Twitter Thread by Elizabeth Wilmot of Deppland ■■■■



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Counter-claim - when the defendant in a case “counter-sues” the plaintiff. So in this case JD is the plaintiff, AH is the defendant, she has counter-sued JD - in layman’s terms that’s her saying ‘you sued me, so I’m going to sue you!”. ■

AH’s counter-claim is actually rather poorly drafted (IMO!) and, to quote AH herself is “very dramatic”. It contains very little in the way of valid case law (see my video on caselaw) to support her claims and, to me, actually does read like someone throwing a tantrum!

Her counter-claim, when you cut through the crap, seeks: Declaratory Judgment, seeks to pursue a defamation claim against JD, and to pursue a claim against JD under the Virginia Computer Crimes Act (“Bot-Gate”)

So… Declaratory Judgment. This duplicates the Anti-SLAPP immunity that AH has included in her Defence so this part of the counter-claim DUPLICATES an argument she has already made. The Judge decided that Declaratory Judgment was not appropriate.

So the issue she sought to resolve with the DJ is already being dealt with in her Defence & will be dealt with at Trial… which is what the Judge means when he said to hear her Defence and her counter claim for declaratory judgment would be to hear the same issue twice.

Courts don’t like to waste time and resources on issues that are already being resolved in another way, so her claim for declaratory judgment was dismissed.

Where the judge refers to “relief already available” he means she already has an opportunity to address the issue as it’s in her Defence so she is already making use of the appropriate channel for this argument.

AH sought to bring a defamation claim against JD. The Judge is allowing her to bring a claim for defamation on SOME points but not all. AH referred to numerous statements JD made from the GQ article, People Magazine and the Daily Mail.

JD’s team sought to have several of the statements excluded from her claim as they are “statute barred” - ie. she is out of time to include those statements in her claim. This means she can continue with her defamation counter-claim but it is now limited to 3 statements.

The 3 statements were from the Daily Mail in 2020 & relate to “fake sexual violence allegations”, “hoax/ambush”, and the incident of the cops being called etc.

AH will, in relation to these allegations, have the burden of proof - she will have to prove that they are not true - defamatory. This shifts the dynamic quite a bit, as she now has to prove her SV allegations and prove that her actions were not a hoax…

So her credibility will come majorly into play particularly in relation to the hoax, and re the SV allegations - she has the problem of proving something happened that didn’t.

Re the calls to the cops - that will lead to all the evidence and discrepancies re who called the cops and when. So that will get interesting as we know!

Personally, I think in allowing AH to proceed with this aspect of her Defamation counter-claim, the Judge has actually levelled the playing field a bit. By putting both parties under the same burden of proof, it is more likely to become clear who has been telling the truth.

This will likely be more helpful to the jury than just having one party trying to prove a negative, so actually, this defamation counter-claim COULD work out in JD’s favour - I don’t think it’s a smart move by AH - but then that doesn’t surprise me.

AH sought to claim against JD under the Virginia Computer Crimes Act… so this is “bot-gate”. AH’s claims that JD orchestrated all the petitions & social media accounts etc… as we know - the Judge sustained the demurrer and dismissed AH’s claims on this.

Which is excellent news for us bots! Shout out to all of you who got a mention in the counter-claim btw! Quality! Aside from AH’s claims on this not falling under the requirement of the VCCA to allow her claim to proceed…

I also suspect the Judge saw it for what it was; a load of nonsense and short of issuing subpoenas to a load of JD’s supporters to stand in court going “I did it! I made the petition!” And “I’M A REAL PERSON!”… it’s a waste of court time to even TRY to deal with it.

It’s smoke and mirrors - and detracts from the real issues in this case.

So the letter yesterday was positive for JD - he won most of his points. JD had also sought Anti-SLAPP immunity but the judge has said neither of them have it & again kept a level playing field on that, which is fair.

The issue will be resolved at trial when everything else is dealt with.

So the only part AH succeeded on was her defamation counter-claim which I have discussed above, and she can only proceed on 3 points, which in themselves give her more of a problem than I think she wants (IMO)…

Again I think the judge has levelled the playing field, both parties have a burden of proof, & it’s almost like saying to AH - “ok, you have all this amazing evidence - let’s see it - prove you didn’t lie!”… he’s effectively called her bluff.

So it’s positive for JD but he still has to bring his A game & release the Kraken in VA… nothing is a foregone conclusion - esp in law, & when parties are playing dirty. So positive thoughts everyone!