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## The Angel Doth Protest Too Much, Methinks— Jack Clark and His Comment about Albert Pujols

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Queen Gertrude's paraphrased line from Hamlet (III, ii, 239) seems a perfect title for this article as it has been used as a figure of speech to indicate that a person's vehement attempts to convince others of something have ironically helped to convince others that the opposite is true by making the person look insincere and overly-defensive.



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Louis Cardinals slugger Jack Clark made the following comment about Albert Pujols:

"I know for a fact [Pujols] was 'a juicer' who used steroids and PED's and that trainer Chris Mihlfeld, who worked him out, shot him up."

Our current rendition of Hamlet began on August 2, 2012 on St. Louis sports talk radio show "The King and the Ripper" when former St.

Though Pujols has long been one of the players wondered and whispered about when the topic of PED's is discussed, Clark's allegations against him gave Pujols a decision to make. Does he simply refute the allegations and let them dissolve into the 24-minute news cycle currently surrounding sports, or does he resort to Lance Armstrong-esque litigation tactics to protect his reputation? A cursory analysis of the matter would seem to indicate that the former was a far better option for Pujols than the latter. With the possible exception of bass fishing, where beer and coffee have yet to be classified as "performance enhancing", allegations of PED use have been rampant amongst all sports—essentially rendering them little more than white noise on the sports landscape. There seemed to be little reason for Pujols not to follow the script previously written hundreds of times by other athletes accused of PED use. The option of litigation, on the other hand, would seem to be a lose-lose scenario for Pujols. In addition to subjecting his past conduct (read: PED and steroid use) to the discovery and sworn testimony commensurate with litigation, it would also shine an

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ongoing spotlight on Clark's allegations and keep them at the forefront of the public's attention under the best of circumstances. Under the worst of circumstances, Pujols's reputation would take a substantial hit if Clark's allegations were ultimately proved true, or even if additional allegations came to light against Pujols- substantiated or not. Finally, recent revelations about voracious litigants Lance Armstrong, Alex Rodriguez and others has public perception trending towards a belief that initiating litigation has absolutely nothing to do with an individual's actual guilt or innocence- and could, in fact, more likely be a guilty party with nothing left to lose making desperate last grasps at image rehabilitation.

In his August 2013 Petition initiating formal proceedings against Clark in St. Louis County Circuit Court, counsel for Pujols describes him as "a preeminent baseball player on and off the field whose character and reputation are impeccable and beyond reproach." Clark, conversely, was described as "a former major league baseball player turned struggling radio talk show host" who attempted to generate ratings by making "malicious, reckless and outrageous falsehoods about [Pujols]". In addition to costs and damages, Pujols' Petition sought a declaration and determination that the statements made by Clark were false.

Unfortunately, Pujols' decision to initiate litigation was met by a defense counsel for Jack Clark who dabbled in effrontery and defiance like Leonardo di Vinci dabbled in paint and marble. In

an October 14, 2013 settlement letter that first came to light on Deadspin, counsel for Clark deftly moved between snark and sarcasm as he got to the ultimate point of his communication: If you're innocent, Albert, prove it. Highlights of the letter include:

- "Having dispatched with the preliminaries, it appears the clumps in the proverbial kitty litter of this case related to statements attributed to Mr. Clark about "juicing" by [Pujols]."
- "I...spied more than a handful of published pieces which appear to insinuate that [Pujols] and performance enhancing drugs go together like the childhood favorite, peas and carrots."
- "In re-reviewing your Demand Letter, my eye was attracted to the italicized sentence on the first page (which I think was the intent of the use of italics). You concisely noted that [Pujols] "has never taken any illegal performance enhancing drugs..." (emphasis added to add emphasis)...Does your statement mean that [Pujols] admits to taking legal performance enhancing drugs?"
- "...I have been authorized to proffer the following as a settlement proposal on behalf of Mr. Clark.

- [Pujols] submits to a polygraph test to ascertain whether he is being deceptive when he asserts that he has never used steroids or performance enhancing drugs while in the minor and major leagues...
- [Clark] submits to a polygraph test to ascertain whether he is being deceptive when he asserts that [Pujols'] trainer...told him that your client had 'juiced'...
- The test results must be made publicly available and the administrator of the polygraph tests must be permitted to answer public and media

inquiries relating to the tests and results..."

To date, Pujols has not accepted Clark's invitation for a "couples polygraph."

The most recent action on the case was a Motion to Dismiss or in the Alternative, Motion for a More Definite Statement that was filed by Clark on January 13, 2014. The Motion seeks to have the matter dismissed, or Pujols' Petition amended, as Pujols' initial Petition failed to allege the requisite elements of defamation in Clark's August 2012 statements. A hearing on the matter is set for February 20, 2014.