

malice *and other degrees of intent* are subject to the plausibility pleading standard.”). The Committee’s allegations about the editing of the montage cannot support a defamation claim. *See Terry*, 2013 WI App 130 ¶ 26, 840 N.W.2d at 267-68 (rejecting defamation by implication claim arising from video edits containing “altered” images of plaintiff brawling that she contended made her look like a “freakish and dangerous person”; plaintiff “cannot maintain a defamation action for how she *feels* she was portrayed”).

As the advertisement WJFW broadcast is not a materially false reflection of the President’s statements, it cannot support a defamation claim. For this reason as well, the Court should dismiss the lawsuit with prejudice.

#### **IV. THE TRUMP CAMPAIGN COMMITTEE HAS NOT PLAUSIBLY ALLEGED ACTUAL MALICE**

The First Amendment stands as the sentinel that ensures lawsuits like this one, filed by a public figure seeking to chill political speech, do not stifle the public debate essential to democracy. For this reason, the law requires that the Trump Campaign Committee plausibly plead, and prove through clear and convincing evidence, that WJFW made the allegedly defamatory statement with “actual malice”—*i.e.*, with knowledge of its falsity or a “high degree of awareness of its probable falsity.” *Harris v. Quadracci*, 48 F.3d 247, 252 (7th Cir. 1995) (quoting *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964) (internal marks omitted)); *Sullivan*, 376 U.S. at 279-80; *Grzelak v. Calumet Publ’g Co.*, 543 F.2d 579, 582 (7th Cir. 1975) (actual malice standard exists “to prevent persons from being discouraged in the full and free exercise of their First Amendment rights” (citation omitted)). The actual malice standard is subjective—“reckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing.” *St. Amant*, 390 U.S. at 731. The defendant must have in fact “entertained serious doubts as to the truth of his publication.” *Id.*