

may be found where there are obvious reasons to doubt the veracity of the informant or the accuracy of his reports.”)

In a defamation action relating to advertising statements concerning a candidate for public office, a complaint can plead “actual malice.” Specifically: “Among other allegations, plaintiffs stated that they repeatedly informed defendants as to the alleged falsity of their statements, but that defendants continued to publish the offending advertisement.” *Boyce & Isley, PLLC v. Cooper*, 568 S.E.2d 893, 901 (N.C. Ct. App. 2002), *writ denied, review denied, appeal dismissed*, 580 S.E.2d 361 (N.C. 2003).

Knowing and intentional fabrication of an audio statement published in an advertisement is by definition actual malice because it is publication with knowledge of or reckless disregard for the truth or falsity of the statement. *See Masson*, 501 U.S. at 517-18. In *Masson*, an author misquoted the plaintiff, changing the plaintiff’s words in an interview, and falsely representing the plaintiff’s words in quotations. In other contexts, the Court reasoned that there is some room for “rational interpretation” of the plaintiff’s meaning when the author is relying upon “ambiguous sources” to write about plaintiff. (*Id.* at 519.)

However, where the author is purporting to quote the plaintiff’s own words, the First Amendment does not afford the author “interpretative license”:

The protection for rational interpretation serves First Amendment principles by allowing an author the interpretive license that is necessary when relying upon ambiguous sources. Where, however, a writer uses a quotation, and where a reasonable reader would conclude that the quotation purports to be a verbatim repetition of a statement by the speaker, the quotation marks indicate that the author is not involved in an interpretation of the speaker’s ambiguous statement, but attempting to convey what the speaker said. This orthodox use of a quotation is the quintessential “direct account of events that speak for themselves.” *Time, Inc. v. Pape*, supra, 401 U.S., at 285, 91 S. Ct., at 637. More accurately, the quotation allows the subject to speak for himself.

The significance of the quotations at issue, absent any qualification, is to inform us that we are reading the statement of petitioner, not Malcolm’s rational interpretation of what petitioner has said or thought. Were we to assess quotations under a rational interpretation standard, we would give journalists the freedom to place statements in their subjects’ mouths without fear of liability. By eliminating any method of distinguishing between the statements of the subject and the interpretation of the author, we would diminish to a great degree the trustworthiness of the printed word and eliminate the real meaning of quotations. Not only public figures but the press doubtless would suffer under such a rule. Newsworthy figures might become more wary of journalists, knowing that any comment could be transmuted and attributed to the subject, so long as some bounds of rational interpretation were not exceeded. We would ill serve the values of the First Amendment if we were to grant near absolute, constitutional protection for such a practice. We doubt the suggestion that as a general rule readers will assume that direct quotations are but a rational interpretation of the speaker’s words, and we decline to adopt any such presumption in determining the permissible interpretations of the quotations in question here.

*Masson*, 501 U.S. at 519 (emphasis added). The Court held that “deliberate alteration” of a plaintiff’s words in a quotation included in an article will equate with knowledge of falsity for purposes of the actual malice standard if “the alteration results in a material change in the meaning conveyed by the statement.” (*Id.* at 517). “The use of quotations to attribute words not in fact spoken bears in a most important way on that inquiry, but it is not dispositive in every case.” (*Id.*)

*Masson* makes clear that the First Amendment does not permit a publisher to manipulate the words of the plaintiff as the audio clips of candidate Trump’s words were manipulated to create the false Manufactured Statement in the PUSA ads. Actual malice is established where the words are manipulated to make a statement the plaintiff did not in fact make, when the difference between the actual statement and the manipulated statement (here, the Manufactured Statement) is material.

Contrary to PUSA’s argument, the truth or falsity of the Manufactured Statement represented to be audio clips and textual subtitles of a statement uttered by candidate Trump does