IN THE SUPREME COURT OF IOWA
No. 20-0563
Woodbury County No. EQCV185464

RICHARD BAUER, Individually and as Trustee for the KENDALL R. BAUER TRUST,

Plaintiff/Appellant,

vs.

BRADLEY R. BRINKMAN, (a/k/a Brad Brinkman)

Defendant/Appellee.

APPEAL FROM THE DISTRICT COURT FOR WOODBURY COUNTY THE HONORABLE JEFFREY A. NEARY, DISTRICT COURT JUDGE, THIRD JUDICIAL DISTRICT OF IOWA

APPELLANT'S REPLY BRIEF

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I. APPELLEE'S STATEMENT OF THE FACTS IS INCORRECT

On page number two of the Brinkman's Brief it states "*Lynch began operating Pet Perfect, LLC across the street from Bauer's apartments.*" (Emphasis supplied) This statement is factually incorrect. However even if the Pet Perfect business had been built *across the street* as alleged, Pet Perfect would still be within 200 feet of a residential property. The truth is the Pet Perfect, LLC

building was built *next door* to the Bauer Apartments within twenty to thirty feet of the apartment bedroom windows. It would have been impossible to build the Pet Perfect building across the street because that is where Brinkman's house is located. (B.B. Depo. App. p. 141)

On page number 2 of his Brief, Brinkman also alleges that there was a "*heated*" dispute between Bauer and Kathy Lynch. This is also factually inaccurate. The record shows that Bauer only personally spoke to Lynch twice. The initial call to Lynch was made by Bauer, the second call was Lynch to Bauer. (R.B. Depo. App. p. 21-22) The only other communication between Bauer and Lynch occurred through counsel. and possibly two or three polite voice messages. (R.B. Depo. App. p. 23) Further, Bauer's lawsuit was intended to compel the City of Sloan to enforce its zoning statutes, not to shut down the Pet Perfect business. The lawsuit against the City of Sloan was filed *before* Lynch's Pet Perfect LLC installed a dog runway next to the Bauer Apartments. (R.B. Depo. App. p. 23) Finally, Bauer never participated in the Facebook discussion about him. Bauer did not respond to anything published about him on Facebook.

On page number 2 of his Brief, Brinkman also alleges incorrectly that "*Bauer also installed video surveillance cameras at his apartment [*complex*] that were aimed at Pet Perfect LLC, apparently to annoy and harass Perfect.*" In his

Deposition, Bauer he states under oath that: "*The truth is that I put up a security camera at the apartments due to a [2014] break-in and an attempted break-in [in 2015] into the apartment laundry room, not to videotape teenaged girls. The door to the apartment laundry room is near the Pet Perfect property.*" (R.B. Depo. App. 52) The surveillance camera is not "*aimed at Pet Perfect*" as alleged by Brinkman. (R.B. Depo. App. 53) Further, Brinkman failed to mention that Lynch testified that she installed multiple surveillance cameras of her own at Pet Perfect one or two of which point in the direction of the Bauer Apartments next door. (K.L. Depo. App. p. 183A)

II. THE IOWA CONSTITUTION REGARDING FREEDOM OF SPEECH DOES NOT PROTECT SPEECH THAT "*IS AN ABUSE OF THAT RIGHT*"

This case is believed to be a case of first impression in Iowa. This case involves publication of a knowing and intentionally false statement published by Brinkman about Bauer[1]. A statement made with knowledge that it is false constitutes actual malice. New York Times Company v. Sullivan, 376 U.S. 254, 298, 11 L. Ed. 2d 686, 84 S. Ct. 710, 95 A.L.R.2d 1412 (1964) Brinkman's published statements about Bauer on Facebook were not made in good faith. Good faith belief that the statements were true is required in order to qualify as

[1] Brinkman and Bauer are both private citizens, not government or public officials. They are not celebrities, or are they public figures. Neither man is a member of the press or the media. Brinkman has improperly invoked "Qualified Immunity" protection by calling this smear campaign a "public debate". There was no debate.

privileged. As explained below, Brinkman knew his statement published about Bauer that he was a "*Slum Lord*" was false and not representative of his true knowledge, thoughts and opinion about Bauer. (B.B. Depo. App. p. 144)

As correctly pointed out by Brinkman in his Brief at page 4, "*Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right.*" (Quoted from the Iowa Constitution, Article I, Section 7)(Emphasis supplied) Brinkman is also correct that citizens of Iowa have a right to offer opinion. However the issue in this case is that Brinkman did not express his true opinion(s) about Bauer. Intentionally false speech against a private citizen is not protected speech. "*The imposition of liability for private defamation does not abridge the freedom of public speech or any other freedom protected by the First Amendment.*" New York Times, 376 U.S. at 301.

Brinkman testified that he read a negative post on Gabbie Lynch's Facebook page about Bauer. (B.B. Depo p. 37-40; App.145-148) Brinkman did not attempt to verify the truthfulness of the negative post he read on Gabbie Lynch's Facebook page about Bauer and instead chose to become "*angry*". (B.B. Depo p. 37-40; App. 145-148) Brinkman responded to the post he read on Gabbie Lynch's Facebook page about Bauer without any investigation into the accuracy or truthfulness of the post. (B.B. Depo p. 40, 60, 62; App. 148, 152, 153)

Brinkman admitted under oath that prior to making the "***Slum Lord***" statement, he knew that Bauer was not a "***Slum Lord***". (B.B. Depo p. 43; App. 150) (See also B.B. Depo p. 41; App. 149) ("*In Bauer's defense,* ***he is not a Slum Lord***")

Brinkman testified that at the time of his Facebook posts about Bauer, he had personal knowledge that Bauer was a "***very cordial guy***" and "***very polite***". (B.B. Depo p. 36, 60; App. 144, 152) Brinkman knew that Bauer had a good reputation managing and maintaining "***a respectable apartment complex***". (B.B. Depo p. 43; App. 150) (See also B.B. Depo p. 41; App. 149) ("*In Bauer's defense,* ***he is not a Slum Lord*** ")

Brinkman further testified that at the time of his Facebook posts about Bauer, he had prior knowledge that Bauer enjoyed a reputation for taking pride in maintaining and upgrading the Bauer Apartment complex. (B.B. Depo p. 51; App. 151) Brinkman also testified that the Bauer Apartments were never in poor condition. (B.B. Depo p. 51; App. 151) Brinkman also testified that he had prior knowledge that Bauer took good care of his property. (B.B. Depo p. 60; App. 152)

Brinkman knowingly and intentionally published the "***Slum Lord***" statement about Bauer that he knew was false in order to vent his anger and to embarrass Bauer and tarnish his reputation and attack his character. (B.B. Depo. App. p. 149)

Brinkman admitted that prior to the "***Slum Lord***" post he had allowed himself to become upset and angry with Bauer based solely upon what he read about Bauer on Facebook. (B.B. Depo. App. p. 148)

Freedom of Speech does not protect lies which are intentional false statements of fact. It is well established that demonstrable falsehoods do not share the same First Amendment protections as truthful statements. Gertz v. Robert Welch, Inc., 418 U.S. 323, 340, 94 S.Ct. 2997, 41 L.Ed.2d 789 (1974).

Brinkman's "***Slum Lord***" statement at issue here was made knowingly and intentionally in order to punish Bauer, to embarrass Bauer, to tarnish his reputation and attack his character. As such, this intentional and patently false statement is not protected First Amendment speech. An individual making false statements may not enjoy First Amendment protection. Grievance Adm'r v. Fieger, 670 N.W.2d 563, 469 Mich. 1241 (Mich. 2003)

Statements of opinion can be also actionable if they imply a provable false fact, or rely upon stated facts that are provably false. Moldea v. New York Times Co., 22 F.3d 310, 313 (D.C.Cir.1994). The statement that Bauer must prove false is not the literal wording of the statement but what a reasonable reader would have understood Brinkman to have said. Milkovich v. Lorain Journal Co., 497 U.S. 1 at 16-17, 110 S.Ct. 2695 at 2704-05, 111 L.Ed.2d 1 at 16 (1990), Yates v. Iowa West

Racing Ass'n, 721 N.W.2d 762 (Iowa 2006) Thus, Bauer has the burden to prove the "***Slum Lord***" statement is false. Bauer met this burden when Brinkman admitted under oath that at the time he published his statement that Bauer is a "***Slum Lord***", he knew that Bauer was not a "***Slum Lord***" and in fact the exact opposite is true as explained above. (B.B. Depo. App. p. 149)

Facebook readers[2] of Brinkman's false statement that Bauer is a "***Slum Lord***" either knew or were told that Brinkman had lived across the street from the Bauer Apartments. (Depo. Exhibit 2; App. p. 101) A reader could conclude that Brinkman is an eye witness of the condition of the Bauer Apartments due to his proximity to the Bauer Apartments. Thus, readers of Brinkman's statement he made about Bauer (and by extension to the Bauer Apartments) could (and were intended by Brinkman) to assume the "***Slum Lord***" statement must be true based on Brinkman's implied personal observation and knowledge and therefore must be true because Brinkman sees Bauer's property 365 days a year. Consider the following definitions of "opinion":

"Opinion" is defined in the Merriam-Webster Online Dictionary[3] as follows:

"Definition of *opinion*

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[2] Especially readers in the City of Sloan area which is a very small town (population 1000) where everyone knows everyone and where they live. (R.B. Depo. App. p. 16A)

[3] From https://www.merriam-webster.com/dictionary/opinion as of May 29, 2020.

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2a: belief stronger than impression and less strong than positive knowledge"
(Emphasis supplied)

"Opinion" is defined in the Lexico Online Dictionary[4] as follows:

> ***"1** A view or judgement formed about something, **not necessarily based on fact or knowledge**.* (Emphasis supplied)

"Opinion" is defined in The Free Dictionary Online Dictionary[5] as follows:

> *"1. A belief or conclusion held with confidence but **not substantiated by positive knowledge** or proof"* (Emphasis supplied)

"Opinion" is defined in the Your Dictionary Online Dictionary[6] as follows:

> *"1. A belief or conclusion held with confidence but **not substantiated by positive knowledge or proof**"* (Emphasis supplied)

As defined above, an "opinion" is less than positive knowledge. Put another way, positive knowledge is not an opinion. Fact or knowledge is not opinion.

Brinkman did not express an "opinion". He knowingly and intentionally lied about Bauer. Consider the following definitions of "lie":

"Lie" is defined in the Merriam-Webster Online Dictionary[7] as follows:

> *"1: to make an **untrue statement with intent to deceive**"*
> ***
> *"2: to create a **false or misleading impression**"* (Emphasis supplied)

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[4] From https://www.lexico.com/definition/opinion as of May 29, 2020.
[5] From https://www.thefreedictionary.com/opinion as of May 29, 2020.
[6] From https://www.yourdictionary.com/opinion as of May 29, 2020.
[7] From https://www.merriam-webster.com/dictionary/lie as of May 29, 2020.

"Lie" is defined in the Free Dictionary Online Dictionary[8] as follows:

> *"1. A **false statement deliberately presented as being true**; a falsehood.*
>
> *2. Something **meant to deceive or mistakenly accepted as true.**"*
> ***
> *"1. To **present false information with the intention of deceiving.***
>
> *2. To convey a **false image or impression**"* (Emphasis supplied)

"Lie" is defined in the Lexico Online Dictionary[9] as follows:

> *"1. **An intentionally false statement.**"*
> ***
> ***"1.1**Used with reference to a situation involving **deception**"*

1. Response to Brinkman's "Freedom of Speech" Argument

Bauer agrees that generally "***opinions***" are protected by the First Amendment as alleged by Brinkman on page 4 of his Brief. However what is before this Court is an intentional false statement knowingly made otherwise known as a "***lie***" made by Brinkman. A "***lie***" by definition is not an "***opinion***". A "***lie***" is an intentional false statement knowingly made.

Intentional false statements are harmful and do not constitute protected speech. Brinkman's statement that Bauer is a "***Slum Lord***" is an intentional "***lie***"

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[8] From https://www.thefreedictionary.com/lie as of May 29, 2020.
[9] From https://www.lexico.com/definition/lie as of May 29, 2020.

knowingly made and by definition is not an "***opinion***". Further, the "***Slum Lord***" statement has been verified to be false. It is also disingenuous to allege that "*Brinkman had a constitutionally protected right to offer his opinions regarding the controversy Bauer had started with Kathy Lynch.*" (Appellee's Brief page 5) Bauer did not start the Lynch/Brinkman discussion on Facebook. Further, Bauer did not participate in the Lynch/Brinkman discussion on Facebook.

Bauer asserts to this Court that Brinkman abused his right to freedom of speech which does not protect intentional false statements of fact knowingly made with malice for the sole purpose of punishing, embarrassing, tarnishing his reputation and attacking Bauer's character. The Iowa Constitution does not protect intentional false statements knowingly made.

2. Response to Brinkman's "Hyperbole and Name Calling" Argument

Bauer agrees with Brinkman's statement that "*in general, not all insulting, annoying, or name-calling statements are defamatory. Statements which are merely annoying or embarrassing or no more than rhetorical hyperbole or a vigorous epithet are not defamatory.*" (Appellee's brief, p. 5) However, Bauer disputes the following allegations or statements of fact from Brinkman's Brief:

> *"The* [Slum Lord] *posts that were being made about Bauer by Brinkman followed a number of other posts that related to the controversy Bauer started when he initiated a campaign to stop a local woman, Kathy Lynch, from opening a dog boarding/grooming*

> *business in Sloan. Bauer became the target of people who clearly did not agree with his decision to go after Kathy Lynch and her business. The overall tone of the posts demonstrates that they were not intended to be factual statements, but instead the offering of opinions with the type of "name-calling" and hyperbole that does not constitute defamation as a matter of law."* (Appellee's Brief, p. 6)

There are some factual misstatements that Brinkman has included in his Brief. First, Bauer disputes that he started a "*controversy*" with Lynch. Bauer did what any citizen/property owner had the legal right to do. It is not a "*controversy*" to act in a civilized manner to protect one's property rights. Bauer began by contacting Kathy Lynch one (1) time directly regarding his concern about a zoning issue between Pet Perfect and the Bauer Apartments, next door business properties. Bauer also left several polite messages on Lynch's answering machine. Bauer also contacted Kathy Lynch's attorney by letter. (Depo. Exhibit 2; App. p. 96)

When Lynch refused to discuss the zoning issue, Bauer approached the Sloan City Council concerning this zoning issue with Pet Perfect. This resulted in a lawsuit to compel the City of Sloan to enforce its own zoning ordinances. Lynch was not a party to the lawsuit.

When Lynch became aware of the zoning lawsuit, she and her daughter Gabbie Lynch initiated a campaign on Facebook expressing her unhappiness about the Bauer lawsuit. This Facebook discussion devolved into a smear campaign identifying Bauer and the Bauer Apartments directly by name. Bauer never

participated in this "*campaign*" on Facebook or anywhere else. Bauer did not "*initiate a campaign*" as incorrectly alleged by Brinkman. Further, Bauer did not "*go after Kathy Lynch and her business*" as incorrectly alleged by Brinkman. (Appellee's Brief, p. 6)

As stated above, Brinkman had admitted that Bauer is not a "***Slum Lord***". By obtaining this testimony from Brinkman, Bauer met the burden to prove the "***Slum Lord***" statement is false. These facts are distinguishable from McGlothlin v. Hennelly where the statements made were not capable of being proven false. The facts in the case *sub judice* are also distinguishable from the other cases cited by Brinkman in his Brief.

Bauer agrees with Brinkman's statement that "*There is no Iowa case directly on point with regard to the word "slumlord"* as used in the context set forth above. For this reason, Bauer would urge the Supreme Court to retain this case pursuant to Iowa R. App. P. 6.1101(2) (c) and (d).

There are persuasive decisions from other state courts that determined "slumlord" statements are actionable. The Delaware Supreme Court determined that the defendant's "slumlord" statement was actionable. "*We therefore reverse this part of the [trial court's] decision and remand with instructions to reinstate the libel claims against the [defendants].*" Ramunno v. Cawley, 705 A.2d 1029

(Del. 1997) "*We find that Ramunno's complaint satisfies this standard. Ramunno alleged specifically that the MBNA Defendants knew that Cawley's letter was false, and that it was an attempt to portray Ramunno as a slumlord. Ramunno's complaint thus satisfies the requirements of Kanaga , and it was error for the [trial court] to dismiss it for failure to state a claim on which relief can be granted.*" Ramunno v. Cawley, 705 A.2d 1029 (Del. 1997)

In the case *sub judice*, the district court correctly stated that "*Facebook is regularly used to share reputable journalism and factual information, …*" (App. p. 4) Brinkman states in his Brief that "*Courts throughout the country, in regards to internet posts, have found no defamation.*" (Appellee's Brief, p. 7) This is simply not true. Brinkman also states in his Brief that "*The fact the statements were posted on Facebook has to be part of the analysis in this case.*" (Appellee's Brief, p. 7)

Internet posting on Facebook is no safe harbor for persons to publish false defamatory statements. In a Facebook defamation case in Texas the jury awarded a defamed plaintiff with $443,000 in damages. Hawbecker v. Hall, 276 F.Supp.3d 681 (W.D. Tex., 2017). In another Facebook defamation case in Nebraska, the jury awarded a defamed plaintiff with $$259,217 in damages. Funk v. Lincoln

County Crime stoppers, Inc., 885 N.W.2 1 (Neb, 2016) (District court properly considered the Facebook post in awarding damages in the amount of $259,217)

3. *Response to Brinkman's "Libel Per Se vs. Libel Per Quod" Argument*

Libel covers written statements and slander covers oral statements. Bierman v. Weir, 826 N.W.2d 436, 444 (Iowa 2013) Per se defamation has "*a natural tendency to provoke the plaintiff to wrath or expose [him] to public hatred, contempt, or ridicule, or to deprive [him] of the benefit of public confidence or social intercourse.*" *Id.* (quoting Johnson v. Nickerson, 542 N.W.2d 506, 510 (Iowa 1996)). In actions between a private plaintiff [Bauer] and a non-media defendant [Brinkman], per se defamation does not require proof of malice, falsity, or damage. *See id.* As explained in the Appellant's Brief, and in Plaintiff's Motion for Partial Judgment (App. 530-540), Bauer met his burden of proof for libel per se as explained more fully in the Appellant's Brief. The district court erred by holding that Brinkman's intentional and knowing false statement "***Slum Lord***" was merely an opinion.

Brinkman failed to provide any evidence that the statement "***Slum Lord***" is susceptible to two or more constructions or meanings. However Bauer presented a definition of "***Slum Lord***" which the district court ignored. Brinkman knew Bauer was not a "***Slum Lord***" and presented no evidence to support this defamatory

statement. Again, what Brinkman published on Facebook was not his opinion. To find the ***"Slum Lord"*** statement to be merely an "opinion" the district had to ignore Brinkman's contradictory sworn testimony as set forth above and in the Appellant's Brief in greater detail.

The fact that Brinkman's statement was contained within a Facebook comment doesn't convert it into an opinion. The argument that "opinions" are published on Facebook may be true, but intentional false statements intended to deceive readers and/or to humiliate and bully a specific target (victim) are not "opinions" and the district court's holding must be reversed and remanded. Brinkman intended to do more than vent and merely insult Bauer. He intended to destroy Bauer's character and reputation, and he succeeded in doing so. A citizen of Sloan and the great State of Iowa must be protected from this egregious form of abuse and cyber bullying.

Per quod defamation requires a third party to "*refer to facts or circumstances beyond the words actually used to establish defamation.*" Johnson, 542 N.W.2d at 510 (citation omitted). Brinkman anticipated and intended that readers of Brinkman's "***Slum Lord***" statement would rely on Brinkman not to make a statement that he didn't have knowledge to support. This would be akin to "*justifiable reliance*" that Brinkman was telling the truth based upon facts in his

possession. Not all of the readers of the Brinkman "***Slum Lord***" statement live in Sloan and would have no way of knowing whether or not there is slum area in Sloan, Iowa.

Per quod defamation also requires the plaintiff to prove damages. *Id.* Finally, the plaintiff must establish the statement was made with malice. *See* Suntken v. Den Ouden, 548 N.W.2d 164, 168 (Iowa Ct. App. 1996). Bauer met his burden of proof for libel per quod as explained more fully in the Appellant's Brief. The district court erred by holding that Brinkman's intentionally and knowingly false statement "***Slum Lord***" was merely an opinion.

Defamation by implication occurs when a "defendant (1) juxtaposes a series of facts so as to imply a defamatory connection between them, or (2) creates a defamatory implication by omitting facts, [such that] he may be held responsible for the defamatory implication, unless it qualifies as an opinion, even though the particular facts are correct." Stevens v. Iowa Newspapers, Inc., 728 N.W.2d 823, 827 (Iowa 2007) (citation omitted). Bauer met his burden of proof for libel by implication as explained more fully in the Appellant's Brief. The district court erred by holding that Brinkman's intentional and knowingly false statement "***Slum Lord***" was merely an opinion.

On page 13 of Brinkman's Brief, he states that "*Bauer elevated the dispute to a matter of public importance when he sued the City of Sloan and it's City Council Members in August of 2016*". Brinkman also suggests that in context of a *"public Facebook debate"*. Bauer never published anything on Facebook about the City of Sloan zoning issue. There was no debate going on during the Facebook discussion. There was no debate about the City of Sloan zoning ordinances.

Brinkman susugest in his Brief that he may be protected by a qualified privilege. (Appellee's Brief, p. In order to demonstrate the existence of a qualified privilege in an action for defamation Brinkman must prove:

(1) Brinkman made the "***Slum Lord***" statement in good faith, (2) Brinkman had an interest to uphold, (3) the scope of the "***Slum Lord***" statement was limited to Brinkman's identified interest, and (4) the "***Slum Lord***" statement was published on a proper occasion, in a proper manner, and to proper parties only. Theisen v. Covenant Med. Ctr., Inc., 636 N.W.2d 74, 84 (Iowa 2001). Because Brinkman's "***Slum Lord***" statement was an intentional false statement of fact, the statement was not made in good faith. Rather the opposite is true. There is no evidence that Brinkman had any interest to uphold by calling Bauer a "***Slum Lord***". Brinkman's "***Slum Lord***" statement was improper on the date it was published. Further, the "***Slum Lord***" statement was false and therefore improper

and should not have been made at all. Finally, Brinkman polished the "***Slum Lord***" statement on Facebook which is published on the world-wide-web available to all Facebook friends of Kathy Lynch, Gabbie Lynch and Brinkman's Facebook friends and potentially anyone with access to the internet all over the entire world.

The privilege is lost "*if the speaker acts with actual malice, or exceeds or abuses the privilege through, for example, excessive publication or through publication to persons other than those who have a legitimate interest in the subject of the statements.*" Id.; see also Spencer v. Spencer, 479 N.W.2d 293, 297 (Iowa 1991) ("*The qualified privilege by its very nature does not allow widespread or unrestricted communication.*"). For the purpose of establishing actual malice to preclude a finding of qualified privilege, Bauer has proven that Brinkman's statement was made *knowingly and intentionally* or with reckless disregard for *whether it was true or false*. Barreca v. Nickolas, 683 N.W.2d 111, 121 (Iowa 2004). It is generally the district court's responsibility to determine whether Brinkman's "***Slum Lord***" statement is qualifiedly privileged, and a jury question as to whether the privilege was abused. See id. at 118. Jones v. Univ. of Iowa, 836 N.W.2d 127 (Iowa 2013)

On page 18 of Brinkman's Brief, where Brinkman states "where are the damages?" Bauer's Motion for Partial Summary Judgment was based on liability

only, reserving the issue of damages for trial. The District Court's six (6) page Ruling did not mention or even address damages. To answer Brinkman's question, see the reports of the therapists. (App. p. 123-137) Damages were not addressed as part of the parties' motions.

Regarding Brinkman's suggestion that the record lacks evidence of reputation or economic losses, Brinkman failed to refer to Depo Exhibit 1 (App. p. 66-83) and Depo. Exhibit 2 (App. p. 84-122) Following Brinkman's ***"slum lord"*** statement, the following individual's opinions of Bauer were damaged:

Sandra Nieman, Dawn Nieman-Bunch, Gabbie Lynch, Linda Coons, Daniel Perry, Pat Peterson, Tami Burke Miller, Megan Burgess, Kirk Wiggs, Jennifer French Chapman, Demi Lynn, Dylan Baughman, Shelly Coons Moon, Lori Henschen Uhl, Brian Lynch, Sarah Spohr, DeAnn Whitney. (App. p.66-122)

III. CONCLUSION

Based upon the record and the authority cited above and in Bauer's Final Brief, the Iowa Supreme Court is requested to find that the District Court erred by finding that Brinkman's "***Slum Lord***" statement was merely an opinion. The District Court ignored undisputed evidence taken under oath that Brinkman's "***Slum Lord***" statement was made intentionally, knowingly, and was false. By

definition Brinkman's "***Slum Lord***" statement was not an "opinion". Freedom of Speech does not protect intentional false statements made knowingly.

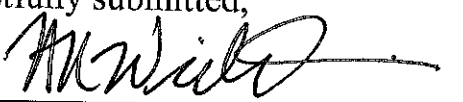
The district court erred by denying Bauer's *Motion for Partial Summary Judgment.* (App. 530-540) The district court also erred by granting Brinkman's *Motion for Summary Judgment.* (App. 541-542) For all of the foregoing reasons, and authority and in the interest of fairness, the Iowa Supreme Court is requested to reverse the district court's *Combined Ruling on Plaintiffs' Motion for Partial Summary Judgment, & Defendant's Motion for Summary Judgment.* (App. 1-7) Bauer requests an award of appellate attorney fees. Bauer also requests that the Iowa Supreme Court remand this case back to the district court with the following instructions:

1) That Bauer's *Motion for Partial Summary Judgment* be granted;

2) That Brinkman's *Motion for Summary Judgment*.be denied; and

3) That Bauer be awarded appellate attorney fees

Respectfully submitted,

By 

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ATTORNEY'S COST CERTIFICATE

I hereby certify that the cost of printing the foregoing Appellant's Reply Brief was the sum of $6.25.

By _____
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CERTIFICATE OF FILING

The undersigned hereby certifies that on the 9th day of June, 2020, that I e-filed the Appellant's Reply Brief through the Appellate EDMS system with the Clerk of the Iowa Supreme Court.

By _____
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 9th day of June, 2020, the Appellant's Reply Brief was served by electronically filing a copy via Appellate EDMS:

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CERTIFICATE OF COMPLIANCE

I certify that this Reply Brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) or (2) because this brief contains 4298 words, excluding the parts of the brief exempted by Iowa R. App. 6.903(1)(g)(1) and this brief has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman Font 14.

By_____
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