

NY Times Sued Over Article Linking Lobbyist to

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Vicki Iseman, a Washington lobbyist, yesterday filed a defamation action against The New York Times, four of the newspaper's reporters, its executive editor, and the chief of its Washington bureau in federal court in Richmond, Virginia. In her complaint, she contends that a February 2008 article published in the Times that linked her to Senator and then-Presidential candidate John McCain was susceptible of defamatory meaning. She seeks to recover \$27 million in damages for the alleged defamation.

Iseman alleges the article, through its literal words and by implication, conveyed a defamatory meaning that "Ms. Iseman exploited an alleged personal and social friendship with Senator McCain to obtain favorable outcomes for her clients, engaging in 'inappropriate' behavior that constituted a conflict of interest and a violation professional and ethical norms in breach of the public trust." She further alleges that the article, again by its literal words and by implication, conveyed a second defamatory meaning that "Ms. Iseman and Senator McCain had engaged in an illicit and inappropriate romantic relationship while Ms. Iseman was a lobbyist conducting business on behalf of clients before the committee chaired by Senator McCain."

In response to Iseman's complaint, the Times issued a statement that "[w]e fully stand behind the article. We continue to believe it to be true and accurate, and that we will prevail. As we said at the time, it was an important piece that raised questions about a presidential contender and the perception that he had been engaged in conflicts of interest."

In asserting that the article falsely stated that Iseman and McCain had engaged in a romantic relationship, Iseman cited in her complaint the article's second paragraph, which read as follows:

A female lobbyist had been turning up with him at fund-raisers, visiting his offices and accompanying him on a client's corporate jet. Convinced the relationship had become romantic, some of his top advisers intervened to protect the candidate from himself — instructing staff members to block the woman's access, privately warning her away and repeatedly confronting him, several people involved in the campaign said on the condition of anonymity.

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The article went on to note that both McCain and Iseman "say they never had a romantic relationship." Iseman contends the publication of these denials "did not negate the defamatory meanings" she says the article conveyed, as "most readers would understand [such denials] as 'obligatory,' and therefore precisely what Ms. Iseman and Senator McCain would be expected to say." She alleges further that the defamatory meaning she pleads in her complaint is the very meaning most readers and media outlets in fact took away from the article, citing the "chorus" of broadcast, print, and Internet media that, after the article's publication, expressed that the article's "core meaning . . . was that Senator McCain and Ms. Iseman had engaged in an improper romantic relationship and improper professional relationship." She includes over three pages of examples of these expressions in her complaint.

We will follow closely the progress of Iseman's lawsuit. News reports about relationships between lobbyists and politicians, as well as about politicians' alleged affairs, are common fare these days. Iseman's case may prompt significant legal wrangling over whether the "gist" or "sting" of the Times' article was substantially true, as well as over Iseman's contention that she is a private figure, rather than a public figure, for purposes of the standard of fault she must prove. The case may also prompt a legal fight over the identity of the two anonymous sources cited in the article as the basis for many of the statements Iseman challenges.

Finally, the case is also noteworthy in that a well-known First Amendment scholar and Dean of the Washington and Lee University School of Law, Rodney Smolla, is listed in the complaint as one of the attorneys representing Iseman. Smolla successfully represented the plaintiffs in the famous "hit man" lawsuit, also litigated in the Fourth Circuit, prevailing in an appeal from the entry of summary judgment in the publisher's favor in that case.