eternity." Weinsten Decl., ¶¶ 10-11,

17   Exhs. K, L; *See also Roth v. United Fed'n of Teachers*, 5 Misc.3d 888, 898, 787 N.Y.S.2d 603, 611

18   (Sup. Ct. 2004)("statement such as 'Principal from Hell' or 'Satan' is nothing more than exaggerated

19   hyperbole.") Indeed, a classic element of a hyperbolic statement is that it cannot be credible or taken

20   literally. *See* Finegan Decl., Exh. P, p. 4 ("...hyperbole makes a claim so exaggerated as to lie beyond

21   the credible.") In other words, it cannot be taken literally that someone could "sleep for a year" or "wait

22   an eternity." In contrast with typical hyperbolic statements, the AL False Statement does not (and

23   cannot) exaggerate anything. As Prof. Finegan points out, "cocaine addiction is not something that can

24   be exaggerated...[i]t is something of an absolute" and "is not a gradable condition—like height, weight,

---

[11] *See Haas v. Gill*, 527 So.2d 368, 372 (La. Ct. App. 1988) ("Webster's Third Ed. Dictionary (1907) defines hyperbole as extravagant exaggeration that represents something as much greater or worse, or more intense than it really is or that depicts the impossible as actual."); *Myers v. Boston Magazine Co., Inc.,* 7 Mass.App.Ct. 676, 681 (Mass. App. Ct. 1979) ("Hyperbole is defined as an extravagant exaggeration, and depends for its comic effect on the recognition of an obvious incongruity. . . The risk in comic irony is that readers may not appreciate the unstated ironic meaning and may take the statement literally."); *Fielder v. Greater Media, Inc.,* No. 267495, 2006 WL 2060404, at *3 (Mich. Ct. App. 2006) ("This Court defined the term "rhetorical hyperbole" as statements that are "necessarily subjective and could also be reasonably understood as not stating actual facts.")

12

1 size, wealth, or intelligence—whose dimensions can be exaggerated." *Id.* Instead, AL has simply

2 manufactured a false fact, which is actionable. Similarly, as Prof. Finegan aptly notes, stating that

3 someone is addicted to cocaine is an accusation, not an insult. Finegan Decl., Exh. P, p. 3.[12]

4   AL cites no case that holds differently, and his cases are inapposite. For instance, in *Rosenauer*

5 *v. Scherer*, 88 Cal.App.4th 260, 280 (2001), a plaintiff sued an opponent of his development project for

6 allegedly calling him a "thief" and a "liar" in a heated political argument. In contrast with the present

7 case, which specifically states Woods is addicted to an illegal substance, there was no suggestion in

8 *Rosenauer* that the plaintiff stole anything and/or had a criminal past. In fact, the court in *Rosenauer*

9 acknowledged that its finding would be different if there was a written "false assertion that a person was

10 arrested or had a criminal past"—such as the AL False Statement does here. *Id.* at 280.[13]

11   **E.**   **The Fact That AL Made The AL False Statement Under A False Name On The**

12   **Internet Does Not Change Defamatory Nature Of The Statement.**

13   AL further suggests that no-one would believe the AL False Statement because it was made

14 anonymously and on the internet. In fact, it was not portrayed anonymously at all -- he just used a false

15 name: Abe List. In any event, similar arguments have been repeatedly rejected by the courts. By way of

16 example, in *Varian*, the defendants argued "Internet message boards are so filled with outrageous

17 anonymous postings that no reasonable person would take a typical anonymous and outrageous posting

18 as a true statement of fact." The court rejected this argument and observed:

19   Even if the exchange that takes place on these message boards is typically
     freewheeling and irreverent, *we do not agree that it is exempt from established*

20   *legal and social norms.* The Internet may be the "new marketplace of ideas," but
     it can never achieve its potential as such unless it is subject to the civilizing

21   influence of the law like all other social discourse. Some curb on abusive speech
     is necessary for meaningful discussion. *We would be doing a great disservice to*

22   *the Internet audience if we were to conclude that all speech on Internet bulletin*
     boards was so suspect that it could not be defamatory as a matter of law.

23

[12] Plaintiff cites no case where a court held that a statement was not defamatory because it was an insult, and we have found
none. Indeed, by definition, *all* defamatory statements are insults to the person defamed.

[13] *Standing Commission on Discipline v. Yagman*, 55 F.3d 1430 (9th Cir. 1995), which was not a defamation case, is also
distinguishable. There, the court held that defendant's assertion that a judge was "dishonest" was an opinion about a judge's
competence and temperament not a charge of corruption. *Id.* at 1440. By contrast, AL made a specific charge against Woods
that Woods engaged in illegal activity, *i.e.,* sniffing cocaine. Notably, the court in *Yagman* also found that defendant's claim
that the judge was "drunk on the bench" could be actionable. *Id.* at 1441. *Greenbelt Co-op. Pub. Ass'n v. Bresler*, 398 U.S.
6 (1970) is similarly distinguishable. In *Greenbelt*, the term "blackmail" was used to characterize plaintiff's negotiating
position during the course of heated debates over controversial issues. *Id.* at 7. In the context of the *entire* debate, which was
presented to readers, it was clear that the term was merely used to describe an unfair bargaining position. By contrast, here,
there was no "heated debate" and the criminal accusation was very specific. In fact, Woods and AL are not even discussing
the same issue here—Woods was discussing the media's choice of stories and AL called Woods a cocaine addict.

13

Varian, 113 Cal.App. 4th 273 (emphasis added, citations omitted). *See also Papaliolios*, 218

Cal.App.4th at 429 ("the mere fact speech is broadcast across the Internet by an anonymous speaker

does not *ipso facto* make it nonactionable opinion and immune from defamation law."); *Piping Rock*

Partners, Inc., 946 F.Supp.2d at 970-972 (finding internet posting on "Rip Off Report" defamatory,

court expressly *rejects* defendant's argument that the "context of the posting- an anonymous website for

disgruntled consumers- creates a presumption that the posting is unreliable and therefore non-actionable

opinion.") California case law does *not* "stand for the proposition that online commentary is pure

opinion per se" and, instead, "[w]here specific, false factual allegations are published and they cause

damage, a defamation action will lie." *Sanders, supra*, 219 Cal.App.4th at 865 (holding that specific

factual allegations, like those here, were defamatory, ***despite the online forum***); *Wilbanks v. Wolk*, 121

Cal.App.4th 883, 902 (2004)(posting on Internet that company was "under investigation," "provided

incompetent advice," and was "unethical" was defamatory.)

   Other states are in accord. *See, e.g., Hadley v. Doe*, 12 N.E.3d 75 (2014) (anonymous internet

posting claiming candidate for County Board "is a Sandusky waiting to be exposed" held defamation

per se); *In re Indiana Newspapers Inc.*, 963 N.E.2d 534, 550 (Ind.Ct.App. 2012) (anonymous internet

post stating that the president of a company was "very dishonest" and implying that he had

misappropriated funds was defamatory *per se); Cohen v. Google, Inc.*, 887 N.Y.S.2d 424, 425 (Sup. Ct.

2009) (anonymous internet blogger's statements that plaintiff was a "skank," "skanky," "ho" and

"whoring" held defamatory); *Maxon v. Ottawa Pub. Co.*, 929 N.E.2d 666, 671 (2010) (anonymous

internet posting on website that petitioners were "bribed" was defamatory *per se*; court further held that

"the mere fact that the allegedly defamatory statement is published on the Internet does not render it

hyperbole.")[14]

   AL cites no case to the contrary. For example, in *Krinsky*, the Court considered whether the

accusation of being a "mega scum bag" and "cockroach" on the internet could be interpreted as false

statements of fact under Florida law. *Krinsky v. Doe 6*, 159 Cal.App.4th 1154, 1175-76 (2008). In stark

contrast with an accusation of cocaine addiction, no person would interpret these terms literally, *i.e.*, a

---

[14] *See also Doe I v. Individuals*, 561 F. Supp. 2d 249, 257 (D. Conn. 2008)(statements on website that plaintiff had sexually transmitted disease and had abused heroin were defamatory); *Restis v. Am. Coal. Against Nuclear Iran, Inc.*, 53 F. Supp. 3d 705 (S.D.N.Y. 2014)(statements made on social media that plaintiffs conducted certain business in Iran were sufficient to state a claim for defamation; holding, "defamatory statements published on Facebook and Twitter, as well as statements made in press releases, could indeed be actionable in defamation suits.")

OPPOSITION TO SPECIAL MOTION TO STRIKE

1 reasonable person would not believe a human being is actually a cockroach. *Id.* at p. 1176 (wherein the

2 Court stated "calling her a cockroach obviously cannot be interpreted as a statement of actual fact.")

3   *Chaker v. Mateo*, 209 Cal.App.4th 1138 (2012) did not involve hyperbole at all, but rather

4 statements of opinion. In *Chaker*, plaintiff sued his ex-girlfriend and her mother for, among other

5 things, calling him a "deadbeat dad," following a contentious paternity and child support dispute. The

6 court noted "the statements about Chaker were made in the context of the paternity and child support

7 litigation going on . . . The overall thrust of the comments attributed is that [Plaintiff] is a dishonest and

8 scary person. This overall appraisal of Chaker is on its face nothing more than a negative, but

9 nonactionable opinion." *Id.* at p. 1149. Importantly, the court found that the unspecific allegation that

10 plaintiff was a "criminal" could be defamatory, but in that case it was true. Here, AL has not and could

11 not legitimately claim his accusation of cocaine addiction was an opinion.

12   In short, California courts recognize that "*Krinsky, Summit Bank*, and *Chaker* illustrate the

13 significant role context plays in distinguishing fact from opinion, ***but by no means do they categorically***

14 ***immunize anonymous Internet speech or even give anonymity special weight.*" *Papaliolios*, 218

15 Cal.App.4th at 430-31 (emphasis added)(holding that defendants "use of a pseudonym does not render

16 his Yelp review incapable of being reasonably susceptible of a defamatory interpretation...") *Krinsky*

17 warns that on the Internet, "[i]t is this informal ability to 'sound off,' often in harsh and unbridled

18 invective, ***that opens the door to libel and other tortious conduct,*" and "[w]hen vigorous criticism***

19 ***descends into defamation, ... constitutional protection is no longer available.*" *Krinsky*, 159

20 Cal.App.4th at pp. 1163–1164 (emphasis added). This is exactly what happened here, and the First

21 Amendment affords AL no protection.

22 **IV.   CONCLUSION**

23   For the reasons stated herein, Woods respectfully requests that the Court *deny* AL's anti-SLAPP

24 Motion in its entirety.

25 Dated: January 20, 2016   LAVELY & SINGER

26   PROFESSIONAL CORPORATION

27   By: _____

28   MICHAEL E. WEINSTEN

                                 Attorneys for Plaintiff JAMES WOODS

OPPOSITION TO SPECIAL MOTION TO STRIKE

Declaration of
James Woods

DECLARATION OF JAMES WOODS

I, James Woods, declare as follows:

1.   I am the plaintiff in the above-referenced action. I have personal and firsthand knowledge of the matters set forth in this declaration and, if called as a witness, could and would testify competently thereto under oath.

2.   I have an account with the social media website Twitter under the handle @RealJamesWoods. My Twitter account has over a quarter million followers. My followers include newscasters, entertainment celebrities, professional people, employers, friends, enemies, fans and others who appear interested in my views. I am a prolific user of Twitter and regularly tweet my opinions on entertainment, social and political issues of general interest.

3.   On July 15, 2015, defendant John Doe a/k/a "Abe List" ("AL") stepped over the line by falsely accusing me of being a "cocaine addict" on the social media site Twitter, a message sent to *thousands* of AL's followers and *hundreds of thousands* of my followers. Specifically, AL concocted and published on his Twitter account the outrageous, baseless, false statement "cocaine addict James Woods still sniffing and spouting" (hereinafter, "AL's False Statement"). Attached as **Exhibit "A"** hereto is a true and correct copy of AL's False Statement.

4.   Appalled and shocked by AL's outrageously false statement, on the very same day, July 15, 2015, I filed a complaint with Twitter requesting that it remove AL's false comment. The comment, however, was not removed. Indeed, not until after this lawsuit was filed was AL's Twitter account deactivated (or deleted).

5.   AL also previously referred to me on his Twitter (and mine) by such derogatory terms as a "joke," "ridiculous," "scum" and "clown-boy." Attached as **Exhibit "B"** hereto is a true and correct copy of AL's other statements about me.

6.   I have not now, nor have ever been, a "cocaine addict." In fact, I have never done cocaine.

7.   To my knowledge, I have never spoken with AL, nor have I informed anyone that I am a "cocaine addict." I am also not aware of any media organization or other reputable source accusing me
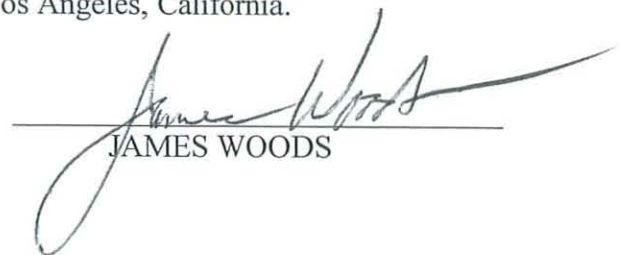
1

1 | of the foregoing. It appears clear to me that based on AL's prior offensive remarks, the sole reason of
2 | the false statement was to do me harm and in doing such harm, AL had a reckless disregard for the truth.
3 | 8.   For over forty-five years, I have built a career and reputation as an actor. I have
4 | appeared in over 130 films and television series including *The Onion Field, Once Upon a Time in*
5 | *America, Salvador, Casino, Nixon, Hercules, Shark,* and *White House Down.* I have also twice been
6 | nominated for an Academy Award, as well as have won four Emmy Awards and a Golden Globe
7 | Award.
8 | 9.   AL's reckless and malicious behavior, through the worldwide reach of the internet, has
9 | now jeopardized my good name and reputation on an international scale. As a result of AL's False
10 | Statement, my reputation has been damaged and I have been caused great angst in defending my
11 | reputation against this false statement. Accusations of being addicted to cocaine (such as the one AL
12 | has made here) are viewed negatively by studio executives and casting directors and undoubtedly have
13 | an effect on employment decisions. Indeed, it is common knowledge in this industry that completion
14 | bonding companies are reluctant to bond a motion picture when it is believed that the principal actor has
15 | a known drug problem.
16 | I declare under penalty of perjury under the laws of the State of California that the foregoing is
17 | true and correct.

Executed this 14th day of January, 2016 at Los Angeles, California.

_____
JAMES WOODS

OPPOSITION TO SPECIAL MOTION TO STRIKE

EXHIBIT A

File Edit View Favorites Tools Help

Home   Notifications   Messages   Search Twitter

James Woods @RealJamesWoods · Jul 15
USATODAY app features Bruce Jenner's latest dress selection, but makes zero mention of Planned Parenthood baby parts market.

⟲ 1.3K   ♡ 949

Abe List   ⚙   + Follow
@abelisted

@RealJamesWoods @benshapiro cocaine addict James Woods still sniffing and spouting.

FAVORITE
1

7:40 AM - 15 Jul 2015

Reply to @abelisted @RealJamesWoods @benshapiro

145%

EXHIBIT B

File   Edit   View   Favorites   Tools   Help

🏠 ▼ 🔊 ▼ ▼ 🖨 ▼   Page ▼   Safety ▼   Tools ▼ ❓ ▼ 📄 📄

🏠 Home   🔔 Notifications   ✉ Messages   🐦   Search Twitter   🔍

James Woods @RealJamesWoods · Dec 25
I was so moved by Obama's Christmas message today from the steps of his church. He finally put all those nasty Muslim rumors to rest.

🔁 651   ★ 903   👤

Abe List
@abelisted   ⚙   👤 Follow

@RealJamesWoods you are a ridiculous scum clown-boy James, a joke.

RETWEETS   FAVORITES
4   6

6:54 PM - 25 Dec 2014

Reply to @abelisted @RealJamesWoods

Πατήρ Υιός Άγιο Πνεύ @CelticOwlWisdom · Dec 28

Declaration of
Michael Weinsten

DECLARATION OF MICHAEL WEINSTEN

I, Michael Weinsten, declare as follows:

1.   I am an attorney at law duly licensed to practice before all of the Courts of the State of California and am a partner in the law firm Lavely & Singer Professional Corporation, counsel for Plaintiff James Woods ("Plaintiff"), herein. I have personal and firsthand knowledge of the matters set forth in this declaration and, if called as a witness, could and would testify competently thereto under oath.

2.   Attached hereto as **Exhibit "C"** is a true and correct copy of an excerpt from Twitter.com's "Help" section (https://support.twitter.com/articles/215585) as well as the "Twitter Glossary" (https://support.twitter.com/articles/166337), each of which were accessed September 7, 2015. The foregoing excerpts explain the way information is shared on Twitter, as well as define terminology at issue in this case, such as a "Tweet," "reply," and "followers."

3.   Attached hereto as **Exhibit "D"** is a true and correct copy of an article entitled "The Evolving Role of News on Twitter and Facebook" from http://www.journalism.org/2015/07/14/the-evolving-role-of-news-on-twitter-and-facebook, dated July 14, 2015 regarding a study conducted by Pew Research Center of Journalism and Media (accessed September 9, 2015).

4.   Attached hereto as **Exhibit "E"** is a true and correct copy of an article entitled "140 things you don't know about Twitter" from www.cnbc.com/2014/03/21/140-things-you-dont-know-about-twitter.html, dated March 20, 2015 and published by *CNBC* (accessed September 9, 2015).

5.   Attached hereto as **Exhibit "F"** is a true and correct copy of an article entitled "A Lie Races Across Twitter Before the Truth Can Boot Up" from http://www.nytimes.com/2012/04/10/us/politics/false-nikki-haley-twitter-report-spreads-fast.html?_r=0 dated April 9, 2012 and published by the *New York Times* (accessed September 9, 2015).

6.   Attached hereto as **Exhibit "G"** is a true and correct copy of an article entitled "Man Faces fallout for spreading false Sandy reports on Twitter" from http://www.cnn.com/2012/10/31/tech/social-media/sandy-twitter-hoax/, dated October 31, 2012 and published by *CNN* (accessed September 9, 2015).

1

1   7.   Attached hereto as **Exhibit "H"** is a true and correct copy of an article entitled "A Fake

2   AP Tweet Sinks the Dow for an Instant" from http://www.bloomberg.com/bw/articles/2013-04-23/a-

3   fake-ap-tweet-sinks-the-dow-for-an-instant, dated April 23, 2013 and published by *Bloomberg Business*

4   (accessed September 9, 2015).

5   8.   Attached hereto as **Exhibit "I"** is a true and correct copy of an article entitled "Internet

6   Rumors, Gossip And Misinformation: People Only Want to Read What They Already Believe" from

7   http://www.ibtimes.com/internet-rumors-gossip-and-misinformation-people-only-want-read-what-they-

8   already-believe-693614, dated August 31, 2015 and published by *International Business Times*

9   (accessed September 9, 2015).

10   9.   Attached hereto as **Exhibit "J"** is a true and correct copy of Defendant John Doe a/k/a

11   "Abe List"'s ("AL") Twitter account home page as of July 16, 2015, as well as true and correct copies

12   of examples of AL's Tweets and Retweets regarding financial news and advice.

13   10.   Attached hereto as **Exhibit "K"** is a true and correct copy of a printout from

14   http://www.merriamwebster.com/dictionary/hyperbole, dated and accessed September 9, 2015, which

15   defines hyperbole as an "extravagant exaggeration."

16   11.   Attached hereto as **Exhibit "L"** is a true and correct copy of a printout from

17   www.thefreedictionary.com/hyperbole, dated and accessed September 8, 2015 further defining and

18   giving additional examples of "hyperbole."

19   *12.*   Attached hereto as **Exhibit "M"** is a true and correct copy of a printout from

20   http://www.hollywoodreporter.com/thr-esq/james-woods-sues-twitter-user-812107, published on July

21   30, 2015, and accessed on January 5, 2016.

22   //

23   //

24   //

25   //

26   //

27   //

28

1   13.   Attached hereto as **Exhibit "N"** is a true and correct copy of a video from

2   http://live.huffingtonpost.com/r/highlight/the-first-amendments-implications-on-james-woods-twitter-

3   troll-lawsuit/55ef1c8bfe3444577c000547, which was aired on September 8, 2015 and accessed January

4   5, 2016.

5   14.   According to numerous internet sources, AL counsel Kenneth White is credited as the

6   founder of the internet blog "popehat." Popehat apparently has it's own twitter account under the handle

7   "Deez Hats @Popehat." Shortly after the complaint was filed, on July 30, Deez Hats @Popehat tweeted

8   "To be fair, @abelisted was a jackass who tweeted abusively to many, your narrator included."

9   I declare under penalty of perjury under the laws of the State of California that the foregoing is

10   true and correct.

11   Executed this 14 day of January, 2016 at Los Angeles, California.

13   _____
         MICHAEL WEINSTEN

OPPOSITION TO SPECIAL MOTION TO STRIKE

EXHIBIT C
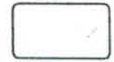
← Back to Welcome to Twitter (/categories/50)

The Twitter Glossary

The Twitter Glossary includes vocabulary and terminology used to talk about features and aspects of Twitter.

@

The @ sign is used to call out usernames in Tweets: "Hello @twitter!" People will use your @username to mention you in Tweets, send you a message or link to your profile.

@username

A username is how you're identified on Twitter, and is always preceded immediately by the @ symbol. For instance, Katy Perry is @katyperry.

#

See "hashtag."

Alerts (n.)

Twitter Alerts enable public safety agencies to inform people during emergencies by highlighting critical time-sensitive content with notifications and a unique look.

bio

Your bio is a short (up to 160 characters) personal description that appears in your profile that serves to characterize your persona on Twitter.

block (v.)

If you block a Twitter user, that account will be unable to follow you or add you to their Twitter lists, and you will not receive a notification if they mention you in a Tweet.

Bug

An internal error in our site code and functionality. We find and fix them all the time (nobody's perfect). If you see one, point it out to @Support (https://twitter.com/support) by sending us a message.

cashtag

A cashtag is a company ticker symbol preceded by the U.S. dollar sign, e.g. $TWTR. When you click on a cashtag, you'll see other Tweets mentioning that same ticker symbol.

deactivation

If you deactivate your account, it goes into a queue for permanent deletion from Twitter in 30 days. You may reactivate your account within the 30 day grace period.

Direct Messages (n., v.)

Direct Messages are private messages sent from one Twitter user to another Twitter users. You can use Direct Messages for one-on-one private conversations, or between groups of users.

discover (n.)

This feature surfaces personalized content tailored to your interests.

favorite (n.)

Favoriting a Tweet indicates that you liked a specific Tweet. You can find all of your favorite Tweets by clicking on the favorites link on your profile page.

favorite (v.)

Tap the star icon to favorite a Tweet and the author will see that you liked it.

follow (v.)

Subscribing to a Twitter account is called "following." To start following, click the Follow button next to the user name or on their profile page to see their Tweets as soon as they post something new. Anyone on Twitter can follow or unfollow anyone else at any time, with the exception of blocked accounts. See "block."

follow(s) (n.)

A follow is the result of someone following your Twitter account. You can see how many follows (or followers) you have from your Twitter profile.

Follow button (n.)

Click the Follow button to follow (or unfollow) anyone on Twitter at any time. When you follow someone, you will see their Tweets in your Home stream.

Follow count (n.)

This count reflects how many people you follow and how many follow you; these numbers are found on your Twitter profile.

follower (n.)

A follower is another Twitter user who has followed you to receive your Tweets in their Home stream.

geolocation (n.), geotagging (v.)

Adding a location to your tweet (a geolocation or geotag) tells those who see your Tweet where you were when you posted that Tweet.

hacking

Gaining unauthorized access to an account via phishing, password guessing, or session stealing. Usually this is followed by unauthorized posts from the account. Hacked accounts are sometimes referred to as "compromised." Click here (/articles/31796-my-account-has-been-compromised) if you've been hacked. Read more (/articles/76036-safety-keeping-your-account-secure) about how to keep your account safe.

hashtag (n.)

A hashtag is any word or phrase immediately preceded by the # symbol. When you click on a hashtag, you'll see other Tweets containing the same keyword or topic.

header photo (n.)

Your personal image that you upload, which appears at the top of your profile.

Home (n.)

Home is your real-time stream of Tweets from those you follow.

impersonation (n.)

Online impersonation (pretending to be someone you're not) that is intended to deceive is prohibited under the Twitter Rules (/articles/18311-the-twitter-rules). Parody accounts are allowed. See "parody."

list (n.)

From your own account, you can create a group list of other Twitter users by topic or interest (e.g., a list of friends, coworkers, celebrities, athletes). Twitter lists also contain a timeline of Tweets from the specific users that were added to the list, offering you a way to follow individual accounts as a group on Twitter.

mention (n., v.)

Mentioning other users in your Tweet by including the @ sign followed directly by their username is called a "mention." Also refers to Tweets in which your @username was included.

Mobile web

Twitter's website tailored to fit your mobile device. Visit it at mobile.twitter.com (https://mobile.twitter.com/).

Notifications, notifications (n.)

The Notifications timeline displays your interactions with other Twitter users, like mentions, favorites, Retweets and who has recently followed you. If you request it, we send notifications to you via SMS or through the Twitter for iPhone or Twitter for Android apps.

parody (n.)

You can create parody accounts on Twitter to spoof or make fun of something in jest, as well as commentary and fan accounts. These accounts must disclose that they are parody, fan or commentary accounts in order to comply with our strict policy against impersonation. See "impersonation."

phishing

Tricking a user to give up their username and password. This can happen by sending the user to fake sign-in page, a page promising to get you more followers, or just simply asking for the username and password via a DM or email.

pinned Tweets (n.)

You can pin a Tweet to the top of your profile page to keep something important to you above the flow of time-ordered Tweets.

profile (n.)

Your profile displays information you choose to share publicly, as well as all of the Tweets you've posted. Your profile along with your @username identify you on Twitter.

profile photo (n.)

Your personal image found under the Me icon. It's also the picture that appears next to each of your Tweets.

Promoted Accounts

Promoted Accounts present suggested accounts you might want to follow as promoted by our advertisers. These appear in your Home timeline, and via Who to Follow, search results and elsewhere on the platform.

Promoted Trends

Promoted Trends display time-, context-, and event-sensitive trends promoted by our advertisers. These appear at the top of the Trending Topics list on Twitter and elsewhere on the platform, and are clearly marked as "Promoted."

Promoted Tweets

Promoted Tweets are Tweets that are paid for by our advertisers. These appear in your Home timeline, at the top of search results on Twitter and elsewhere on the platform, and are clearly marked as "Promoted."

protected/private accounts

Twitter accounts are public by default. Choosing to protect your account means that your Tweets will only be seen by approved followers and will not appear in search.

reply (n., v.)

A response to another user's Tweet that begins with the @username of the person you're replying to is known as a reply. Reply by clicking the "reply" button next to the Tweet you'd like to respond to.

reactivation

You may reactivate a deactivated account within 30 days of the deactivation date. After 30 days, deactivated accounts are permanently deleted.

Retweet (n.), RT

A Tweet that you forward to your followers is known as a Retweet. Often used to pass along news or other valuable discoveries on Twitter, Retweets always retain original attribution.

Retweet (v.)

The act of sharing another user's Tweet to all of your followers by clicking on the Retweet button.

SMS

Short Message Service (SMS) is most commonly known as text messaging. Learn how to send a Tweet via SMS (/articles/14226-tweeting-via-text-message).

short code (n.)

A five-digit phone number used to send and receive Tweets via text message. Find your short code (/articles/20170024).

spam

Refers to a variety of prohibited behaviors that violate the Twitter Rules (/articles/18311). Spam can be generally described as unsolicited, repeated actions that negatively impact other users.

suspended

Suspended accounts have been prohibited from using Twitter, generally for breaking Twitter Terms of Service.

Text commands

When using Twitter via SMS, these commands allow you to access most Twitter features with simple text keywords. Learn the Twitter text commands (/articles/14020-twitter-sms-commands).

timeline (n.)

A timeline is a real-time stream of Tweets. Your Home stream, for instance, is where you see all the Tweets shared by your friends and other people you follow.

timestamp (n.)

The date and time a Tweet was posted to Twitter. A Tweet's timestamp can be found in grey text in the detail view of any Tweet.

Top Tweets

Tweets determined by a Twitter algorithm to be the most popular or resonant on Twitter at any given time. Read more about Top Tweets (/articles/131209-what-are-top-tweets).

trends (n.)

A Trend is a topic or hashtag determined algorithmically to be one of the most popular on Twitter at that moment. You can choose to tailor Trends based on your location and who you follow.

Tweet (n.), Tweetable (adj.)

A Tweet may contain photos, videos, links and up to 140 characters of text.

Tweet (v.)

The act of sending a Tweet. Tweets get shown in Twitter timelines or are embedded in websites and blogs.

Tweet button (n.)

Anyone can add a Tweet button to their website. Clicking this button lets Twitter users post a Tweet with a link to that site. Learn how to add the Tweet button to your website here (/articles/231474).

Twitter

An information network made up of 140-character messages (including photos, videos and links) from all over the world. Sign up (https://twitter.com/signup)!

Twitter emoji (n.)

A Twitter emoji is a specific series of letters immediately preceded by the # sign which generates an icon on Twitter such as a national flag or another small image.

unfollow (v.)

See "follow."

URL, URLs (n.)

A URL (Uniform Resource Locator) is a web address that points to a unique page on the internet.

verification (n., v.)

A process whereby a Twitter account receives a blue check icon to indicate that the creator of these Tweets is a legitimate source. Verified users include public figures and those who may have experienced identity confusion on Twitter.

who to follow

Who to follow is an automated list of recommended accounts we think you might find interesting, based on the types of accounts you already follow and who those people follow.

Getting started with Twitter

If you've signed up for Twitter and are wondering how to get started or why you're here, this page is for you. Learn more about the basics of using Twitter here (https://about.twitter.com/what-is-twitter/story-of-a-tweet). You can also use this guide, designed to help you dive into Twitter's wealth of information and find what matters most to you. First things first, you might be wondering:

What is Twitter anyway?

Twitter is an information network made up of 140-character messages called Tweets. It's an easy way to discover the latest news related to subjects you care about.

How is it useful?

Twitter contains information you will find valuable. Messages from users you choose to follow will show up on your home page for you to read. It's like being delivered a newspaper whose headlines you'll always find interesting – you can discover news as it's happening, learn more about topics that are important to you, and get the inside scoop in real time.

How to start using Twitter:

If you remember one thing after perusing this page, it should be this: **reading Tweets and discovering new information whenever you check in on your Twitter timeline is where you'll find the most value on Twitter.** Some people find it useful to contribute their own Tweets, but the real magic of Twitter lies in absorbing real-time information that matters to you.

1. DISCOVER SOURCES: Find and follow others

FAQs about following

What is following?

Following someone on Twitter means:

- You are subscribing to their Tweets as a follower.
- Their updates will appear in your Home (/articles/164083-what-is-a-timeline) tab.
- That person is able to send you Direct Messages (/articles/14606).

What are followers?

Followers are people who receive your Tweets. If someone follows you:

- They'll show up in your followers list (https://twitter.com/#!/followers).
- They'll see your Tweets in their home timeline whenever they log in to Twitter.
- You can start a private conversation with them (see Direct Messages (/articles/14606)).

How do I know who I'm following?

Click your "following" number on your profile or home page to see who you've followed, displayed in a following list (https://twitter.com/#!/following). You can unfollow (/articles/15355) users from that page if you don't want to follow them anymore.

Want to follow someone new? Learn how in our article about how to follow others (/articles/162981-how-to-follow-others).

How do I know who is following me?

PewResearchCenter

Journalism & Media

JULY 14, 2015

The Evolving Role of News on Twitter and Facebook

BY MICHAEL BARTHEL (HTTP://WWW.JOURNALISM.ORG/AUTHOR/MBARTHEL/), ELISA SHEARER (HTTP://WWW.JOURNALISM.ORG/AUTHOR/ESHEARER/), JEFFREY GOTTFRIED (HTTP://WWW.JOURNALISM.ORG/AUTHOR/JGOTTFRIED/) AND AMY MITCHELL (HTTP://WWW.PEWRESEARCH.ORG/STAFF/AMY-MITCHELL/)

Facebook and Twitter News Use is on the Rise

% of ___ users who get news there

Twitter   **Facebook**

2013 2015   2013 2015
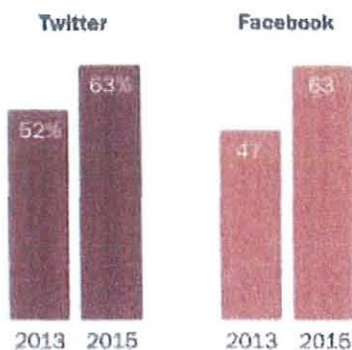
Of those who get news from ___ in 2015, percent who have kept up with a news event as it was happening

Twitter   59%
Facebook   31

Social Media and News Survey, March 13-15 & 20-22, 2015. Q2, Q4, Q7, Q11.

PEW RESEARCH CENTER

(http://www.journalism.org/2015/07/14/the-evolving-role-of-news-on-twitter-and-facebook/pj_2015-07-14_twitter-and-news_01/) The share of Americans for whom Twitter and Facebook serve as a source of news is continuing to rise. This rise comes primarily from more current users encountering news there rather than large increases in

==the user base overall, according to findings from a new survey. The report also finds that users turn to each of these prominent social networks to fulfill different types of information needs.==

==The new study, conducted by Pew Research Center in association with the John S. and James L. Knight Foundation, finds that clear majorities of Twitter (63%) and Facebook users (63%) now say each platform serves as a source for news about events and issues outside the realm of friends and family.== That share has increased substantially from 2013 (http://www.journalism.org/2013/10/24/the-role-of-news-on-facebook/) , when about half of users (52% of Twitter users, 47% of Facebook users) said they got news from the social platforms.

Although both social networks have the same portion of users getting news on these sites, there are significant differences in their potential news distribution strengths. ==The proportion of users who say they follow breaking news on Twitter, for example, is nearly twice as high as those who say they do so on Facebook (59% vs. 31%) –== lending support, perhaps, to the view that Twitter's great strength is providing as-it-happens coverage and commentary on live events (http://www.nytimes.com/2015/06/12/business/for-twitter-future-means-here-and-now.html) .

These findings come at a time when the two social media platforms are increasing their emphasis on news. Twitter is soon set to unveil its long-rumored news feature, "Project Lightning (http://www.buzzfeed.com/mathonan/twitters-top-secret-project-lightning-revealed#.rtzPaAbK9) ." The feature will allow anyone, whether they are a Twitter user or not, to view a feed of tweets, images and videos about live events as they happen, curated by a bevy of new employees with "newsroom experience." And, in early 2015, Twitter purchased and launched the live video-streaming app Periscope (https://blog.twitter.com/2015/introducing-periscope) , further highlighting their focus on providing information about live events as they happen. Meanwhile, in May, Facebook launched Instant Articles (http://fortune.com/2015/05/13/facebook-buzzfeed-new-york-times/) , a trial project that allows media companies to publish stories directly to the Facebook platform instead of linking to outside sites, and, in late June, Facebook started introducing its "Trending" sidebar (http://www.huffingtonpost.com/2015/06/30/facebook-trending-experiment_n_7697852.html) to allow users to filter by topic and see only trending news about politics, science and technology, sports or entertainment.

As more social networking sites recognize and adapt to their role in the news environment, each will offer unique features for news users, and these features may foster shifts in news use. Those different uses around news features have implications for how Americans learn about the world and their communities, and for how they take part in the democratic process. This examination of Facebook and Twitter sheds light on the similarities and differences of these two prominent social media platforms.

Among other key findings in the report:

- **Twitter news users are more likely than their counterparts on Facebook to report seeing news about four out of 11 topics:** national government and politics (72% vs. 61%), international affairs (63% vs. 51%), business (55% vs. 42%) and sports (70% vs. 55%). Twitter and Facebook news users are roughly comparable for the remaining seven topics covered: people and events in your community, local weather and traffic, entertainment, crime, local government, science and technology, and health and medicine. On Facebook, women are more likely to regularly see posts about health, entertainment and people and events in their community, while posts about weather, entertainment, crime, and health are more commonly seen by women on Twitter – a finding that is in line with our past research.

- **The rise in the share of social media users getting news on Facebook or Twitter cuts across nearly**

every demographic group. Use of Twitter for news, for example, grew among both users under 35 (55% to 67%) and those ages 35 and older (47% to 59%). And on Facebook, news use grew among both men (44% to 61%) and women (49% to 65%). These data also reveal that news exposure is relatively equal within all demographic groups, with the exception of age. Though news usage among those under 35 increased at roughly the same rate as among those ages 35 and older, on Facebook, younger users are more likely to see news than older users.

- **When it comes specifically to news and information about government and politics, Facebook users are more likely to post and respond to content, while Twitter users are more likely to follow news organizations.** About one-third of Facebook users (32%) say they post about government and politics on Facebook, and 28% comment on these types of posts. That compares to a quarter of Twitter users (25%) who tweet about this news topic and 13% who reply to tweets on this topic posted by others. But following news outlets directly is more common on Twitter. About half (46%) of Twitter users follow news organizations, reporters or commentators, compared with about three-in-ten (28%) of Facebook users.

This is the newest project in a series of research reports that examine the role of news on social media platforms. This report is based on a survey of 2,035 U.S. adults, including 331 Twitter users and 1,315 Facebook users. The survey was conducted over two weekends: March 13-15, 2015 (N=1,018) and March 20-22, 2015 (N=1,017). (Many Facebook-related questions were asked only on the second weekend; for more information, see topline (http://www.journalism.org/files/2015/07/Twitter-and-News-Topline-FINAL.pdf) .)

About This Report

This report is part of a series by Pew Research Center aimed at understanding how news and information habits relate to the use of Twitter and Facebook among the American public. The main source of data for this report is a survey fielded over two weekends, March 13-15, 2015 and March 20-22, 2015, among a sample of 2,035 adults 18 years of age or older. Analysis from other Pew Research Center surveys is included where there is relevant data.

SOCIAL MEDIA

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140 things you don't know about Twitter

Eli Langer | @EliLanger
Friday, 20 Mar 2015 | 10:15 AM ET

CNBC

Source: @NYSEcam

Bird was the word as Twitter founders and executives were all smiles on the day the company went public on the New York Stock Exchange in November 2013.

On March 21, 2006, a simple messaging service was born with a five-word tweet.

Fast forward nine years.

Tweets now move billions of dollars in the stock market, have delivered play-by-play of the killing of the FBI's most wanted terrorist and allow planet Earth to communicate directly with humans and machines residing in outer space.

In honor of the 140-character limit per post on Twitter, here are 140 things you didn't know about the service.

1. Twitter almost never came to be. In 2006, there was a company called Odeo, which helped individuals publish audio. With a lack of growth and investors souring, the company pivoted and decided to conduct a hackathon one day. This brain-storming competition led to

the birth of Twitter.

Din

Use twttr to stay in touch with your friends all the time. If you have a cell and can txt, you'll never be bored again...EVER!

Sign in.
Mobile number (or email)

Password (or PIN)

☐ Remember me

Sign in

New? Sign up!

twttr works best when updated from your mobile phone. To verify you are you, we'll need your number.

Mobile number

Get started

What your friends are

txt

(or)

What are you doing?

.tweeting

.what up?

follow along with what your friends are doing throughout the day

send updates from your cell or from the web about whats in yr head

MORE FROM CNBC   MORE FROM CNBC

2. This was Twitter's first ever homepage. The site opened to the public on July 15, 2006.

3. Twitter was created on a playground. Founding team member Dom Sagolla says the group went on the top of a slide at a playground in South Park, a small neighborhood in San Francisco, and Jack Dorsey discussed an "idea so simple that you don't even think about it—you just write." This moment of inspiration has turned into a multibillion-dollar company.

4. When Twitter began, everyone's first tweet was automated. It published, "Just setting up my twttr." Co-founder Dorsey sent the first tweet—beating Biz Stone by a minute—on March 21, 2006, at 4:50 p.m. PT. It now has more than 50,000 retweets.

5. The user with the most followers is Katy Perry; the singer has nearly 67 million followers.

6. HootSuite, a social media management company, follows 1.6 million accounts, the second most of any user. @ArabicBest is in the lead; the profile shows it follows 2.4 million accounts.

7. Who has tweeted the most? That honor belongs to @Yougakduan_00, a girl from Japan, who posted a mind-boggling 36,402,262 tweets before Twitter suspended her account, likely because of the excessive tweeting.

8. The most followed brand is YouTube with 49 million followers.

9. The official name of Twitter's bird is Larry. Yes, his name is Larry Bird. The iconic little fellow—seen in Twitter's logo shown in TV commercials, print ads and practically every website—was named after Boston Celtics legend Larry Bird.

10. Why choose to name the bird after a basketball star who played in Boston? It may have to do with Twitter co-founder Stone growing up in Massachusetts.

11. Twitter didn't create retweets, replies, hashtags, a mobile app or social ads—it was created by users and developers in its ecosystem. Those features were later supported by Twitter, according to marketing site 140 Proof. Unfortunately for the inventors, they didn't receiving a slice of the company when it went public in November 2013.

12. Cashtags—ticker symbols accompanied by a dollar sign, like $GE— are used by Wall Street tweeters and those interested in tracking news around stocks.

13. From 2008 to 2010, Twitter had a "guy with a pager" to help keep the site online. "It sucked," writes John Adams, a member of the company's security team, on Quora. The pager rotated between three and four people, Adams says.

14. Twitter's Fail Whale—used during periods of Twitter.com downtime in the site's early years—was created by Yiying Lu, an artist who originally made the design for a birthday e-card. Twitter found it on a stock photo site and added it to theirs. Sadly, the Beluga whale is no longer featured when the site goes down.

15, The Fail Whale was adored by thousands of Twitter users. Some made cakes showcasing the whale, others sported permanent tattoos. One fan even created a fictitious beer.

16. Twitter was almost called Twitch. Before finalizing on the name, the team looked at the Oxford English Dictionary. "We found the word Twitter," Dorsey says. "And Twitter means a short inconsequential burst of information, chirps from birds. And we were like, that describes exactly what we're doing here."

17. When the founding team was building the product, it called it "Jitter" at one point. It was a "terrible" name, Dorsey says.

18. The founding team was nervous about using Twitter as the company name "because in certain cultures it could be demeaning," Dorsey explains. "For example, Twit is not necessarily associated with the best things." It took two months or so for the team to get used to the name.

19. Once the name Twitter was decided on, the crew realized phones were such a big part of what it was doing, and that meant Twitter needed a five-letter "short code" for folks to send messages on a mobile device. "So [we] took out all the vowels and then it could be twttr," Dorsey says. Unfortunately, the short code was already taken by *Teen People*. The vowels were then added back.

20. Twitter paid a "minuscule" amount for Twitter.com, Dorsey says. Before Twitter purchased the domain in 2006 from someone else, there was nothing going on at the page.

21. Twitter didn't want to refer to posts on its site as "tweets." After insisting on "status update" for some time, the company caved and used "tweets" after users insisted on the term. "I thought it was a little bit too cute for such a serious utility," Dorsey says.

22. The length of the messages users send on Twitter has gotten

shorter over the last five years, researchers say. Do people have less time on their hands with the growing number of social media services and users or does new Twitter jargon allow users to keep it concise? You decide.

23. Ending a tweet with an empty hashtag is called a hangtag, and it's Twitter's version of the mic drop, the team at Medium declared recently.

24. Dorsey was reportedly brokenhearted when Instagram was sold to Facebook for $1 billion in cash and stock in April 2012. Less than a year later, Twitter scooped up Vine, the video-sharing app, for $30 million.

25. Dorsey hasn't posted to his Instagram account ever since Facebook acquired the service.

26. Instagram co-founder Kevin Systrom (@Kevin) has tweeted just one time since August 2012.

27. Why was Twitter's video-sharing app named Vine? A source says it's short for Vignette, which is defined as "a short impressionistic scene." Vignette is also the name of a photo filter offered by the signature Twitter app.

28. Vine limits its videos to six seconds, but Twitter user Will Smidlein once figured out how to upload a three-minute music video to a single Vine clip. On the same day Twitter released Vine on Android, Smidlein (@ws) exploited a hole in the video app's coding that allowed him to share the ever-viral "Rickroll" YouTube video in its entirety. The bug was later patched, but not before Smidlein says he "ruined some poor engineer's day."

29. Vine's logo connects the "V" and "I" in its name in the same way a vine loops and wraps itself around a tree.

30. If you turn Vine's logo upside down, it displays the maximum number of seconds your video can be: 6.

31. While most social networks' most followed users are superstars in the real world, Vine's most followed users are a dozen of your everyday folks. One such Vine star is Nicholas Megalis, who was the first user to post a clip that hit 1,000,000 likes.

32. Because Vine didn't give users basic editing tools at the start, some Viners spent hours on a single six-second clip. Top Vine user Meagan Cignoli says she spent five hours and three shirts on this video.

33. Twitter announced its IPO via a tweet, naturally. At 5 p.m. ET on Sept. 12, 2013, @Twitter posted: "We've confidentially submitted an S-1 to the SEC for a planned IPO. This Tweet does not constitute an offer of any securities for sale." The tweet now has more than 14,000 retweets.

34. Twitter's stock symbol is TWTR. Some investors thought it was TWTRQ, which belongs to Tweeter's Home Entertainment, a penny stock. The confusion led to TWTRQ jumping as much as 2,200 percent on Oct. 4, 2013. The stock gave back all of its gains within a couple of

days, and the company changed the symbol to THEGQ.

35. Twitter, the company, recommends following three accounts for information on its stock: @DickC, @Twitter and @TwitterIR.

36. Three years, two months and one day: The time it took from the first tweet to the billionth tweet.

37. You can find your first ever tweet at First-Tweets.com.

38. @Twitter didn't send its first tweet until the service was 478 days old.

39. The service sees more than 500 million tweets a day now.

40. Three of the five richest people in the world have a verified Twitter account. Bill Gates, Warren Buffett and Larry Ellison have a combined $206.2 billion, according to Forbes, and are all sending 140-character messages.

41. The social networking site has 288 million monthly active users, but the number of registered accounts is much higher. There are more than 2 billion registered Twitter accounts, according to Twopcharts.

42. When users want to manually retweet a tweet, they use the letters "RT" before the post. If the tweet is modified, users type "MT" for "modified tweet."

43. Twitter (288 million) has 1 billion fewer monthly active users than Facebook (1.39 billion) has.

44. The microblogging service pulled in $1.4 billion in revenue in 2014, compared with $12.47 billion for Facebook.

45. 80% of Twitter's 288 monthly active users access the service on a mobile device.

46. Twitter's fourth co-founder Noah Glass was kicked out of the company, according to the book "Hatching Twitter: A True Story of Money, Power, Friendship, and Betrayal," by Nick Bilton of The New York Times. Glass is said to have made almost no money from Twitter's IPO, according to Bilton.

47. Glass has only tweeted five times over the last five years. His bio reads, "I started this."

48. The "unfollow" button was almost called "leave."

49. Twitter was thinking about creating a feature called "worship" in the early days. "If you worshipped someone, you would get every single one of their messages," Dorsey says. "The full fire hose of what they're saying." The idea was ditched.

50. Dorsey thinks users should have the option to follow just certain tweets from specific users. Since User 1 may follow User 2 for a specific topic, receiving just the tweets pertaining to that topic should be available. The issue? "Being able to surface valuable information

immediately ... is a really, really hard problem."

51. Frequent Twitter users are more likely male and under the age of 35, a CNBC-AP poll showed in November 2013. Nearly a third of Americans at the time said they use Twitter.

52. Facebook tried buying Twitter—twice, according to Bilton. Each time, Twitter pushed the "dislike" button.

53. While seemingly everyone on planet Earth is on Twitter, there are certain celebrities that have yet to take the plunge. Athletes like Derek Jeter and Michael Jordan don't use Twitter. "I'm not a Twitterer, I'm not a twerker, I'm not a Facebooker. I am a ... nothin' ... I'm old school." Jordan told NBA 2K14.

54. Twitter limits users to 140 characters per post, but in an April Fool's blog post in 2013, the company said it will allow folks to pay for an extra character in a bidding war. "There is no option to purchase a second additional character at this time," Twitter wrote.

55. Twitter CEO Dick Costolo has a 89 percent approval rating by employees on Glassdoor.

56. Why are posts limited to 140 characters? Twitter was born as an SMS phone service designed to fit its character limit.

57. The International Space Station has its highest number of tweeting astronauts right now.

58. The hashtag was created by a Twitter user. In August 2007, @ChrisMessina tweeted, "how do you feel about using # (pound) for groups. As in #barcamp [msg]?" He is now referred to as "The Hashtag Godfather."

59. The Twitter IPO minted 1,600 new millionaires, according to financial analysis firm PrivCo.

60. Three billionaires were created from Twitter's IPO: Dorsey, Evan Williams and Peter Fenton, a general partner at Benchmark Capital.

61. *The New York Times* once drew up comical new ways for the social media company to cash in.

62. While Twitter is still a relatively young platform, there have been plenty of public scandals on the service.

63. Twitter reaches more users than any other social network in Japan, comScore says.

64. Twitter doesn't work in China, nor does Facebook. People in China can access LinkedIn.

65. The cost of a Promoted Trend in the United States for one day is $200,000.

66. Twitter gave the city of Boston a promoted trend (#OneBoston) free of charge after the Boston Marathon bombings in April 2013.

67. In the 38 days leading up to the bombings, Twitter sold 29 promoted trends, according to tracking by CNBC, for a success rate of 76.3 percent. In the week after the incident, Twitter did not feature a single paid advertiser's promoted trend. It may signal that advertisers want to avoid juxtaposing their messages alongside bad news.

68. Costolo said any team inside Twitter can launch any test to 1 percent of users without any approvals.

69. An angel investor says Twitter will all users to pay to be verified.

70. Twitter acquired Twitpic just hours before the photo-sharing service was to be shut down in October 2014.

71. The most retweeted tweet ever came from Ellen DeGeneres in March 2014. The star-studded selfie tweet at the Oscars produced 3.4 million retweets.

72. Before Ellen's viral tweet, the most retweeted tweet belonged to President @BarackObama on election night in 2012. It had about 800,000 retweets.

73. "I was aiming to break your record of retweets," DeGeneres told Obama later in the month, "and I broke your record." How did the president respond? "I heard about that. I thought it was a pretty cheap stunt myself, getting a bunch of celebrities in the background." DeGeneres later referred to Obama as "the leader of the free world and the runner up in retweet records."

74. Samsung, the maker of the device Ellen used to create Twitter history, said it was donating $3 million to charity in honor of Ellen's 3 million retweets.

75. The number of accounts that have been verified as authentic—those with a blue badge—is more than 127,000. Quietly, most of Twitter's active users may tell you they would want to be Twitter-verified, too.

76. Twitter launched verified accounts after former St. Louis Cardinals manager Tony La Russa complained about a user pretending to be him.

77. There's an unwritten rule at the company that employees can't be verified.

78. Twitter's @NathanCHubbard (head of commerce) had to give up his verification badge when he joined the flock. "Think I'm the first to proactively opt out of the blue check mark," Hubbard tweeted.

79. Mark Zuckerberg (@finkd)—also not verified—has 330,000 followers but has only tweeted 19 times and just once since March 2009. One shouldn't expect Facebook's CEO to begin tweeting religiously anytime soon.

80. The first user to hit 1 million followers was Ashton Kutcher, beating out CNN in a race that was broadcast in a live stream from Kutcher's home.

81. Twitter has 3600 employees. Want to hear something wild? 50

percent of all employees are engineers.

82. Twitter's mobile app has different features than its Web service. On mobile, users can save drafts, while visitors on Web can't save unpublished posts.

83. Retweets are the new dare. Users will occasionally perform wild stunts (e.g., run on to playing field at game) if their posts receives a certain amount of retweets.

84. How is Twitter different than other social networks? This graphic will answer that.

SOCIAL MEDIA EXPLAINED

TWITTER: I'M EATING A #DONUT

FACEBOOK: I LIKE DONUTS

FOURSQUARE: THIS IS WHERE I EAT DONUTS

INSTAGRAM: HERE'S A VINTAGE PHOTO OF MY DONUT

YOUTUBE: HERE I AM EATING A DONUT

LINKEDIN: MY SKILLS INCLUDE DONUT EATING

PINTEREST: HERE'S A DONUT RECIPE

MYSPACE: I'M EATING A DONUT ALONE

SPOTIFY: NOW LISTENING TO "DONUTS"

GOOGLE+: I'M A GOOGLE EMPLOYEE WHO EATS DONUTS

REDDIT: I'M EATING A DONUT. AMA.

VINE: I'M EATING A DONUT... I'M EATING A DONUT... I'M EATING...

SECRET: I'M AN ANONYMOUS FRIEND WHO EATS DONUTS

SNAPCHAT: MY DONUT WILL DISAPPEAR IN 5 SECONDS.

JELLY: DOES ANYONE KNOW WHERE I CAN GET A DONUT?

Eli Langer ✔
@EliLanger

🐦 **Follow**

Social Media Explained (updated version)

9:10 AM - 6 Mar 2014

↩　🔁 268　★ 165

85. Police in Granada have Twitter handles on their uniforms.

86. Five years ago, Twitter saw its defining moment when US Airways Flight 1549 touched down in the frigid waters of the Hudson River. In that "miraculous" moment, an eyewitness to the event caught the world's attention by posting a photo on Twitter. It showed that Twitter had transformed the way we can get the news.

87. Tweets with hashtags receive 2x engagement than those without hashtags, yet only 24 percent of measured tweets contain hashtags.

88. Billionaire investor Carl Icahn, who signed up for the service in 2013, does most of his public talking these days via Twitter. Sometimes, in the form of poetry.

89. Three of Icahn's tweets moved a reported $18 billion in Apple stock.

90. Hackers compromised the @AP twitter account in April 2013, sending out a fake tweet about an attack at the White House that resulted in a brief market plunge. The tweet was broadcast to nearly 2 million followers before it was deleted.

91. Want a viral tweet? You can pay for it! Sites like Fiverr offer thousands of retweets from bots for as little as $5.

92. Twitter is said to be "the king of the second screen," as users often flock to the service during big events. The power outage at Super Bowl XLVII shined light on an ever-growing issue for Facebook: its lack of relevancy during a live event.

93. MySpace co-founder Tom Anderson (remember MySpace?) used Twitter to completely obliterate a follower in a jaw-dropping reply.

94. Speaking of awesome comebacks, Boone Pickens' reply to singer Drake was deemed one of the "10 greatest tweets of all time" by Yahoo Finance.

> **Drizzy** ✔   30 May 12
> @Drake
> The first million is the hardest.

> **T. Boone Pickens** ✔   🐦 Follow
> @boonepickens
>
> The first billion is a helluva lot harder RT @Drake: The first million is the hardest.
> 5:00 PM - 30 May 2012
> ↩   ⟲ 23,297   ★ 9,470

95. Want to track your Twitter stats? TwitterCounter.com receives more than 2 million views a month from folks hungry to track follower counts, Top 100 lists and more.

96. Celebrities use the platform very differently than you and I. Seth MacFarlane recently joked that he feels pressure to post humorous content. "In the beginning, you're like, 'A joke a day? That's fun. And then you're like, 'Oh s---, a joke a day—and for free!'

97. You can send a friend a Starbucks coffee with a single tweet.

98. When tweeting a photo, the ideal picture size is 2x1 (e.g., 1000x500). This will ensure the full photo automatically displays in-stream.

99. Apple has more than 12 million Twitter followers when combining the tech giant's several accounts.

100. Facebook is on Twitter; Twitter is on Facebook. Twitter has 15.3 million Facebook fans, while Facebook has 13.9 million Twitter followers.

101. It took almost eight years for @Facebook to favorite its first tweet.

102. Oprah once sent a tweet plugging Microsoft's Surface tablet ... using an iPad.

103. @Twitter had a robust list featuring its tweeting employees, but shortly before the company went public, the list was deleted.

Chicagoan @LevNaginsky created his own list of more than 1,100 tweeting Twitter employees, which comes in handy when there's news impacting Twitter.

104. The New York Stock Exchange has an account dedicated to sharing photos from the trading floor. This photo from the day Twitter went public gives you a bird's eye view.

105. You can track the performance of certain shortened links shared on Twitter by grabbing the URL, adding a + sign to the end, and pasting it into the your browser's address bar. If the shortened link is powered by Bitly, you will see cool stats around the link.

106. The FTC requires Twitter users to label sponsored tweets as such. Adding "ad:" will cost you three characters, but will help you avoid a fine.

107. Khloe Kardashian pulls in $13,000 per sponsored tweet, according to a report. Favorite that!

108. Twitter used to refer to its users as "Twitterers."

109. Sam Sethi was the first person to announce on Twitter that he had been fired.

110. In 2009, a New York-based company called Peek created Twitter Peek, a device solely dedicated to letting you use Twitter. A lifetime plan cost $200.

111. In 2011, CNBC created the "100 Twitter Rules To Live By."

112. Account @everyword tweeted out every word in the English dictionary.

113. James Cameron once tweeted from the ocean's deepest point. "Hitting bottom never felt so good," he wrote.

114. Costolo used to be an improv comedian.

115. An account that has more followers than it should? @SignOut, with 1,433 followers. Apparently, Twitter users attempting to log out of the service are following the account. (No, it doesn't work.)

116. Brands use Twitter in an attempt to grab some of the attention given to Apple on days that the tech giant reveals new devices.

117. Looking to manage who you follow on Twitter? ManageFlitter.com is a Web-based application that will help you in that department.

118. If you're ever curious as to who you blocked on Twitter, take a visit to TwitBlock.org, sign in and click "manage blocks."

119. Users who have been on the platforms for years should check which apps currently have access to their account. Visit "apps" in "settings" when logged in on desktop and revoke access to shady or inactive applications.

120. Twitter's latest profile design makes the platform look a lot like Facebook.

121. If you want people to click on a URL, do not include hashtags or rich media that could distract from your link, @TwitterAdTips advises.

122. Vine has more than 40 million users.

123. Twitter designer Doug Bowman says the company's logo resembles a mountain bluebird.

124. Seven of the 10 most followed accounts belong to singers.

125. The unofficial Twitter grand slam: when someone retweets, favorites, replies to and follows you.

126. Comedian Conan O'Brien follows only one person on Twitter, a fan chosen at random. Her name is Sarah Killen and she's gone to amass over 200,000 followers because of O'Brien's follow.

127. The first blog post ever written about Twitter was by Om Malik of Gigaom on July 15, 2006.

128. There were 224 tweets sent on July 15, 2006.

129. It took Twitter more than 16 months to reach the first 600,000 Twitter accounts.

130. Twitter won't allow you to follow more than 2,000 people unless you have 2,000 followers.

131. Two teenagers run @HistoryInPics, an account with more than 1.2 million followers. It's wildly popular.

132. If verified Twitter users change their handle, they lose their verification badge.

133. Dorsey aspires to be the mayor of New York City one day.

134. Visiting Twittter.com (with an extra "t") will bring you to the official website.

135. Visiting Twiter.com (missing a "t") will also bring you to the official website.

136. Some mothers follow their children's Twitter accounts to keep an eye on what they're eating for lunch. Seriously.

137. Twitter has a YouTube channel, to which it has posted more than 90 videos.

138. Twitter employees consume 1,440 hard-boiled eggs weekly. The flock also drinks 585 gallons of coffee per week.

139. The story of Twitter is being turned into a TV show.

140. Twitter turned an idea on a playground slide into a company that is today worth $31 billion.

—By CNBC's Eli Langer. Follow him on Twitter at @EliLanger.

Correction: An earlier version incorrectly stated the number of Twitter employees.

Eli Langer
CNBC Social Media Producer

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AAPL	110.15	▼	-2.16	-1.92%

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EXHIBIT F

The New York Times

A Lie Races Across Twitter Before the Truth Can Boot Up

By JEREMY W. PETERS   APRIL 9, 2012

It took only two minutes. An unfounded report on a little-known blog claiming that Gov. Nikki R. Haley was about to be indicted rocketed from South Carolina political circles into national circulation, along the way becoming the latest lesson in the perils of an instantaneous news culture.

The item's rapid journey from hearsay to mainstream journalism, largely via Twitter, forced Ms. Haley to rush to defend herself against a false rumor. And it left news organizations facing a new round of questions about accountability and standards in the fast and loose "retweets do not imply endorsement" ethos of today's political journalism.

There were elements of old-fashioned South Carolina sabotage: an embattled Republican governor and possible vice-presidential contender dogged by unproven accusations of impropriety. And there were modern twists: a liberal-leaning 25-year-old blogger eager to make a name for his new Web site, and a buzz-seeking political press corps that looks to the real-time, unedited world of Twitter as the first place to break news.

In retrospect, there were clear reasons to doubt the March 29 report, from a blog called the Palmetto Public Record, that Ms. Haley was facing indictment on tax fraud charges. The blog's editor, Logan Smith, never asked the

governor's office for comment before he posted his report. Later, in an e-mail, Mr. Smith said he could not be sure whether his sources were correct.

"I reported that credible sources said they believed the governor would be indicted — not that I knew she would be indicted, or even whether or not I personally believed she would be indicted," he said. (He did not respond to questions asking for further clarification.)

But journalists from news outlets that reposted Mr. Smith's report on Twitter — including establishments old and venerable (The Washington Post, CBS News) as well as new and widely read (The Huffington Post and BuzzFeed) — had no way of knowing that in the minutes after it went online, and did not stop to check first.

March 29, 12:52 p.m.: The Palmetto Public Record publishes an article online with the headline "Haley indictment imminent? Stay tuned. ..." It cites two unidentified "well-placed legal experts" who said they expected the federal Department of Justice to indict Ms. Haley "as early as this week" on charges stemming from her involvement with a local Sikh temple.

12:54 p.m.: A blogger for The Hill, a Washington newspaper that focuses on government and politics, sends a Twitter post about the article to his 1,500 followers, who include several prominent political journalists with large Twitter followings that reach into the tens of thousands. Some then repost the item — BuzzFeed just two minutes later; The Washington Post 18 minutes after that.

1:03 p.m.: The Daily Beast posts a short article, which it later removes, about the Palmetto Public Record report, becoming one of many online outlets to write lengthier items, including Daily Kos and The Daily Caller. Headlines like one on the Atlantic Wire's post, "Nikki Haley Probably Won't Win Republican Veepstakes," are common.

1:12 p.m.: A USA Today reporter contacts Ms. Haley's office with a request

for comment, the first of dozens of such inquiries that will deluge the governor and her staff for the rest of the day.

1:22 p.m.: The Romney campaign, which is reported to be considering Ms. Haley as one of many possible vice-presidential choices, receives a request for comment from ABC News.

1:25 p.m.: Mr. Smith seems bemused by all the attention his report is getting, posting on Twitter: "Well, now I know what it's like to watch a story go viral in real time."

3:29 p.m.: Matt Drudge, whose heavily visited Drudge Report can help drive decisions in newsrooms around the country, links to a Daily Caller article under the headline "REPORT: DOJ targets S.C. Gov. Nikki Haley."

By the next morning, South Carolina's largest newspaper, The State in Columbia, had an article on its front page.

Ms. Haley had tried in vain to persuade the reporter at The State not to write anything. "I remember getting on the phone, and I usually don't do this, but I just yelled at her," the governor said in an interview. "I said, 'Why are you doing this? There are no facts here.' "

Her office, which chalked the report up to a plant by a political opponent, later released a letter from the Internal Revenue Service declaring that there was no tax investigation.

This episode is not the first time that a questionable Twitter report has roiled the 2012 elections — the first presidential campaign in which the microblogging service has been used broadly by news outlets as a way to report and break news.

And although many news organizations have set standards for the use of Twitter by their journalists, reporters remain largely free to exercise their own, unedited news judgment. (At least one staff member from The New York

Times sent out a Twitter post about the initial report.)

For many, that is Twitter's beauty: it is a conversational device where words are impermanent and always revisable. And as the Palmetto Public Record episode shows, anyone can inject himself into that conversation.

Ben Smith, editor in chief of BuzzFeed, which mixes the silly ("Amazing Dog Lifeguard Rescues Pup From Drowning") with serious original political reporting, said he believed Twitter users expected the news they read there was in a state of constant evolution and should not be taken as gospel.

"I think what you get is a running conversation and a chance to keep talking about it," he said. "The beauty of all this is the speed of the self-correction. If it had been a newspaper report, it could have hung out there for a day."

Reporters for BuzzFeed and most of the other news outlets that sent Twitter posts about the initial Palmetto Public Record report did later post about the governor's denials and the letter she produced from the Internal Revenue Service. Tucker Carlson, editor in chief of The Daily Caller, apologized personally to Ms. Haley.

But even those who embrace Twitter's value as a conversational reporting tool questioned what is ultimately gained by introducing illegitimate news into the conversation.

"I saw the original Tweets, and my first thought was that I'd never heard of the Web site that reported it," said Byron York, the chief political correspondent for The Washington Examiner. Mr. York, a prolific Twitter poster, decided not to send the item out to his 30,000 followers. "It was a pretty easy decision to stay away from it," he said.

Ms. Haley, who has lived with an unfounded blog report of marital infidelity since before she took office, fears that the episode may have done

lasting damage to her reputation. She said she was not certain that it could be easily repaired. But she is certain of one thing.

"There will be another one," she said, predicting another attempt to smear her online. "I'm not one that thinks this is going to stop."

A version of this article appears in print on April 10, 2012, on page A12 of the New York edition with the headline: A Lie Races On Twitter Before Truth Can Boot Up.

EXHIBIT G

Man faces fallout for spreading false Sandy reports on Twitter

By Doug Gross, CNN

Updated 6:44 PM ET, Wed October 31, 2012

ComfortablySmug
@ComfortablySmug

Follow

BREAKING: Confirmed flooding on NYSE. The trading floor is flooded under more than 3 feet of water.

← Reply ⇄ Retweet ★ Favorite

633 RETWEETS   32 FAVORITES

5:04 PM - 29 Oct 12 · Embed this Tweet

This tweet was one of several false reports posted by Twitter user @ComfortablySmug as Sandy pummeled New York.

Story highlights

A Twitter user who spread lies about Superstorm Sandy is exposed

Shashank Tripathi was managing the campaign of a Congress hopeful

His 6,500 followers got fake reports of flooding, other destruction

New York councilman has asked for a criminal investigation

As Superstorm Sandy slammed into the East Coast on Monday night, one Twitter user in New York City posted a flurry of alarming reports about fallout from the storm -- from plans to shut down all power in Manhattan to floodwaters pouring into the New York Stock Exchange.

Like many social media messages about Sandy, they were scary and confusing, but some of them were reported as facts by news outlets.

And, it turns out, many of them were outright lies. They were apparently posted by a Wall Street analyst who doubled as campaign manager for a candidate for Congress. After a blogger exposed him, the analyst apologized on Twitter Tuesday night amid a flood of online scorn and left the campaign. An elected official is pushing for criminal charges.

Hurricane safety: When the lights go out

The case reinforces how social media can spread misinformation at lightning speed and raises the question of whether users should face prosecution for knowingly posting false information during a natural disaster or other emergency.

It all began Monday when Hurricane Sandy was approaching landfall and the owner of the Twitter account @ComfortablySmug, whose bio lists interests including "Finance, Gin, Politics, Books, Food, Fine Clothing (and) Meeting Strangers," began posting rapid-fire tweets to his 6,500 followers.

AFP/GETTY IMAGES

Related Video: NYC Crane crippled by Sandy 02:58

Related Video: Sandy's damage to Central Park 01:08

Related Video: USCG: 168 people stranded NYC for Sandy 02:43
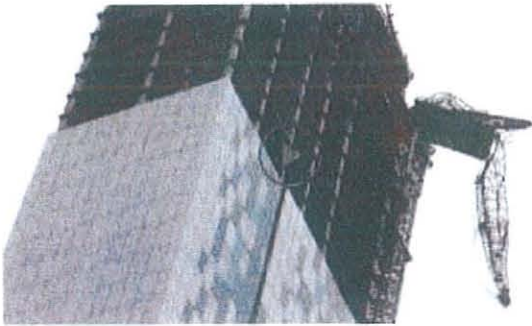
The tone of many of the tweets, which included false accounts of destruction, seem intended to spread confusion and fear.

"BREAKING: Con Edison has begun shutting down all power in Manhattan," read one tweet.

"BREAKING: Governor Cuomo is trapped in Manhattan. Has been taken to a secure shelter," said another.

The user also wrote that all major lines of the New York City subways had been flooded and would be closed for at least a week. And he contributed to the confusion surrounding reports, which proved to be false, that the New York Stock Exchange had flooded. Some news outlets, including CNN, briefly mentioned the NYSE flooding accounts after they were reported on the National Weather Service's website.

7 ways to manage stress in a disaster

Two of ComfortablySmug's posts about Sandy were retweeted more than 500 times each. But many Twitter users challenged the truth of his reports, and the Con Edison tweet drew a direct rebuttal from the company itself.

The Twitter account has no real name attached to it. But Buzzfeed contributor Jack Stuef reported he was able to compare altered photos posted on the account to unedited versions of them elsewhere on the Internet. Stuef identified the account owner as Shashank Tripathi, a hedge fund analyst and campaign manager for a candidate for Congress.

While never giving his name, the account holder seemed to acknowledge as much Tuesday night in a post apologizing for his actions. He also announced his resignation from the campaign of Republican Christopher Wight, who is seeking New York's 12th Congressional seat.

"I wish to offer the people of New York a sincere, humble and unconditional apology," he wrote after Stuef's story had identified him. He then linked to a longer note.

"While some would use the anonymity and instant feedback of social media as an excuse, I take full responsibility for my actions," he continued. "I deeply regret any distress or harm they may have caused."

On Wednesday morning, Wight's campaign website said Tripathi had been replaced.

Tripathi did not respond Wednesday to a Twitter message seeking comment.

5 things you need to know

An investment banker on leave from J.P. Morgan, Wight faces Democratic incumbent Rep. Carolyn Maloney in a district that includes parts of Brooklyn, Queens and Manhattan and voted overwhelmingly for President Obama in 2008.

In a statement posted Wednesday afternoon on his campaign site, Wight said he was "shocked and disgusted" by Tripathi's behavior.

"His actions were all the more distressing, occurring as they did, in the midst of Monday's disastrous weather -- during a time when no one was truly safe," he wrote. "I learned from online reports yesterday, just as others did, that Shashank had been spreading false information from a personal and anonymous Twitter account. While he had been with my campaign for seven months, I had no indication that he was capable of the type of behavior he exhibited."

Less is known about Tripathi, whose account links to a fund raising site for GOP presidential candidate Mitt Romney and who used Sandy to pepper his feed with nasty political jabs, including this fake retweet from President Obama's account: "RT @BarackObama: If you are trapped in New York City and are running out of food, remember to eat your dogs first before going outside -bo"

His tweets suggest he attended this year's Republican National Convention, and he's listed as a volunteer coordinator for Romney and other GOP candidates.

At least one elected official has asked that criminal charges be considered in the case.

New York City Councilman Peter Vallone says he has asked the Manhattan district attorney's office to look into the possibility that Tripathi's tweets were the digital equivalent of shouting "Fire!" in a crowded theater.

"The Manhattan DA is taking this very seriously," Vallone, a Democrat, told Buzzfeed, while acknowledging it may be a hard case to make. "I hope the fact that I'm asking for criminal charges to be seriously considered will make him much less comfortable and much less smug."

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EXHIBIT H

Social Media

A Fake AP Tweet Sinks the Dow for an Instant

By Jared Keller April 23, 2013

Photograph by Scott Eells/Bloomberg

(Updated to include market impact.)

The nearly two million people who follow the Twitter feed of the Associated Press were treated to a nasty surprise this afternoon: a tweet (since deleted) claiming there had been an explosion at the White House that injured President Obama:

AP   The Associated Press 🔵   👤▾   Following
      AP

Breaking: Two Explosions in the White House and Barack Obama is injured

↩ Reply   🔁 Retweet   ★ Favorite   ••• More

3,063   **144**   ↻ ▣ ▣ ▣ ▣ ▣ ▣ ▣ ▣ ▣
RETWEETS FAVORITES

12:07 PM - 23 Apr 13

Jared Keller/TwitterA fake tweet sent from the AP's official twitter account

Everything about this message seemed suspicious: It wasn't written in the AP's style and as other journalists noted, the message appeared on Twitter before it was posted to the official AP wire. The AP quickly confirmed that its account was hacked:

Story: So Your Corporate Twitter Account's Been Hacked

AP   AP CorpComm   Follow
      @AP_CorpComm

The @AP Twitter account has been suspended after it was hacked. The tweet about an attack on the White House was false.

10:25 AM - 23 Apr 2013

     437   29

Any news of an attack on the White House is a sign of imminent apocalypse, and the market reacted accordingly: From 1:08 p.m. to 1:10 p.m., the Dow Jones Industrial average plunged more than 100 points, from 14697.15 to 14548.58. Just as quickly though, it rebounded. By 1:13 p.m., it was back above 14690. You can see the sharp dip and climb in this screenshot from a Bloomberg terminal below:

BloombergThe Dow Jones Industrial average plunges after a fake AP tweet

The AP has since announced that it is suspending all of its Twitter accounts. A group that calls itself the Syrian Electronic Army has apparently claimed credit for the hack. They're a pro-regime activist group connected to several cyberattacks over the past two years, as I discussed in a piece I co-wrote for the *Atlantic* in 2011.

In June 2012, fake tweets about the death of Syrian President Bashar al-Assad sent from an account claimed to be that of Syria's interior minister caused the price of West Texas Intermediate crude to climb by more than $1 to just shy of $92.

Video: Is Twitter Reliable Enough for Algorithmic Trades?
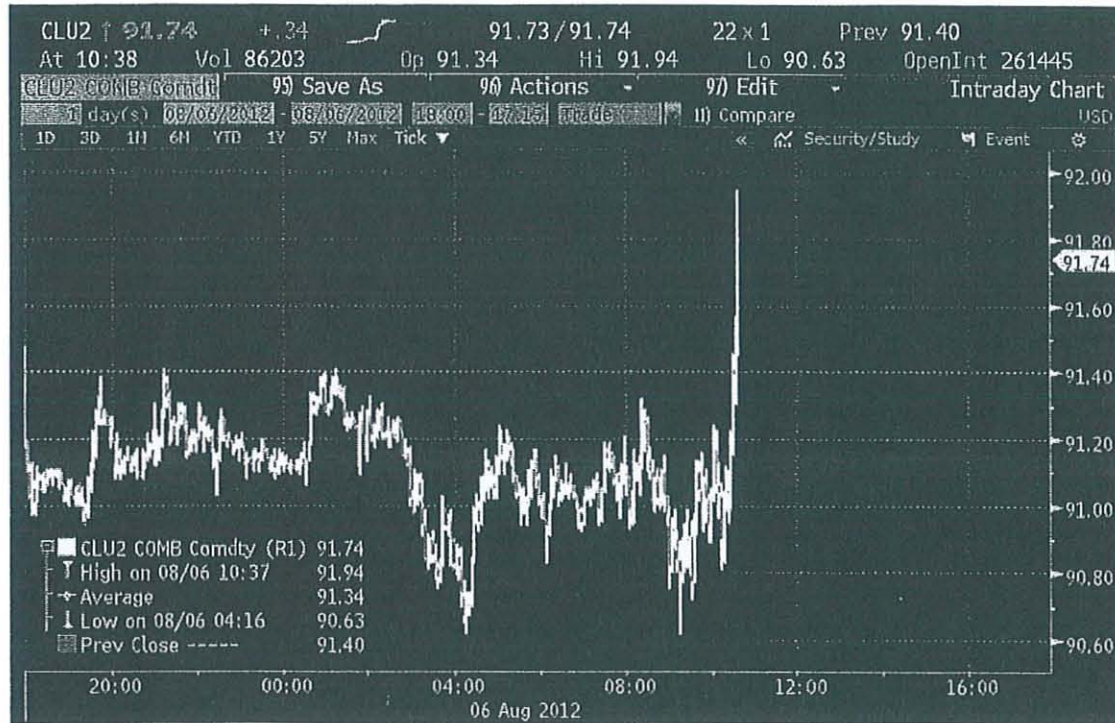
BloombergWTI crude oil prices spike after false tweets about the death of Syrian President Bashar al-Assad

Update, 4:11 p.m. ET: >Bloomberg News reports that the AP's false tweet wiped $136 billion from the S&P 500 index in about two minutes. The U.S. Secret Service is aware of the hacking incident, according to a spokesman.

Story: The Hackers of Damascus
Story: Why Congress Hacked Up a Bill to Stop Hackers
Video: Obama: Not Confirming First Lady Was Hacked
Story: Knight Shows How to Lose $440 Million in 30 Minutes
Video: Hacked! Burger King's Twitter Account Vandalized
Story: Regulators Are Slow to Act on Speed Traders
Video: Apple Hacked: Is China to Blame?
Story: A Chinese Hacker's Identity Unmasked
Story: Computers Elbow Swaps Traders Aside
Story: The Bats Affair: When Machines Humiliate Their Masters
Story: The Twitter Screw-Ups Hall of Fame
Keller is director of social media for Bloomberg News and *Bloomberg Businessweek*.

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Internet Rumors, Gossip And Misinformation: People Only Want To Read What They Already Believe

By Ellen Killoran (/reporters/ellen-killoran)   🐦 @EllenKilloran (http://www.twitter.com/EllenKilloran)   on April 28 2012 12:15 PM EDT

98   6

An internet cafe in Egypt. Reuters

Did you hear the news? A mass grave with two dozen bodies was found in Texas. Iran is banning the Internet. South Carolina's Gov. Nikki Haley is under indictment for tax fraud. Jon Bon Jovi is dead.

All of these statements are false but were at one time considered to be verified, legitimate facts, believed and shared by many. Worse yet, some people still believe them; you can't easily un-ring the bell of misinformation. Even when hastily broken news is swiftly retracted or corrected, or when fact-checkers quickly untangle, say, a politician's erroneous claim about his opponent, the damage has often been done: In a matter of minutes, a story can take on a life of its own -- regardless of whether or not it is entirely true.

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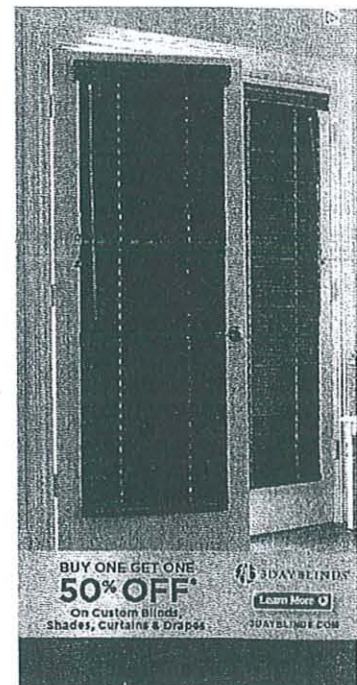
Although some would argue that misinformation is a by-product of the digital age, that's hardly accurate. Individuals, companies, governments, political activists and organizations have long used dubious versions of the truth as currency. However, more recently, the Internet -- with its vast reach, inherent anonymity and breakneck content cycles -- has made spreading gossip and rumors child's play.

Yet, none of this would work -- none of the falsehoods would stick -- if it weren't for a quirk in human nature: We want to hear what we already believe. We watch MSNBC or read the Huffington Post because we want our news tilted leftward. Or we watch Fox News or listen to Rush Limbaugh because we want to see President Barack Obama and social liberals constantly lambasted. In other words, we seek what we consider the truth, and we look for it in digital echo chambers that reflect our internal biases.

People want information to confirm what they already think they know, said Alfred Hermida, a digital media scholar and author of Participatory Journalism: Guarding Open Gates at Online Journalism.

The success of the so-called birthers -- many of whom still don't accept the indisputable fact that Obama is a native-born American -- illustrates this point, Hermida says.

Why do people buy one newspaper instead of another? he asks. Because that newspaper reflects their world outlook more than the competition does. We do this in all of our media choices.

Typical of the it sounds true to me so it must be true story is one that, we abashedly admit, was published by IBTimes a month ago. The article, based on an erroneous report, said that Reza Taghipour, the Iranian minister for Information and Communications Technology, had announced plans to remove public Internet access in Iran and replace it with a state-controlled national portal. The IBT reporter who broke the story cited an April 5 statement on the Farsi-language site Kalame.com, which has since been removed.

The story received thousands of page views and was picked up unquestioningly by numerous news outlets before IBT was made aware of an official Iranian denial: In a statement to Agence France-Presse, the Iranian information ministry called the report completely baseless and attributed it to the propaganda wing of the West. IBT updated the story with the denial by the morning after the first report went live, and it published a follow-up story further detailing accusations by Iran's information ministry that the report was based on a misunderstood hoax. Still, throughout that day, multiple news outlets continued to (http://news.cnet.com/8301-1023_3-57411577-93/iran-expected-to-permanently-cut-off-internet-by-august) cite the original story without qualification; it remained the Top News result on a Twitter search for Iran until late afternoon.

Even days later, the story -- which some now believe began as an April Fool's joke -- was still clinging to life. In fact, some (http://news.cnet.com/8301-1023_3-57411577-93/iran-expected-to-permanently-cut-off-internet-by-august)people on the Internet remain unconvinced that the ministry's denial of the report truly means public Internet access will not be disrupted by the

government. Iran's documented history
(http://www.guardian.co.uk/technology/2009/jun/30/internet-censorship-iran) of censorship
likely made it easier for audiences to take the false report seriously.

People's proclivity to believe what they want to hear has found the perfect accomplice in
microblogging sites such as Twitter and Tumblr. Without fact-checking, legitimate news
organizations often report what they read on Twitter -- and all too frequently and uncritically
praise microblogging as an essential tool of modern-day reporting -- making the popular site a
digitally amplified game of telephone. In turn, more and more people post misinformation or
poorly gathered information on Twitter and other microblogging venues: sometimes innocently, in
the rush to get ahead of the news, and sometimes maliciously, as a prank or to further a personal
agenda.

In June 2011, an (evidently) honest -- but critical -- oversight led to a seemingly credible report
that a mass grave was found in Texas. This salacious item, not surprisingly, quickly went viral. Its
origin reportedly was a tipster in the Lincoln Country Sheriff's Office who told a local news station
that police were investigating a (http://newsfeed.time.com/2011/06/08/the-texas-mass-grave-
hype-that-wasnt-how-a-tip-from-a-psychic-went-viral)report of 25 to 30 bodies found on a
property in Hardin, Texas.

The Houston-based station, KPRC-TV, promptly sent a message via Twitter claiming that dozens
of bodies have been found. Before long, national wire services and news outlets like the New York
Times and the Associated Press ran with the story. The Times told its followers on Twitter: NYT
NEWS ALERT: Up to 30 Dismembered Bodies Found Near Houston, Reuters Reports. But when
investigators and reporters went to the scene, they found no trace of human remains.

A deconstruction of the report revealed that the sheriff's office had initially heard about the bogus
burial site from a psychic who had a premonition. The authorities reportedly took the psychic's
claims seriously because she had detailed and accurate knowledge of the home and the property
where she believed the mass grave to be. It is unclear whether the sheriff's office declined to tell
the Houston station that its source was a psychic, or if the station ignored or misunderstood the
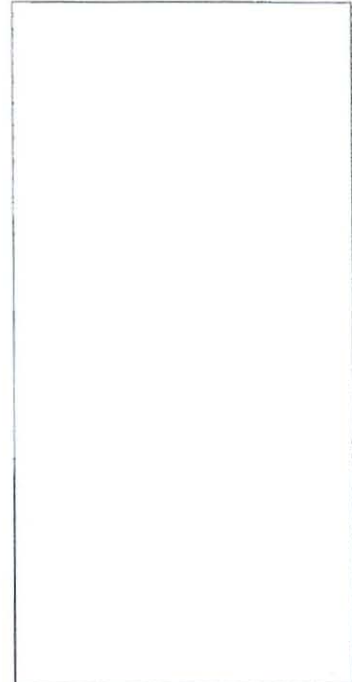quality of the source.

The Texas mass grave story was ultimately an innocent mistake, at least compared to a case of
digital journalistic malpractice involving South Carolina Gov. Nikki Haley in March, when she was
forced to address a damaging rumor claiming that she was facing imminent indictment on tax
fraud charges. This rumor was started on a little-known news blog with only one reporter.

As a subsequent New York Times story explains
(http://www.nytimes.com/2012/04/10/us/politics/false-nikki-haley-twitter-report-spreads-
fast.html?pagewanted=all), on March 29, Logan Smith ran an item on his site, the Palmetto Public
Record -- which describes itself as a South Carolina-focused blog about politics and policy that
goes beyond inflated political rhetoric and he-said/she-said journalism -- claiming that two well-
placed legal experts told him that Haley was about to be indicted.

Mainstream and widely-read news outlets like BuzzFeed, whose editor is a former top journalist at
Politico, and the Washington Post, broadcast a link to Smith's story via Twitter. This immediately
elevated an item that would have likely been lost in the Internet's din -- into a legitimately big
story in the mainstream news cycle.

The 'news Web' is subject to all of the same natural forces as the rest of the Internet, said Ken
Doctor, a media analyst and author of Newsonomics: Twelve New Trends That Will Shape the
News You Get.

That means everything -- right, wrong or otherwise -- has the potential for getting magnified
instantly.

Latest News

The indictment rumor was ultimately discredited after Haley's office released a letter from the Internal Revenue Service denying a pending tax investigation. Still, rather than backing down, Smith doubled down. In an email to the New York Times, he defended his work. I reported that credible sources said they believed the governor would be indicted -- not that I knew she would be indicted, or even whether or not I personally believed she would be indicted, he said.

Despite his defense, it seems clear that Smith is no fan of Haley's. His site is a left-leaning blog, and he has frequently published damning posts about the Tea Party-backed governor and even about the Sikh temple she belongs to.

Indeed, it seems completely possible Smith's inaccurate item about Haley's tax troubles is yet another illustration of an individual actively seeking information that corroborated his internal narrative. Perhaps because the sources gave him information that agreed with what he already believed -- or wanted to believe -- Smith wasn't compelled to verify their credibility.

Because of the hypnotizing effect of information repeated over and over on social media, Smith's blog entry ensures that Haley will be answering questions about her alleged tax fraud troubles well into the future -- never mind that the report of her investigation was not true.

If an untruth gets repeated, people start believing it, Hermida said. The more something gets said, the more people think, 'Oh well, maybe there is some truth to it.' Social media can have that effect, through the repetition of a message.

At its worst, this trend is amplified by websites that openly traffic in nothing but fake news. Take an outlet like Fakeawish.com, which has a particular affinity for made-up reports of celebrity deaths. Jeff Goldblum, Cher, Etta James (who has since died), and Jon Bon Jovi are some of the well-known people whose deaths were first prematurely pronounced on the site and then went viral at the hands of the gullible.

There always have been pranksters in the news, Hermida said. In the past you needed to convince a journalist to publish your prank. Now you don't need to go through the journalist, you can just do it; you have access to the means of broadcast and the means of distribution.

The spread of rumors through social media -- and its ability to redirect the public dialogue into fabricated detours and wrong turns -- has become so rampant that some academics are exploring this trend in the hope of taming it. For example, a team of University of Michigan researchers has spent the last few years trying to figure out a way to separate fact from fiction on the Internet. The team's goal is to develop algorithms that can detect misinformation -- and minimize the spread of false rumors on social media.

We aim to build a system that employs our findings . . . and the emergent patterns in re-tweet network topology to identify whether a new trending topic is a rumor or not, states the paper, entitled Rumor Has It: Identifying Misinformation in Microblogs.

Though understanding rumors has been the subject of research in psychology for some time, research has only recently begun to investigate how rumors are manifested and spread differently online, the report says.

For his part, Doctor looks forward to the day when humans can do some individual fact checking without the aid of algorithms.

There's no doubt the pendulum towards immediacy over double-checked accuracy has swung, he said. Yet, my sense is that readers are getting savvier about which 'news' is attached to which brands, and so a new hierarchy of trusting sources is being built. It's an ungainly time, given the newness of Internet communication, but I see encouraging signs of concern for accuracy re-emerging.

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TWEETS	FOLLOWING	FOLLOWERS	FAVORITES	LISTS		
61.2K	1,517	2,250	62.8K	3	⚙	👤 Follow

Abe List
@abelisted

Math dork in finance, partner in pvt eq.
This is my opinionated Id. Tweets some
irony but not only. Married to @stequus.
Freedom is not needing to be liked.

📍 Los Angeles, California

🔗 harvard.edu

🕐 Joined September 2012

Tweets   **Tweets & replies**   **Photos & videos**

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Chart (DB): T-bills as % of total treasuries outstanding -

T-bills as a share of Treasuries are at their lowest level since 1952
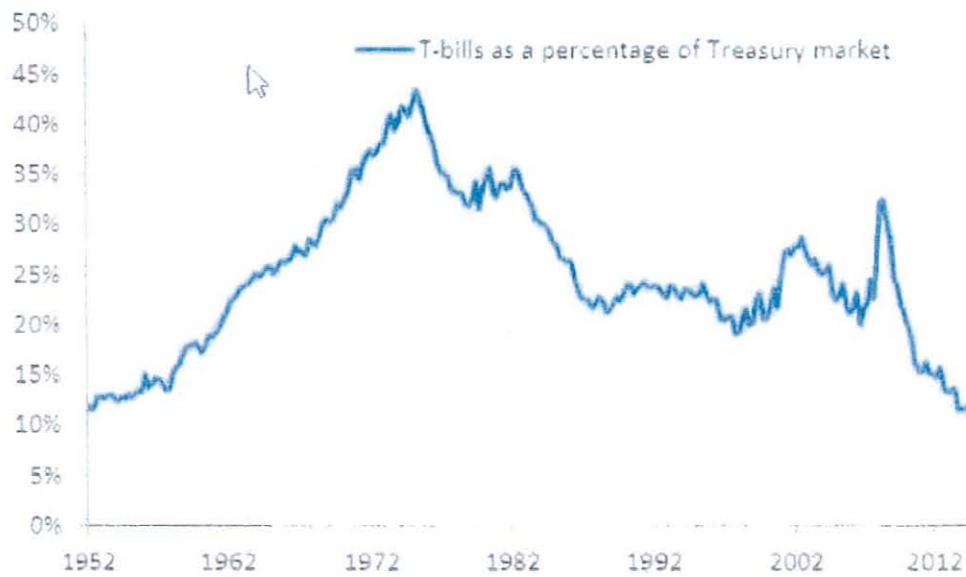
Source: US Treasury and Deutsche Bank

6 42 PM 26 Jul 2016 Details

◻ ⟲ 7 ★ 5 ★

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Reply to @SoberLook @abelisted

Vikram @vikramreuters 2 h

All Asian FX weaker vs US$ so far this quarter (chart via GS). Aussie $ at 6-year low, down 5th straight week

3Q to day FX return for major currencies

| | CNY |
| INR |
| IDR |
| PHP |
| MYR |
| JPY |
| GBP |
| TWD |
| SGD |
| THB |
| -4.5% KRW |
| -5.4% AUD |

-6%   -5%   -4%   -3%   -2%   -1%   0%
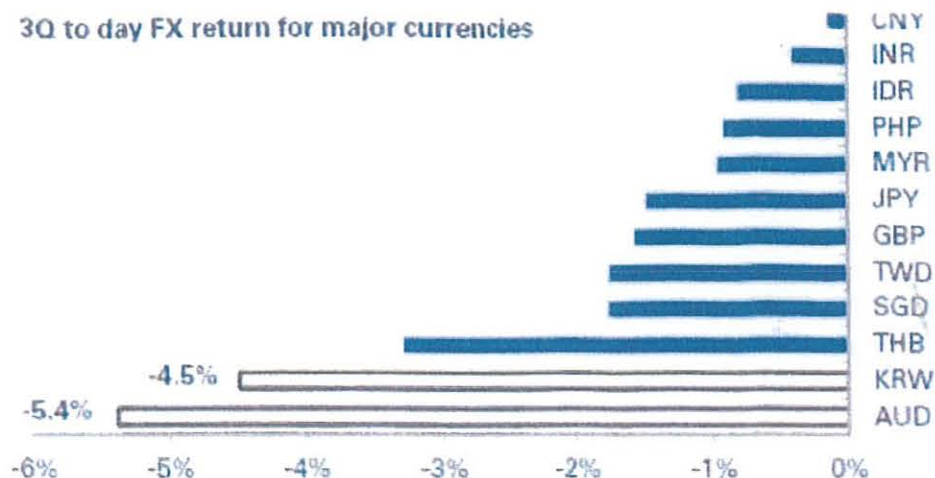
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Abe List @abelisted

2nd PPP chart I've come across today. Inherently misleading, based on fallacy of universal price abstraction. False.

Max Roser @Max Roser

#China may soon be the biggest economy in the world. But that prosperity is thinly spread.

(econ.st/1CIjd0d)

George Pearkes @georgepearkes · Jul 26
BAML breaks down what's behind lowflation on both sides of the Atlantic.

Chart 3: Contributions to US PCE inflation
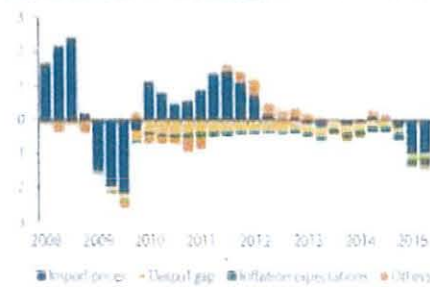
Chart 4: Contributions to euro area HICP inflation
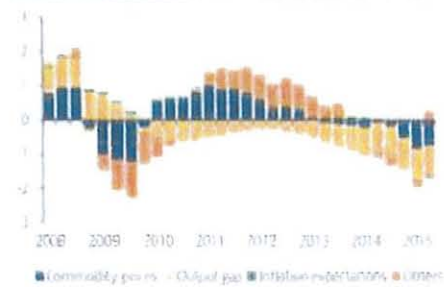
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George Pearkes @georgepearkes · Jul 26
China...moving up the value added curve as more goods are produced locally, w/ impacts on trade partners (BAML/Citi)

ssing imports

Chart 3: Negative contribut
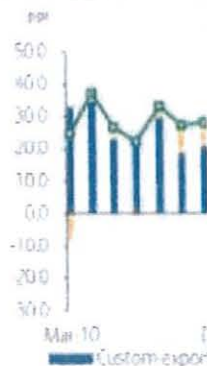
Figure 5. Exports to China for China's 'inferred' final demand (% of

Exports to (

As a % of Total Exports
(left scale)

2003-07 Ave
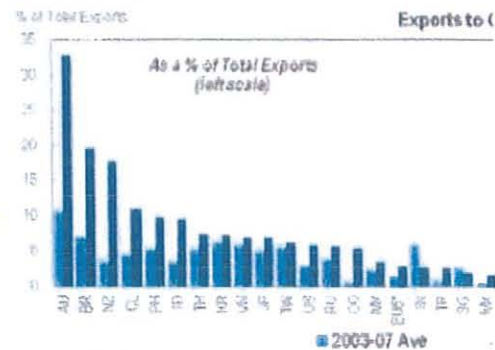
Source: RIETI, Citi Research. Note: We utilize RIETI database which is only upd over 1,200 product segments into 5 product categories that distinguish intermed http://www.rieti-go.com. Note: EU5 includes Germany, UK, France, Italy and Sp

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LA County Sheriff's @LASDHQ · Jul 25
Disaster Preparedness - Are You Ready Los Angeles County? Drop
Cover & Hold On #laquake nixle.us/8Q9M4

↔   ♻ 14   ★ 18   ♥

Abe List @abelisted · Jul 25
fascinating. India transitions to means-tested subsidy instead of flood-the-field model
Rs 12700 crore ≈ $20bn USD

Tejus Sawjiani @tejus_sawjiani

@abelisted yes. the other story on a related point is this:
outlookindia.com/article/doling... & dnaindia.com/money/report-s...

↔   ♻   ★ 2   ♥

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Dictionary

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noun   hy·per·bo·le   \hī-'pər-bə-(ˌ)lē\

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: language that describes something as better or worse than it really is

How many of these **commonly misspelled words** can you spell? »

Full Definition of HYPERBOLE

: extravagant exaggeration (as "mile-high ice-cream cones")

— hy·per·bo·list 🔊   \-list\   *noun*

See hyperbole defined for English-language learners »

See hyperbole defined for kids »

Examples of HYPERBOLE

<"enough food to feed a whole army" is a common example of *hyperbole*>

Four decades later we're all blabbermouths, adrift on a sea of hyperbole, shouting to be heard. — Steve Rushin, *Sports Illustrated*, 1 Apr. 2002

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Origin of HYPERBOLE

Latin, from Greek *hyperbolē* excess, hyperbole, hyperbola, from *hyperballein* to exceed, from *hyper-* + *ballein* to throw — more at DEVIL

First Known Use: 15th century

Related to HYPERBOLE

Synonyms
caricature, coloring, elaboration, embellishment, embroidering, embroidery, exaggeration, magnification, overstatement, padding, stretching

Antonyms
meiosis, understatement

[+] more

Other Grammar and Linguistics Terms

ablaut, allusion, anacoluthon, diacritic, gerund, idiom, infinitive, metaphor, semiotics, simile

Rhymes with HYPERBOLE

nonverbally

Learn More About HYPERBOLE

- Thesaurus: All synonyms and antonyms for "hyperbole"
- Spanish Central: Spanish translation of "hyperbole"
- Nglish: Translation of "hyperbole" for Spanish speakers
- Britannica English: Translation of "hyperbole" for Arabic speakers
- Britannica.com: Encyclopedia article about "hyperbole"

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Next Word in the Dictionary: hyperbolic (adjective)
Previous Word in the Dictionary: hyperbola
All Words Near: hyperbole

EXHIBIT L

Hyperbole - definiti⌐⌐ of hyperbole by The Free Dictionary

hyperbole ◀╚

Also found in: Legal, Encyclopedia, Wikipedia.

hy·per·bo·le ◁ (hī-pûr'bə-lē)

n.

A figure of speech in which exaggeration is used for emphasis or effect, as in *I could sleep for a year* or *This book weighs a ton.*

[Latin *hyperbolē*, from Greek *huperbolē*, *excess*, from *huperballein, to exceed* : *huper, beyond*; see *ballein* in Indo-European roots.]

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hyperbole (haɪˈpɜːbəlɪ)

n

1. (Rhetoric) a deliberate exaggeration used for effect: *he embraced her a thousand times.*

[C16: from Greek: from hyper- + *bolē* a throw, from *ballein* to throw]

hy'perbolism *n*

Collins English Dictionary – Complete and Unabridged © HarperCollins Publishers 1991, 1994, 1998, 2000, 2003

hy·per·bo·le (haɪˈpɜr bə li)

n., pl. -les.

1. obvious and intentional exaggeration.
2. an extravagant statement or figure of speech not intended to be taken literally, as "to wait an eternity."
Compare litotes.

[1520–30; < Greek *hyperbolé* overshooting, excess, n. derivative of hyperbállein to throw beyond, exceed =hyper- hyper- + *bállein* to throw]

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hyperbole

1. an obvious and intentional exaggeration.
2. an extravagant statement or figure of speech not intended to be taken literally, as "She's as big as a house."
Cf. litotes. — hyperbolic, *adj.*

See also: Rhetoric and Rhetorical Devices

hyperbole

1. The deliberate use of exaggeration in order to create an effect.
2. Use of exaggeration for emphasis.

Thesaurus   Legend: ▦ Synonyms ⟷ Related Words ≠ Antonyms

Noun 1. hyperbole - extravagant exaggeration

   ▦ **exaggeration**

   ⟷ **figure of speech, trope, image, figure** - language used in a figurative or nonliteral sense

hyperbole

noun ▦ **exaggeration, hype** *(informal)*, **overstatement, enlargement, magnification, amplification** *The debate was carried on with increasing rhetorical hyperbole.*

hyperbole *noun*

The act or an instance of exaggerating:

   ▦ **exaggeration, hyperbolism, overstatement, tall talk.**

Translations   Select a language: [Spanish / Español ▼]

hyperbole [haɪ'pɜːbəlɪ] *N* → hipérbole *f*

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EXHIBIT M

Source URL: http://www.hollywoodreporter.com/thr-esq/james-woods-sues-twitter-user-812107

James Woods Sues Twitter User for $10 Million Over "Cocaine Addict" Accusation

6:16 AM PDT 7/30/2015 by Eriq Gardner

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- 9

The actor filed a defamation lawsuit against an individual who replied to Woods' tweets about Barack Obama and Caitlyn Jenner.

Invision for Fiji Water
James Woods

Incivility on social media seems to be a regular occurrence, and celebrities usually shrug it off (or don't even read the comments from people who are tweeting at them), but **James Woods** is making a $10 million case about it.

On Wednesday, the actor went to the Los Angeles Superior Court and sued the anonymous individual who is tweeting as "Abe List [2]" for defamation over a derogatory tweet that suggested Woods was a "cocaine addict" — a message that Woods complains was sent to "*thousands* of AL's followers and *hundreds of thousands* of Mr. Woods' followers."

Woods is taking a stand. "AL's reckless and malicious behavior, through the worldwide reach of the internet, has now jeopardized Woods' good name and reputation on an international scale," states the complaint. "AL, and anyone else using social media to propagate lies and do harm, should take note. They are not impervious to the law."

The defendant's social media profile suggests that he or she is based in Los Angeles, a partner in private equity, possibly Harvard-educated and, luckily, married to an attorney. The "cocaine addict" tweet was actually a reply on July 15 to something the *Once Upon a Time in America* actor himself tweeted about media priorities.

> @RealJamesWoods [3] @benshapiro [4] cocaine addict James Woods still sniffing and spouting.
>
> — Abe List (@abelisted) July 15, 2015 [5]

The complaint says Abe List "stepped over the line" here and that Wood "is not now, nor has ever been, a cocaine addict, and AL had no reason to believe otherwise. Rather AL's outrageous claim is the culmination of a malicious on-line campaign by AL to discredit and damage Woods' reputation, a campaign which began as early as December 2014."

During the month in question, the conservative actor trolled many by tweeting what seemed to be a birther-related comment toward President **Barack Obama**. "Abe List" took the bait and made a response.

> @RealJamesWoods [3] you are a ridiculous scum clown-boy James, a joke.
>
> — Abe List (@abelisted) December 26, 2014 [6]

So why take a stand against this guy?

"The owner of the AL Twitter Account has *thousands* of followers and, since at least December 2014, has undertaken to engage his followers with a campaign of childish name-calling targeting against Woods," continues the lawsuit (read in full here [7]), with italics

included. "In the past, AL has referred to Woods with such derogatory terms as 'prick,' 'joke,' 'ridiculous,' 'scum' and 'clown-boy.' "

Those comments probably fall under nonactionable opinion, but "cocaine addict" is a statement that could be true or false and possibly qualify as defamation. That said, given that Woods is a public figure, he'd have to show actual malice to prevail. First, he'll need to identify the defendant, which probably means that Twitter should be expecting a subpoena soon.

No word on whether Woods attempted to "block" the defendant from following him. Nor does Woods explain whether he ever attempted to mitigate harm by filling out a form Twitter provides [8] to curb abuse on its forum. Instead, he's hired **Michael Weinsten** at Lavely & Singer and is going the route of a $10 million defamation lawsuit and resulting headlines.

Links:

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Woods Sues Twitter User for Million Over "Cocaine Addict" Accusation
[2] https://twitter.com/abelisted
[3] https://twitter.com/RealJamesWoods
[4] https://twitter.com/benshapiro
[5] https://twitter.com/abelisted/status/621328418861248512
[6] https://twitter.com/abelisted/status/548310835789971456
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HuffPost Live: *The First Amendment's Implications
On James Woods' Twitter Troll Lawsuit*
00:06:56

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Hollywood star James Woods is suing an anonymous Twitter user for $10 million after the user called Woods a "cocaine addict." Lawyers argue the suit violates free speech. We discuss rights, wrongs & the law in the social digital space.

Host:

Alyona Minkovski

WATCH FULL SEGMENT (9/8/2015)

RESERVED

Declaration of
Prof. Edwards Finegan

DECLARATION OF PROFESSOR EDWARD FINEGAN

I, Edward Finegan, Ph.D., declare as follows:

1.   I have personal and firsthand knowledge of the matters set forth in this declaration and, if called as a witness, could and would testify competently thereto under oath.

2.   I hold a Ph.D. from Ohio University and have been a faculty member at the University of Southern California ("USC") since 1968. I was a tenured full professor of linguistics from 1983 until 2010 and an assistant professor and associate professor at USC before that. I have also taught various aspects of linguistic analysis at other universities, including Stanford University, the University of California at Santa Barbara, and the University of Chicago. Since 1996 I have taught in USC's School of Law, where I lecture to all first-year J.D. students and some LL.M. students (and to their instructors) on the application of linguistic principles to legal writing. As of 2010, I hold title as Professor Emeritus of Linguistics and Law and continue to teach in the law school. I also serve currently as director of USC's Center for Excellence in Teaching, a unit of the office of the provost.

3.   I have written extensively about the English language, including books, book chapters, and articles; some of my books serve as standard textbooks in North America, Europe, and Asia. I have served as a referee for numerous scholarly journals, including *Language; American Speech; The International Journal of Speech, Language and the Law; Proceedings of the National Academy of Sciences;* and *Dictionaries: Journal of the Dictionary Society of North America.* I have served as a referee for numerous book publishers, including Oxford University Press, Cambridge University Press, the presses of the University of Chicago and the University of Michigan, and several commercial publishers. I have served on editorial boards of book series published by university presses and on editorial boards of scholarly and professional journals, including *English Language and Linguistics, American Speech, Discourse Processes,* and *Corpora.* I served as a member of the executive board of the Dictionary Society of North America, am the editor of that society's journal, and currently serve as that organization's delegate to the American Council of Learned Societies. I am the immediate past president of the International Association of Forensic Linguists and a member of that association's executive committee.

1

4.   I have served as an expert witness and given deposition or trial testimony in federal and state courts chiefly involving matters of trademark and defamation. Among the jurisdictions in which I have testified in cases involving defamation are United States district courts for the Northern District of California, the Central District of California, the Southern District of New York, and the District of Nevada, as well as several state courts in California and Nevada. On other matters, principally trademark infringement, I have testified in these and other federal and state jurisdictions. Specific cases in which I testified as an expert are set forth in the attached report.

5.   For my time spent in this matter, I am being compensated at the rate of $450 hour; my compensation does not depend in any way on the outcome of the dispute.

6.   I have been asked by attorneys for Plaintiff James Woods to opine on whether a reader of Defendant John Doe a/k/a "Abe List"'s Tweet, "cocaine addict James Woods still sniffing and spouting", would reasonably understand it to be a statement of fact and not hyperbole.

7.   Attached hereto as **Exhibit "P"** is a true and correct copy of the expert report that I prepared on behalf of Plaintiff James Woods in connection with the lawsuit entitled *James Woods v. John Doe a/k/a "Abe List" et al*, Case No. BC589746, pending in the Los Angeles Superior Court. The foregoing report is being submitted in support of Woods's Opposition to Defendant John Doe's Special Motion to Strike and the factual statements contained therein are true and correct. As to those matters in my report which are stated as opinions, they are my true, actual and professional opinions and if I were called as a witness, could and would testify competently thereto under oath.

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OPPOSITION TO SPECIAL MOTION TO STRIKE

1   I declare under penalty of perjury under the laws of the State of California that the foregoing is

2   true and correct.

3   Executed this 11th day of January, 2016 at Los Angeles, California.

4   *Edward Finega*

5   _____
                                     EDWARD FINEGAN

OPPOSITION TO SPECIAL MOTION TO STRIKE

1. Introduction

I have been retained by the law firm of Lavely & Singer to serve as an expert in the matter of <u>James Woods v. John Doe a/k/a "Abe List"</u>—in particular, to give my professional opinion as a linguist and discourse analyst about what ordinary readers would understand a particular Tweet ("this Tweet") posted by Abe List to be claiming.

2. My Background

I hold a Ph.D. from Ohio University and have been a faculty member at the University of Southern California ("USC") since 1968. I was a tenured full professor of linguistics from 1983 until 2010 and an assistant professor and associate professor at USC before that. I have also taught various aspects of linguistic analysis at other universities, including Stanford University, the University of California at Santa Barbara, and the University of Chicago. Since 1996 I have taught in USC's School of Law, where I lecture to all first-year J.D. students and some LL.M. students (and to their instructors) on the application of linguistic principles to legal writing. As of 2010 I hold title as Professor Emeritus of Linguistics and Law and continue to teach in the law school. I also serve currently as director of USC's Center for Excellence in Teaching, a unit of the office of the provost.

I have written extensively about the English language, including books, book chapters, and articles; some of my books serve as standard textbooks in North America, Europe, and Asia. I have served as a referee for numerous scholarly journals, including *Language*; *American Speech*; *The International Journal of Speech, Language and the Law*; *Proceedings of the National Academy of Sciences*; and *Dictionaries: Journal of the Dictionary Society of North America*. I have served as a referee for numerous book publishers, including Oxford University Press, Cambridge University Press, the presses of the University of Chicago and the University of Michigan, and several commercial publishers. I have served on editorial boards of book series published by university presses and on editorial boards of scholarly and professional journals, including *English Language and Linguistics*, *American Speech*, *Discourse Processes*, and *Corpora*. I served as a member of the executive board of the Dictionary Society of North America, am the editor of that society's journal, and currently serve as that organization's delegate to the American Council of Learned Societies. I am the immediate past president of the International Association of Forensic Linguists and a member of that association's executive committee.

I have served as an expert witness and given deposition or trial testimony in federal and state courts chiefly involving matters of trademark and defamation. Among the jurisdictions in which I have testified in cases involving defamation are United States district courts for the Northern District of California, the Central District of California, the

Southern District of New York, and the District of Nevada, as well as several state courts in California and Nevada. On other matters, principally trademark infringement, I have testified in these and other federal and state jurisdictions.

For my time spent in this matter, I am being compensated at the rate of $450 per hour; my compensation does not depend in any way on the outcome of the dispute.

An up-to-date copy of my curriculum vitae is attached as Appendix A.

Appendix B lists the documents I have examined in connection with this matter.

Appendix C lists cases in which I have given expert testimony during the past four years, including depositions and declarations.

3. My Task

As a linguist with expertise in discourse analysis, among other areas, I have been asked to render my professional opinion as to whether a reasonable person could conclude that a particular published statement—this Tweet—declares or implies an assertion of fact. This Tweet, which was published via the social media Twitter on July 15th, 2015, reads:

> @RealJamesWoods @benshapiro cocaine addict James Woods
> still sniffing and spouting.

4. My Conclusion

It is my professional opinion that a reasonable person could conclude that this Tweet declares or implies an assertion of fact. In particular, it is my opinion that a reasonable person could conclude from the Tweet that James Woods is a cocaine addict. For clarification, I am not opining about the truth or falseness of the Tweet but only about what a reasonable person could conclude from it.

5. Basis of my Opinion

I begin by addressing the language of this Tweet: "cocaine addict James Woods still sniffing and spouting." From the characterization "cocaine addict James Woods," a reader will understand that the writer is describing James Woods as a cocaine addict. The prenominal characterization ("cocaine addict") followed by a proper noun ("James Woods") is a well established linguistic structure widely used especially in the press to characterize particular entities (commonly people) with shorthand factual information. The *Longman Grammar of Spoken and Written English* characterizes such a structure as having one of two purposes: "to help identify a known referent, for readers who might not be familiar with that person or thing; or to add new descriptive information about the referent."[1] In the case of this Tweet, it is clearly the second purpose that is served, and

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[1] Douglas Biber *et al.* (Harlow, Essex: Longman, 1999: 584).

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it is that characterization as "descriptive information about the referent" (namely, James Woods) that is, in my opinion, a claimed statement of fact. Indeed, given the illegality of cocaine use, it is an accusation. It is not merely an insult, as words like "scum" and "clown" would be.

I cite four examples of the same linguistic structure from a recent Sunday edition of the *Los Angeles Times* (underscoring is added to highlight the relevant phrase):

1. China's Foreign Ministry spokesman Lu Kang said in a written statement Saturday that [&]. ("China will expel French journalist": *LAT*, Dec. 27, 2015, A3, col. 3)

2. But it was never tested in a real-life situation in Germany until Berlin entrepreneur Michael Bohmeyer, 31, decided to launch his "My Basic Income" project in 2014. ("Testing an 'emancipatory basic income'": *LAT*, Dec. 27, 2015, A4, col. 4)

3. The policemen were convicted after the prosecution presented forensic testimony that detainee Ismail Abdel-Hameed was tortured to death in 2014 [&]. ("Court convicts 2 policemen": *LAT*, Dec, 27, 2015, A4, col. 5)

4. Police say residents made the discovery near where 26-year old Duran Colman and four other prisoners broke out of the Spanish Town lockup [&]. ("Jail escapee's head is found": *LAT*, Dec. 27, 2015, A4, col. 5)

In each of these examples, the linguistic structure comprises a person's name (Lu Kang; Michael Bohmeyer; Ismail Abdel-Hameed; Duran Colman) preceded by a factual characterization (China's Foreign Ministry spokesman; Berlin entrepreneur; detainee; 26-year old). Thus, for example, Lu Kang is China's Foreign Ministry spokesman; Michael Bohmeyer, a Berlin entrepreneur; Ismail Abdel-Hameed, a detainee; Duran Colman, 26 years old.

In another example from the *Los Angeles Times*, the same linguistic structure serves to characterize two newspapers by name, and readers will understand this structure to mean that the Global Times and China Daily newspapers are state controlled:

In November [&] the state-controlled Global Times and China Daily newspapers ran scathing editorials accusing Gauthier of "bias." ("China will expel French journalist": *LAT*, Dec. 27, 2015, A3, col. 5)

This linguistic structure is not unusual or infrequent, and its use in conveying factual information about the named party is familiar to ordinary persons (or it would not be commonly used in news reports). In this Tweet, then, readers would understand the language "cocaine addict James Woods" to be making a factual statement characterizing James Woods as a cocaine addict.

The language in question here goes even further, though: "cocaine addict James Woods still sniffing and spouting." With reference to one method of cocaine use, the writer says that James Woods is "still sniffing"—and the adverb "still" implies that Woods continues in the use of cocaine claimed in the expression "cocaine addict James Woods," which comprises a proper noun (James Woods) premodified by the descriptor "cocaine addict."

Hyperbole

Defendant Abe List claims that ordinary readers would recognize the language of this Tweet as hyperbolic. Such a claim seriously misrepresents the meaning of "hyperbole." Certainly, a simple gloss for "hyperbole" might be "overstatement,"[2] while a fuller characterization might define the term as "A figure of speech consisting in exaggerated or extravagant statement, used to express strong feeling or produce a strong impression, and not intended to be understood literally," as the *Oxford English Dictionary* defines it. From these characterizations of hyperbole, it is easy to see that expressions such as "a million things to do before tomorrow," "with all my heart and soul," or "he's bigger than a barn" (which one might hear from friends or colleagues) represent exaggerations, overstatements: they are hyperbolic and not intended to be understood literally. In fact, within most contexts such statements could not be understood literally: for example, if "he" refers to a person, he could not be "bigger than a barn." And it is the recognition that something cannot credibly be accurate that constitutes an important element in hyperbole. Thus, beyond notions of exaggeration and overstatement is a semantic element characteristic of hyperbole: hyperbole makes a claim so exaggerated as to lie beyond the credible. As one linguistics analyst succinctly and correctly puts it, hyperbole characterizes an expression that "exceeds the (credible) limits of fact in the given context."[3]

In the relevant context here, it cannot be legitimately claimed that cocaine addiction exceeds the credible limits of fact. Moreover, cocaine addiction is not something that can be exaggerated. It is something of an absolute and therefore not subject to exaggerated measurement (a thousand or a million; all; bigger). It is not a gradable condition—like height, weight, size, wealth, or intelligence—whose dimensions can be exaggerated.

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[2] See *The Linguistics Encyclopedia*, ed. Kirsten Malmkjaer (London and New York: Routledge, 1991: 446).

[3] Claudia Claridge, *Hyperbole in English: A Corpus-based Study of Exaggeration* (Cambridge and New York: Cambridge University Press, 2011: 5).

Furthermore, Abe List's deployment of the word "still" within this Tweet ("cocaine addict James Woods still sniffing and spouting") serves to underscore the claim of addiction as a fact or condition that, for James Woods, continues: "still" takes for granted the existence of a prior cocaine addiction and asserts that the addiction continues. In my opinion, nothing in the Tweeted words "cocaine addict James Woods still sniffing and spouting" suggests that it should be interpreted as hyperbolic.

It may be useful to say a brief word about "spouting." The word "spouting" in this context is a derogatory figure of speech—a metaphor for talking unreflectingly (as in the definition cited in footnote 5 below) and not to be taken literally as it might be when used in reference to flowing liquids. By contrast, the word "sniffing" is associated with cocaine use.[4] Thus, while "spouting" will be interpreted metaphorically by ordinary persons reading this Tweet, the "sniffing" will be interpreted literally in the context of an asserted cocaine addiction.

It is my opinion that many ordinary Twitter users would recognize that this Tweet contains signals that it is factual—not hyperbolic—with respect to Woods's claimed cocaine addiction. I focus on the linked terms "sniffing and spouting." Readers will infer from this compound verb that the "spouting" is the result of Woods's claimed "sniffing," and that link is one that occurs in Tweets (to judge by some of the examples provided by Defendant's counsel). The implied connection is that someone is saying something so far beyond the pale that it could not arise from a rational, drug-free mind. In other words, the claim in this Tweet is not that James Woods is "sniffing" and that James Woods is "spouting": it is that what Abe List characterizes as "spouting" arises from the "sniffing." To the extent, then, that "spouting" may be read as a figure of speech to represent the unreflecting expressing of one's opinion,[5] the figurative interpretation does not necessarily extend to "sniffing," and in my opinion does not extend to "sniffing," given the factual characterization "cocaine addict" that precedes the named sniffer: James Woods. It is my opinion that the factual characterization "cocaine addict" overrides any possibility that all reasonable readers would interpret the "sniffing" as figurative. It is, rather, my professional opinion that use of the prenominal

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[4] In the article on "Cocaine" in Wikipedia (https://en.wikipedia.org/wiki/Cocaine), the word "sniffing" occurs twice to characterize a method of ingesting powdered cocaine. Accessed 29 December 2015.

[5] As defined in the *New Oxford American Dictionary* (3rd ed., Oxford and New York: Oxford University Press, 2010): "express (one's views or ideas) in a lengthy, declamatory, and unreflecting way: *he was spouting platitudes about animal rights* | [*no obj.*] : *they like to **spout off** at each other.*"

characterization commonly used in news reports to convey factual information has the same effect in the Tweet at issue here.

Context

Defendant Abe List has invoked a Tweet by James Woods as relevant context in determining how readers would have interpreted this ("cocaine addict") Tweet. The Tweet posted by Woods reads in full:

> USATODAY app features Bruce Jenner's latest dress selection, but makes zero mention of Planned Parenthood baby parts market.

It is my professional opinion that if readers of Abe List's "cocaine addict" Tweet view it in the context of the Woods Tweet quoted immediately above ("USATODAY"), they would understand "Abe List" to view Woods as "spouting" off about Jenner and about Planned Parenthood—that is, as expressing an opinion in an unreflecting way (to use the language of the dictionary's definition of "spout," given in footnote 5). But there is nothing in the USATODAY Tweet that even remotely hints at drug use of any kind by anybody, never mind a cocaine addiction. So to claim, as Abe List does, that readers of the "cocaine addict" Tweet will understand it as hyperbole in light of its being a response to Woods's USATODAY Tweet is, in my opinion, simply indefensible. The Woods Tweet is a straightforward claim of two facts (whether accurate or not, I do not know). Its language is not hyperbolic, not plainly figurative. It contains no direct or indirect reference to cocaine or any other drugs or to addiction; nothing in it is hyperbolic or would be interpreted by ordinary persons as hyperbolic.
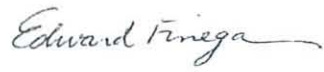
It is further my understanding that Abe List claims that Twitter users will understand that previous Tweets made by Woods to his followers and Tweets made by Abe List to his followers would make it clear that "cocaine addict" is mere hyperbole. There is no reason, however, to believe that all those who read this Tweet are familiar with any other Tweets. And, even for those who may have seen some other Tweets, not all (and perhaps very few or none) would interpret the words "cocaine addict" (in the linguistic structure I have described) and "still sniffing" as hyperbolic. Indeed, I do not regard any prior Tweets by Twitter users to govern the interpretation that all readers would make of any particular Tweet. After all, Tweets may be retweeted, may be found on other Internet sites unrelated to Twitter, and are often not accompanied by the context of other Tweets that may have been related to them.

5. Conclusion

Relying on materials that are reasonably relied on by experts in my field and in light of my analysis above, it is my professional opinion that many, if not all, readers of the

"cocaine addict" Tweet will understand and interpret Abe List to be making a factual claim about James Woods—namely, that he is a cocaine addict.

Edward Finegan

January 11, 2016

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Edward Finegan

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Date

Appendix A
Curriculum Vitae of Edward Finegan

EDWARD FINEGAN

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University of Southern California
Los Angeles, California 90089-1693
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Email: Finegan@USC.edu

PROFESSIONAL EXPERIENCE

DSNA Professor, Linguistic Society of American Summer Institute, University of
    Chicago, 2015
Editor, *Dictionaries: Journal of the Dictionary Society of North America*, 2014–
Director, Center for Excellence in Teaching, University of Southern California, 2011–
Professor of Linguistics and Law, University of Southern California, 2011–
President, International Association of Forensic Linguists, 2013–2015
Vice-president and acting president, International Association of Forensic Linguists,
    2011–2013
Professor Emeritus of Linguistics and Law, University of Southern California, 2010–
    2011
Professor of Linguistics and Law, University of Southern California, 1996–2010
Interim Chair, Department of Linguistics, University of Southern California, 2008–2009
American Dialect Society Professor of Linguistics, Linguistic Society of America
    Summer Institute, Stanford University, 2007
Visiting Professor of Linguistics, Linguistic Society of America Summer Institute,
    University of California, Santa Barbara, 2001
Visiting Professor of English, University of Zurich, Spring/Summer 1998
Professor of Linguistics, University of Southern California, 1983–96
Fellow in Law and Linguistics, Harvard University, 1988–89
Director, American Language Institute/National Iranian Radio and Television (Tehran),
    1975–76
Chairman, Department of Linguistics, University of Southern California, 1969–75
Associate Professor of Linguistics and English, University of Southern California, 1970–
    83
Assistant Professor of English and Linguistics, University of Southern California, 1969–
    70
Assistant Professor of English, University of Southern California, 1968–69
Instructor, English and Linguistics, Case Western Reserve University, 1967–68
Visiting Assistant Professor of English, Case Western Reserve University, Summer
    1967
Instructor in English, Case Institute of Technology, 1966–67
Instructor in English, Ohio University, Summer 1964; Spring, Fall, 1965
Instructor in Mathematics, West Hempstead (New York) Jr.-Sr. High School, 1962–63

EDUCATION

B.S., Iona College, 1962
M.A., Ohio University, 1964
  University of Michigan, Linguistics Institute, Summer 1965
Ph.D., Ohio University, 1968

Post-doctoral studies:
  New York University, Summer 1968
  Ohio State University, Linguistics Institute, Summer 1970
  Harvard Law School, 1988-89

HONORS

President, International Association of Forensic Linguists, 2013–2015
Dictionary Society of North America Delegate to American Council of Learned Societies, 2010–
President, Phi Kappa Phi All-University Honor Society, USC Chapter, 1998–1999; 2003–2004; 2010–2011
Lifetime Achievement Award, Phi Kappa Phi All-University Honor Society, USC Chapter, 2011
Albert S. Raubenheimer Distinguished Faculty Award, USC Dornsife College, 1981; 2004
General Education Teaching Award, USC Dornsife College, 2001
Diploma of Honor, Phi Kappa Phi, USC Chapter, 1998
Faculty of Arts Visiting Scholar, University of Helsinki, May 1996
Language Learning Distinguished Scholar-in-Residence, Universidad de las Americas-Puebla, Mexico, October 1995
Liberal Arts Fellow, Harvard Law School, 1988–1989
Associates Award for Excellence in Teaching, USC, 1980
Visiting Scholar, Linguistics Institute, Ohio State University, 1970
Phi Kappa Phi, Ohio University, 1964
NDEA Graduate Fellowship, Ohio University, 1963-1966
Henry L. Logan Award, Excellence in Science, Iona College, 1962

PUBLICATIONS

Books

1. E. Finegan, *Language: Its Structure and Use*, 7th ed. Cengage Learning, 2015.
2. P. Frommer and E. Finegan. *Looking at Languages*, 6th ed. Cengage Learning, 2015.
3. E. Finegan, *Language: Its Structure and Use*, 6th ed. Wadsworth, 2012.
4. P. Frommer and E. Finegan. *Looking at Languages*, 5th ed. Wadsworth, 2012.
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6. P. Frommer and E. Finegan. *Looking at Languages*, 4th ed. Thomson/Wadsworth, 2008.
7. E. Finegan and J. R. Rickford, eds. *Language in the USA: Themes for the Twenty-first Century*. Cambridge University Press, 2004.
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12. D. Biber, S. Johansson, G. Leech, S. Conrad, E. Finegan. *The Longman Grammar of Spoken and Written English*. Longman, 1999.
13. D. Biber and E. Finegan, eds. *Sociolinguistic Perspectives on Register*. Oxford University Press, 1994.
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16. E. Finegan and N. Besnier. *Language: Its Structure and Use*. Harcourt, 1989.
17. E. Finegan. *Attitudes toward English Usage: The History of a War of Words*. Teachers College Press, Columbia University, 1980.

Articles, Book chapters

1. E. Finegan, "Response to Louis C. Schaedler, 'Call Me Scientist'." *College Composition and Communication* 18 (1967), 148–50.
2. E. Finegan, "Linguistics and Attitudes toward Usage during the Last Decade." *Pacific Coast Philology* 6 (1971), 20–25.
3. E. Finegan, "Form and Function in Testament Language." R. DiPietro, ed. *Linguistics and the Professions.* Ablex (1982). Pp. 113–20.
4. E. Finegan, "Unconscious Attitudes toward Linguistic Variation." In S. Greenbaum, ed., *The English Language Today.* Pergamon Press (1985). Pp. 92–98.
5. E. Finegan and D. Biber. "Two Dimensions of Linguistic Complexity in English." In J. Connor-Linton et al., eds., *Social and Cognitive Perspectives on Language* (Southern California Occasional Papers in Linguistics 11) (1986), 1–23.
6. E. Finegan and D. Biber. "Toward a Unified Model of Sociolinguistic Prestige." In D. Sankoff, ed., *Diversity and Diachrony.* Benjamins (1986). Pp. 391–98.
7. D. Biber and E. Finegan. "An Initial Typology of English Text Types." In J. Aarts and W. Meijs, eds. *Corpus Linguistics II.* Rodopi (1986). Pp. 19–46.
8. E. Finegan. "English." In B. Comrie, ed. *The World's Major Languages.* Oxford University Press (1987). Pp. 77–109.
9. E. Finegan. "On the Linguistic Forms of Prestige: Snobs and Slobs Using English." In P. Boardman, ed. *The Legacy of Language: A Tribute to Charlton Laird.* U of Nevada Press (1987). Pp. 146–61.
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41. E. Finegan, "English in North America." In R. Hogg and D. Denison, eds., *A History of the English Language*. Cambridge University Press (2006). Pp. 384–419.

42. E. Finegan, "Using *DARE* in the Systematic Study of Regional Variation," *DARE Newsletter* 11,4 (2008), 1–4.
43. E. Finegan, "English." In B. Comrie, ed. *The World's Major Languages*, 2nd ed. Routledge (2009). Pp. 55–89.
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48. E. Finegan, "The Language of Lawyers and the Language of Plumbers." In Lawrence M. Solan, Janet Ainsworth and Roger Shuy, eds., Speaking of Language and Law: Conversations on the Work of Peter Tiersma. New York: Oxford University Press (2015). Pp. 47–50.

Book reviews

1. *Constituent Structure* by P. Postal. *Word* 12 (1966), 325–32.
2. *The Roots of Modern English* by L. Myers. *Choice* IV (1967), 1118.
3. *Writing Transformational Grammars* by A. Koutsoudas. *Choice* IV (1968), 1376.
4. *Dimensions of Dialect*, ed. E. Evertts. *Choice* V (1968), 240.
5. *Dictionary of Word and Phrase Origins II* by W. and M. Morris. *Choice* V (1968), 1290.
6. *An Introduction to General Linguistics* by F.P. Dinneen. *Choice* V (1969), 1576.
7. *Attitudes toward English Usage* by W.H. Mittins et al. *Language* 49 (1973), 939–43.
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10. *The Role of Prescriptivism in American Linguistics, 1820-1970* by G. Drake. *Language in Society* 12 (1983), 284–85.
11. *The Power of Babel* by M. Pierssens. *Language* 59 (1983), 461.
12. *Understanding Written Language* by A.J. Sanford and S.C. Garrod. *Language* 59 (1983), 461–62.
13. *Computer Corpora in English Language Research*, ed. S. Johansson. *Language* 60 (1984), 190–91.
14. *Variation Omnibus,* eds. D. Sankoff and H. Cedergren. *Language* 60 (1984), 198.
15. *Linguistics, Language, and Law: A Topical Bibliography* by J. Levi. *Language* 60 (1984), 199–200.
16. *Language: The Social Mirror* by E. Chaika. *Language* 61 (1985), 729–30.
17. *Introduction to the Sociology of Language* by F. Penalosa. *Language* 61 (1985), 728–29.
18. "Good News on the 'Literacy Crisis'." Rev. of *On Literacy: The Politics of the Word from Homer to the Age of Rock* by R. Pattison. *American Speech* 60:4 (1985), 354–57.
19. *The English Language: A Historical Introduction* by C. Barber. *Linguistics* (1995), 385–88.
20. *Variation in Australian English: The Sociolects of Sydney* by B. Horvath. *Language* 63 (1987), 193–94.

21. *Language and Social Networks*, 2nd ed. by L. Milroy. *Language* 65 (1989), 670–71.
22. *Good English and the Grammarian* by S. Greenbaum. *Language* 65 (1989), 662–63.
23. *Text and Corpus Analysis* by Michael Stubbs. *Computational Linguistics* 23 (1997), 487–89.
24. *Language and Law: A Bibliographic Guide to Social Science Research in the U.S.A.* by J. Levi. *Forensic Linguistics* 4 (1997), 303–304.
25. *Nineteenth-Century English* by Richard W. Bailey. *Language in Society* 29 (2000), 291–94.
26. *Legal Language* by Peter M. Tiersma. *Forensic Linguistics* 7 (2000), 123–27.
27. *Dictionaries: The Art and Craft of Lexicography*, 2nd ed. by Sydney I. Landau. *Dictionaries* 24 (2003), 260–68.
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29. *Sociolinguistics and the Legal Process* by Diana Eades. *International Journal of Speech, Language and the Law* 18, 2 (2011), 319–24.
30. *"Cunning Passages, Contrived Corridors": Unexpected Essays in the History of Lexicography*, ed. Michael Adams. *Dictionaries* 33 (2012), 259–65.
31. *Comparative Legal Linguistics: Language of Law, Latin and Modern Lingua Francas*, 2nd ed., by Heikki E. S. Mattila. *International Journal of Speech, Language and the Law* 21, 2 (2014), 403–408.
32. *Legal Lexicography: A Comparative Perspective*, ed. Máirtín Mac Aodha. *International Journal for the Semiotics of Law* (to appear).

MAJOR RESEARCH FUNDING

"Diachronic Relations among Speech-Based and Written Registers in English." National Science Foundation Grant BNS-9019893. 11/90-4/92 (D. Biber and E. Finegan, principal investigators)

MEMBERSHIP IN PROFESSIONAL ORGANIZATIONS

American Dialect Society, Dictionary Society of North America, European Association for Lexicography, International Association of Forensic Linguists, Law and Society Association, Linguistic Society of America (life member).

EDITORSHIPS AND MEMBERSHIP ON EDITORIAL BOARDS

Consulting Editor, Croom Helm Linguistics Series 1987–1990
Founding General Editor, Oxford Studies in Sociolinguistics, 1988–2002
Member, Editorial Board, *Discourse Processes*, 1983–2002
Member, Editorial Board, *American Speech*, 1985–1988
Member, Editorial Board, *The Writing Instructor*, 1986–1992
Member, Editorial Board, *Journal of English Language and Linguistics*, 1996–2006
Member, Editorial Board, *Corpora*, 2005–2010
Member, Editorial Advisory Board, Edinburgh Textbooks in Empirical Linguistics, 1995—2000
Member, Editorial Advisory Board, *Advances in Corpus Linguistics*, 2000—
Member, Editorial Advisory Board, *Dictionaries: Journal of the Dictionary Society of North America*
Editor, *Dictionaries: Journal of the Dictionary Society of North America*, 2014—

Consultant for Publishers and Journals (selected)

Publishers: Academic Press, Blackwell, Cambridge University Press, Continuum, Edinburgh University Press, Edward Arnold, Harcourt Brace, Macmillan, McGraw-Hill, Modern Language Association, National Council of Teachers of English, Oxford University Press, Palgrave Macmillan, Routledge, St. Martin's, University of Chicago Press, University of Michigan Press.

Journals: *American Speech; Applied Linguistics; Argumentation; Dictionaries; Discourse Processes; Forensic Linguistics; International Journal of Corpus Linguistics; International Journal of Speech, Language and the Law; Law and Social Inquiry; Law & Society; Journal of Linguistic Anthropology; Journal of Pragmatics; Journal of Sociolinguistics; Language; Language in Society; Linguistics; Publications of the American Dialect Society (PADS); Proceedings of the National Academy of Sciences.*

Miscellaneous

Chair, Provost's Oversight Committee on Athletic Academic Affairs, USC, 2010–2014

Member, Humanities Personnel Committee, USC College of Letters, Arts, and Sciences, 2009–2011

Dictionary Society of North America delegate to American Council of Learned Societies, 2010–

Member, Executive Board, Dictionary Society of North America, 2007-2011

Member, Advisory Board, Levan Institute for Humanities and Ethics, USC

Invited speaker, Judicial Education Day (Arizona Superior Court and Appellate Court) (2005)

Co-organizer, "Ethical Issues in Forensic Linguistic Consulting." Linguistic Society of America Annual Meeting, San Francisco (2009)

Invited plenary speaker, Ninth Biennial Meeting, International Association of Forensic Linguists (IAFL), Amsterdam, Netherlands (2009)

Invited plenary speaker, Third European IAFL (International Association of Forensic Linguists) Conference, Porto, Portugal (2012)

Invited plenary speaker, Eleventh Biennial Meeting, International Association of Forensic Linguists, Mexico City, Mexico (2013)

Invited plenary speaker, 1st Conference on Variation and Forensic Linguistics in Honour of Maria Teresa Turell, Barcelona, Spain (2014)

Invited plenary speaker, The Regional Conference of the International Association of Forensic Linguists, Sfax, Tunisia (2014)

Invited keynote speaker, Twelfth Biennial Meeting, International Association of Forensic Linguists, Guangzhou, China (2015)

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Appendix B
Documents Examined by Edward Finegan

1. Complaint For: (1) Defamation (2) Invasion of Privacy by False Light
2. Notice of Motion and Motion for Leave to Conduct Discovery Re: John Doe's Special Motion to Strike; Declarations of Michael E. Weinsten and James Woods in Support Thereof
3. Defendant John Doe's: 1. Notice of Motion and Special Motion to Strike; 2. Declaration of Kenneth P. White; and 3. Exhibits

For ease of reference, the list of published sources cited in the expert report:

1. "Cocaine." Wikipedia (https://en.wikipedia.org/wiki/Cocaine). Accessed 29 December 2015.
2. *Hyperbole in English: A Corpus-based Study of Exaggeration.* 2011. Claudia Claridge. Cambridge and New York: Cambridge University Press.
3. *Linguistics Encyclopedia, The.* 1991. Kirsten Malmkjaer, ed. London and New York: Routledge.
4. *Longman Grammar of Spoken and Written English.* 1999. Douglas Biber, Geoffrey Leech, Susan Conrad, Edward Finegan. Harlow, Essex: Longman.
5. *Los Angeles Times,* Sunday, December 27, 2015.
6. *New Oxford American Dictionary,* 3rd ed. 2010. Oxford and New York: Oxford University Press.
7. *Oxford English Dictionary* (online). Accessed 29 December 2015.

Appendix C
Cases in Which Edward Finegan Has Testified Since June 2011

Meyers v. Tempesta
Superior Court of the State of California for the County of San Diego
Declaration, June 2011.

Spinedex v. United Healthcare of Arizona, Inc.
United States District Court, District of Arizona
Declaration, March 2012

Ponani Sukumar v. James R. Ballard
Superior Court of the State of California for the County of San Diego
Declaration, March 2012

Sexy Hair Concepts v. Conair Corporation
United States District Court, Central District of California
Deposition testimony, February 2013

Original Gourmet Food Company v. Jelly Belly Candy Company
United States District Court, District of New Hampshire
Deposition testimony, June 2013

In Re: Pom Wonderful LLC Marketing and Sales Practices Litigation
United States District Court, Central District of California
Deposition testimony, July 2013

Bradley Stephen Cohen v. Ross B. Hansen
United States District Court, District of Nevada – Las Vegas
Deposition testimony, September 2013
[Trial scheduled for February 2016]

Gordon & Holmes v. Courtney Michelle Love
Superior Court of the State of California, County of Los Angeles
Deposition testimony, January 2014

Beats Electronics v. Merkury Innovations, LLC
United States Patent and Trademark Office, Trademark Trial and Appeal Board
Deposition testimony, May 2014

J-M Manufacturing Company v. Phillips & Cohen, LLP
Superior Court of the State of California, County of Los Angeles, Central District
Declaration, May 2014

Domainlor Javier Cabading v. California Baptist University
Superior Court of California, County of Riverside
Deposition testimony, July 2014

Stephen Wynn and Wynn Resorts v. James Chanos
United States District Court, Northern District of California
Declaration, October 2014

<u>Fourth Age LTD v. Warner Bros. Digital Distribution</u>
United States District Court, Central District of California
Deposition testimony, August 2015

<u>Flowers Bakeries Brands v. Earthgrains Baking Companies</u>
United States District Court, Middle District of Georgia
Deposition testimony, September 2015

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

     I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2049 Century Park East, Suite 2400, Los Angeles, California 90067-2906.

     On the date indicated below, I served the foregoing document described as:

OPPOSITION TO JOHN DOE'S SPECIAL MOTION TO STRIKE; DECLARATIONS OF MICHAEL E. WEINSTEN, PROFESSOR EDWARD FINEGAN AND JAMES WOODS IN SUPPORT THEREOF

on the interested parties in this action by placing [ ] the original document OR [X] a true and correct copy thereof enclosed in sealed envelopes addressed as follows:

Kenneth P. White, Esq. Brown White & Osborn LLP 333 S. Hope Street, 40th Floor Los Angeles, CA 90071-1406 Email: kwhite@brownwhitelaw.com Tel: (213) 613-9446	Attorneys for John Doe (@abelisted)

[ ]   BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[ ]   BY PERSONAL SERVICE:
    []   I caused such envelope to be delivered by a process server employed by First Legal Support Services, 1517 W. Beverly Blvd., Los Angeles, CA 90026.
    [ ]   I delivered said envelope(s) to the offices of the addressee(s), via hand delivery.

[X]   BY FEDERAL EXPRESS: I am "readily familiar" with the firm's practice of collection and processing correspondence for Federal Express. Under that practice it would be deposited with Federal Express on that same day with all costs fully prepaid at Los Angeles, California in the ordinary course of business.

[ ]   BY ELECTRONIC SERVICE: I transmitted the foregoing document by electronic mail to the e-mail address(s) stated on the service list per agreement in accordance with Code of Civil Procedures section 1010.6.

     I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

     Executed January 20, 2016, at Los Angeles, California.

_____
Noelia Echesabal