Clerk of the Superior Court
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C. Brown, Deputy
1/25/2024 10:21:57 AM
Filing ID 17241618

WOODNICK LAW, PLLC
[redacted]

Gregg R. Woodnick, #020736
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Attorney for Respondent

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In Re the Matter of:

[redacted]

Petitioner,

and

CLAYTON ECHARD,

Respondent,

Case No.: **FC2023-052114**

REPLY TO PETITIONER'S RESPONSE TO MOTION FOR SANCTIONS PURSUANT TO RULE 26

(Assigned to The Honorable Julie Mata)

Respondent, **CLAYTON ECHARD**, by and through undersigned counsel, hereby replies to Petitioner's Response to Motion for Sanctions Pursuant to Rule 26. Petitioner *continues* to cause Respondent to incur unnecessary attorney's fees and costs delaying discovery.

The very crux of this frivolous litigation is easily resolved by Petitioner disclosing nonconfidential and uncontroversial evidence of her claimed "*miscarriage*" as well as the statutorily required fetal death certificate affirming the same. That Petitioner continues to refuse to provide this easily obtainable evidence (*after* she invoked Rule 2) begs the question that this

entire pregnancy narrative was nothing more than a fraudulent ruse to coerce Respondent into dating Petitioner.

To the extent applicable, Respondent incorporates all his pending filings. As and for his Reply, Respondent states as follows:

1. **The requirements of Rule 9(c) have been met and/or were impossible to meet due to Petitioner's refusal to acknowledge Respondent could not have made her pregnant.**

As fully detailed in Respondent's *Response/Objection to Petitioner's Motion to Dismiss Petition to Establish Paternity, Legal Decision-Making, Parenting Time, and Child Support With Prejudice* (filed January 3, 2024), Respondent clearly informed Petitioner in writing that she could not be pregnant by him as they only had oral sex. Respondent even offered to meet in person with Petitioner (with witnesses present in light of her concerning behavior) to discuss these rudimentary facts. Petitioner refused to meet with him if he did not agree to her bizarre request to date and "*explore intimacy*" with her (*see* Exhibit 2, Respondent's *Response/Objection to Petitioner's Motion for Confidentiality and Preliminary Protective Order*).

Petitioner bringing this *entire* action knowing that she was not and could not be pregnant by Respondent is the conduct that violates Rule 26(b). That Petitioner is now claiming that she was somehow not given notice of her sanctionable conduct is patently absurd. As conveyed to her directly by Respondent, through Respondent's granted Injunction Against Harassment (CV2023-053952), through three (3) paternity tests and through counsel, Petitioner's filing was based on fiction. This is not an instance where Petitioner may have mistakenly alleged something that needed to be corrected through an amended filing. This is a uniquely disturbing

case where Petitioner expended judicial resources to fabricate a pregnancy narrative to force Respondent into a relationship with her, invited media attention, and is now desperately grasping at procedural straws to evade providing simple and uncontroversial disclosure like a government certificate confirming the alleged miscarriage.

2. **All of Petitioner's filings arguably violate Rule 26(b).** Petitioner's underlying Petition to Establish was filed without merit and for the sole purpose of coercing Respondent into dating Petitioner, as Petitioner was not and could not have been pregnant by Respondent after oral sex. Without belaboring the point, every single filing in this action since by Petitioner has been presented for an "*improper purpose[], such as to harass, cause unnecessary delay, or needlessly increase the costs of litigation*," includes claims that are frivolous and unwarranted by existing law, is entirely lacking in evidentiary support, and contains factual contentions that are unwarranted based on the evidence. *See* Rule 26(b) (1) – (4). *See also* Respondent's *Motion for Sanctions Pursuant to Rule 26(b).* As has been the crux of Respondent's filings, Petitioner **could not have been pregnant by Respondent** as they did not have sexual intercourse and she has provided no verifiable medical evidence to support her claims, ostensibly because none exists. (Notably, Petitioner again reasserts in her unverified Response that she was pregnant with "*twins*" despite providing *no evidence to support this claim*, other than a sonogram stolen from a seven (7) year old YouTube video and positive hCG tests, which are discussed below).

Put simply, Petitioner's filings are predicated on bad faith and contain allegations that cannot be supported by verifiable medical evidence that complies with Rule 2. That Petitioner now claims she has "witnesses" to support her claims that allegedly "fear coming forward" is illogical and irrelevant. All Petitioner needs to do is sign basic HIPAA forms to allow

Respondent to obtain her medical records and sign the form provided by Respondent to permit Arizona Vital Records to release a fetal death certificate to confirm twin fetuses miscarried. Petitioner's refusal to follow basic procedural Rules for the litigation *she* initiated is the sole reason this litigation continues. Petitioner cannot now claim that discovery is "*ongoing*" while simultaneously failing to comply with *any* discovery (including a willful failure to appear at a properly noticed deposition). Sanctions consistent with Rule 26(c) are clearly warranted and necessary.

3. **Petitioner wanting to be pregnant and being pregnant are two (2) different things.** Despite her repeated assertions, positive hCG tests are not verifiable medical evidence of pregnancy. (Parenthetically, per the Office on Women's Health, a blood test, which Petitioner ostensibly never underwent, is the best way for a doctor to confirm pregnancy).[1] Causes other than pregnancy can trigger false positives for hCG, including fertility treatments and various medications (especially those associated with epilepsy and infertility)[2] (*see also* **Exhibit 1**). Moreover, according to the American Pregnancy Association, the presence of hCG is only a "*sign*" of pregnancy. Ultimately, that Petitioner was ostensibly able to produce a positive urine HCG test is not conclusive because, to date, Petitioner has provided no Rule 49 disclosure to support her claims that she was pregnant by Respondent, pregnant with twins, pregnant at "*24 weeks*" on November 2, 2023, pregnant with a boy and a girl, due on "*February 14, 2024*," being treated for a "*high risk*" pregnancy by "*Dr. Makhoul"* and "*Dr. Higley*" or

[1] https://www.womenshealth.gov/a-z-topics/pregnancy-tests.

[2] *See generally Id.; https://health.clevelandclinic.org/false-positive-pregnancy-test; https://www.clearblue.com/pregnancy-tests/false-positive-results#cause-false-positive.* Further, Petitioner testified under oath that she was being treated for a high-risk pregnancy by Dr. Higley at Women's Care, which provides fertility treatments (*see https://www.womenscareobgyn.com/services*).

that she ultimately had a miscarriage. Petitioner's hCG tests prove nothing, and her reliance on them when she could provide simple and basic evidence to dissolve the claim that she wrongfully filed this action begs many questions about her credibility and motivations.

4. **Petitioner's behavior in this litigation is unreasonable and predicated on bad faith, such that Respondent should be entitled to his reasonable attorney's fees and costs pursuant to A.R.S. § 25-324.** Petitioner's baseless allegations that Respondent is using the Court as a "publicity stunt" and that he is *leaking information* serve no purpose other than to deflect from her own culpable actions. As detailed extensively in Respondent's *Response/Objection to Petitioner's Motion for Confidentiality and Preliminary Protective Order* (filed 1/19/24), Petitioner initiated this action, reached out to the media, publicly shared a Dropbox of her personal "medical" information, and *continues* to harass/sue media personalities who do not share her "side" of the story. Respondent has had to come forward to respond to Petitioner's public claims to protect his image and reputation and to rectify the damage she has done.

Rather than comply with simple discovery requests (or provide even an *iota* of Rule 49 disclosure), willfully ignore Deposition Notices, continues to file meritless motions and force Respondent back into Court. Respondent has had to rely on community support to defend himself against Petitioner's meritless claims and to prevent her from making another TEDx talk to claim that she was somehow "*cyberbullied*" into a miscarriage. Respondent continues to incur significant attorney's fees and costs because Petitioner's unreasonable conduct. As such, he should be awarded his reasonable costs and fees in having to file this Reply consistent with A.R.S. § 25-324(A).

5. **This entire action by Petitioner is predicated on fraud upon the Court.** Petitioner continues to seek out media attention and exhaust all her procedural remedies to evade basic discovery and disclosure obligations. Perhaps if Petitioner provided the statutorily required fetal death certificate and verifiable medical records to support that she was *ever* pregnant with twins, she would look less like, as stated by Petitioner's attorney, "a crazed woman who fabricated a pregnancy."

WHEREFORE, Respondent respectfully requests that this Court enter the following Orders:

A. Grant *Respondent's Motion for Sanctions Pursuant to Rule 26(b)*;

B. Impose appropriate sanctions against Petitioner, including but not limited to awarding Respondent his reasonable attorney's fees and costs;

C. Award Respondent his reasonable attorney's fees and costs incurred due to Petitioner's unreasonableness pursuant to A.R.S. § 25-324;

D. For such other and further relief as this Court deems just and proper under these circumstances.

RESPECTFULLY SUBMITTED this 25th day of January, 2024.

WOODNICK LAW, PLLC

Gregg R. Woodnick
Isabel Ranney
Attorneys for Respondent

ORIGINAL of the foregoing e-filed
This 25th day of January, 2024 with:

Clerk of Court
Maricopa County Superior Court

COPY of the foregoing document
delivered/emailed this 25th day of January, 2024, to:

The Honorable Julie Mata
Maricopa County Superior Court

Cory Keith
[redacted]
Attorney for Petitioner

By: */s/ MB*

VERIFICATION

I, **CLAYTON ECHARD**, declare under penalty of perjury that I am the Respondent in the above-captioned matter; that I have read the foregoing *Reply To Petitioner's Response To Motion For Sanctions Pursuant To Rule 26* and I know of the contents thereof; that the foregoing is true and correct according to the best of my own knowledge, information and belief; and as to those things stated upon information and belief, I believe them to be true.

Clayton Echard (Jan 25, 2024 08:27 MST)

CLAYTON ECHARD

01/25/2024

Date

EXHIBIT "1"


10:45
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[redacted]
Thu, May 25 at 10:00 AM
I have one final thing to say that I think you might find important and have nothing to lose by sharing it with you.
I have been in "a dark place" as I said yesterday and emotionally tortured since we hooked up because I felt like I didn't know how to bring this up to you, but at this point I might as well. I have not been on birth control since what happened to me about fifteen months ago. There hasn't been a reason, since as I said, I hadn't done anything with anyone since then.
Being sexually responsible was not on my radar after taking the gummy and our clothes coming off. When I went to the bathroom afterwards, some of your fluids were "down there". In all honesty, I was planning to take Plan B when I got home, but then when you said you were going to church, I realized you had a strong faith base as well and questioned whether or not it was a sign that I should. Then, after we talked in the car, I felt even more so like both of us had a deep belief in God and like it was a sign I should just leave it up to Him and not buy it.
Obviously, my mind has ping-ponged about this since then and you were
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CE0013


10:45
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[redacted]
Obviously, my mind has ping-ponged about this since then and you were emphatic about me not bringing up anything that wasn't professional or friend-like, of which this situation is neither. I desperately wanted to figure out how to bring it up to you and thought that if we could just get together and talk openly, we could, but you didn't want that until a deal closed, which would be too late to take it. I wanted to ask you how you felt about me taking it from a religious standpoint, but we didn't get a chance to. Clearly, I was factoring in things that you weren't that made me panic and led to a total breakdown in communication.
My podcast had a fertility-test kit as a sponsor, and so yes, I know I am fertile. At this point, from my overwhelming research on Plan B since Sunday, it's most effective three days after but can still work five days out, meaning this is the last day I could take it and have a hope of it working if it needs to. If you have any thoughts about this, I'm open to hearing you out if and only if you are kind and respectful. This has been extremely stressful on me.
If I don't hear back from you, I'm not going to take Plan B. You're obviously free to think that I'm full of shit, but I'm
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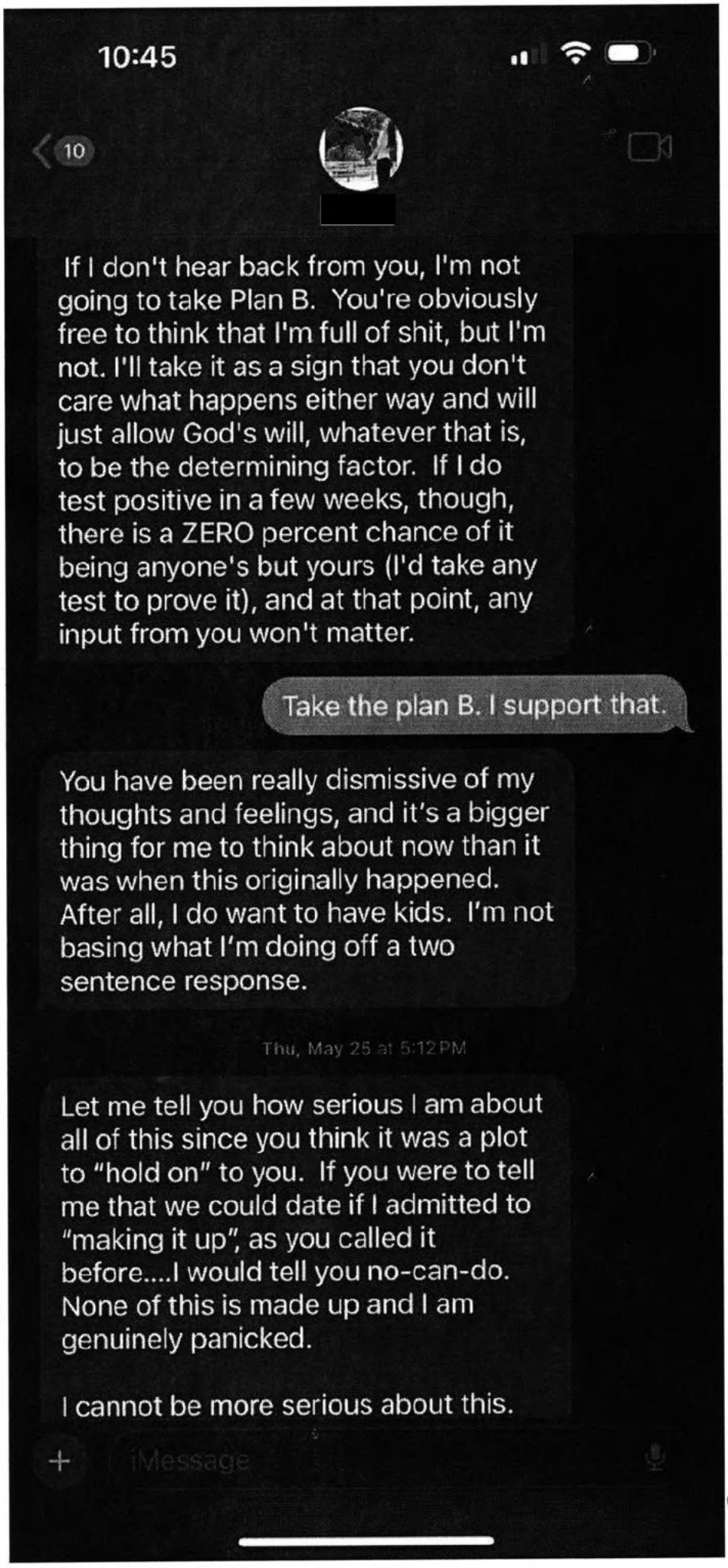
CE0014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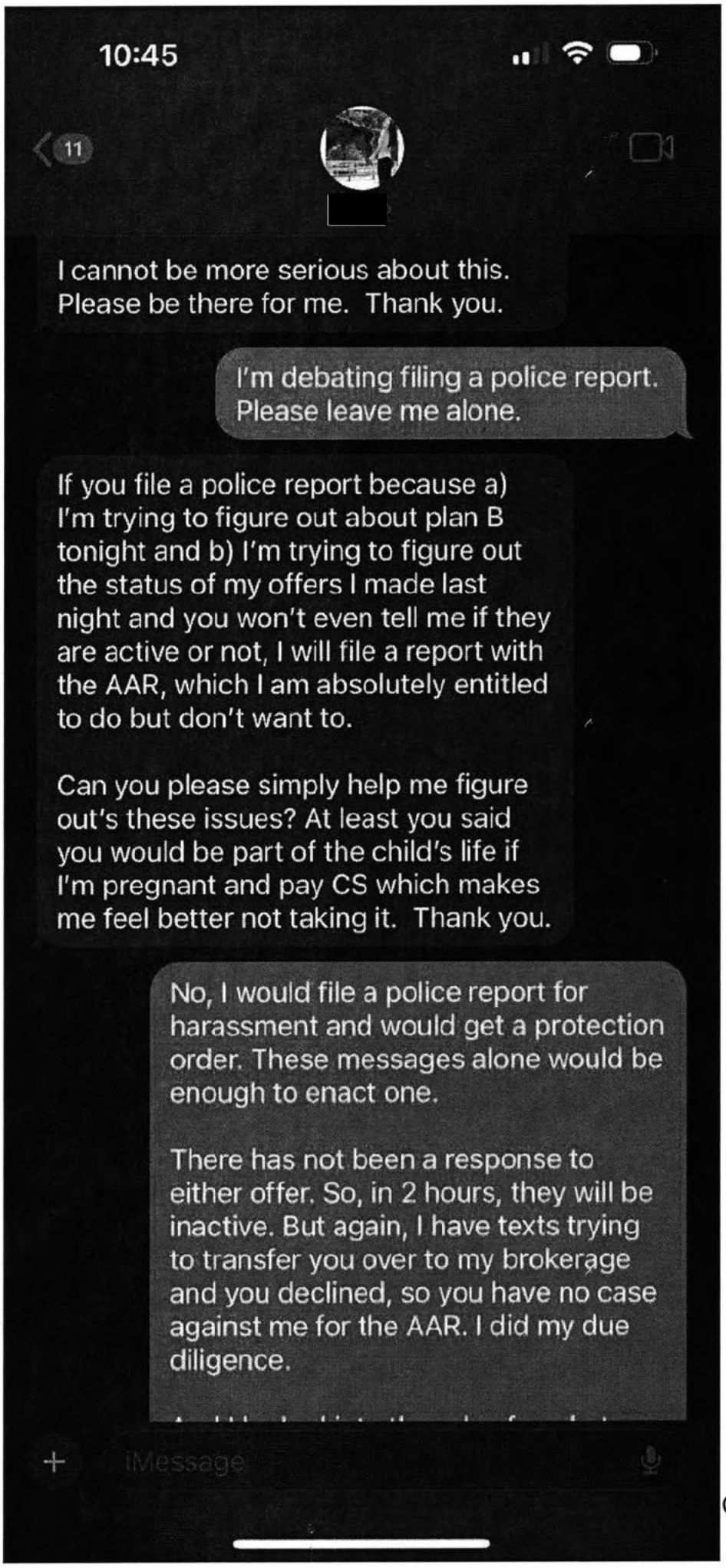
If I don't hear back from you, I'm not going to take Plan B. You're obviously free to think that I'm full of shit, but I'm not. I'll take it as a sign that you don't care what happens either way and will just allow God's will, whatever that is, to be the determining factor. If I do test positive in a few weeks, though, there is a ZERO percent chance of it being anyone's but yours (I'd take any test to prove it), and at that point, any input from you won't matter.
Take the plan B. I support that.
You have been really dismissive of my thoughts and feelings, and it's a bigger thing for me to think about now than it was when this originally happened. After all, I do want to have kids. I'm not basing what I'm doing off a two sentence response.
Thu, May 25 at 5:12 PM
Let me tell you how serious I am about all of this since you think it was a plot to "hold on" to you. If you were to tell me that we could date if I admitted to "making it up", as you called it before....I would tell you no-can-do. None of this is made up and I am genuinely panicked.
I cannot be more serious about this.
iMessage

CE0015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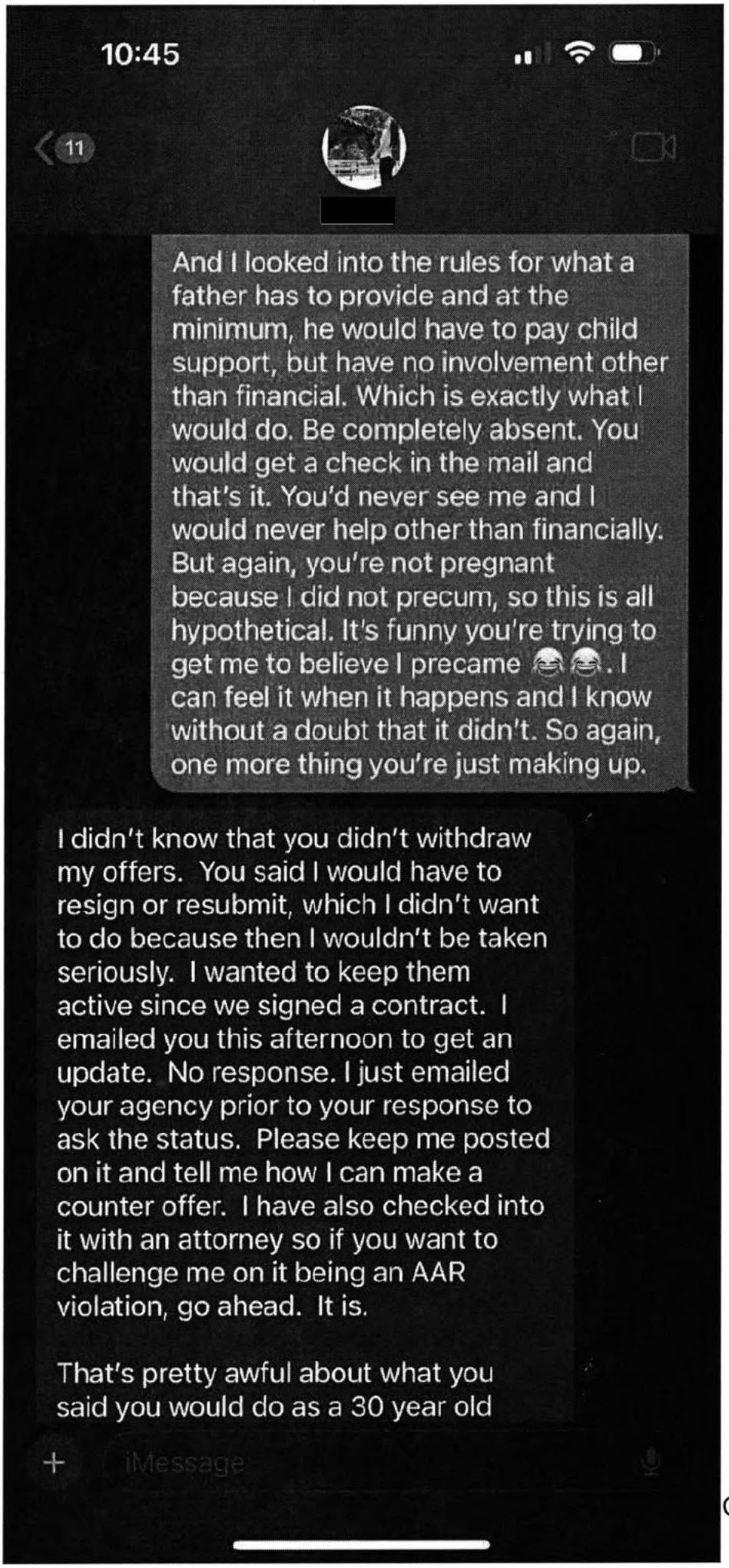
[redacted]
I cannot be more serious about this. Please be there for me. Thank you.
I'm debating filing a police report. Please leave me alone.
If you file a police report because a) I'm trying to figure out about plan B tonight and b) I'm trying to figure out the status of my offers I made last night and you won't even tell me if they are active or not, I will file a report with the AAR, which I am absolutely entitled to do but don't want to.
Can you please simply help me figure out's these issues? At least you said you would be part of the child's life if I'm pregnant and pay CS which makes me feel better not taking it. Thank you.
No, I would file a police report for harassment and would get a protection order. These messages alone would be enough to enact one.
There has not been a response to either offer. So, in 2 hours, they will be inactive. But again, I have texts trying to transfer you over to my brokerage and you declined, so you have no case against me for the AAR. I did my due diligence.
iMessage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[redacted]
And I looked into the rules for what a father has to provide and at the minimum, he would have to pay child support, but have no involvement other than financial. Which is exactly what I would do. Be completely absent. You would get a check in the mail and that's it. You'd never see me and I would never help other than financially. But again, you're not pregnant because I did not precum, so this is all hypothetical. It's funny you're trying to get me to believe I precame 😂😂. I can feel it when it happens and I know without a doubt that it didn't. So again, one more thing you're just making up.
I didn't know that you didn't withdraw my offers. You said I would have to resign or resubmit, which I didn't want to do because then I wouldn't be taken seriously. I wanted to keep them active since we signed a contract. I emailed you this afternoon to get an update. No response. I just emailed your agency prior to your response to ask the status. Please keep me posted on it and tell me how I can make a counter offer. I have also checked into it with an attorney so if you want to challenge me on it being an AAR violation, go ahead. It is.
That's pretty awful about what you said you would do as a 30 year old
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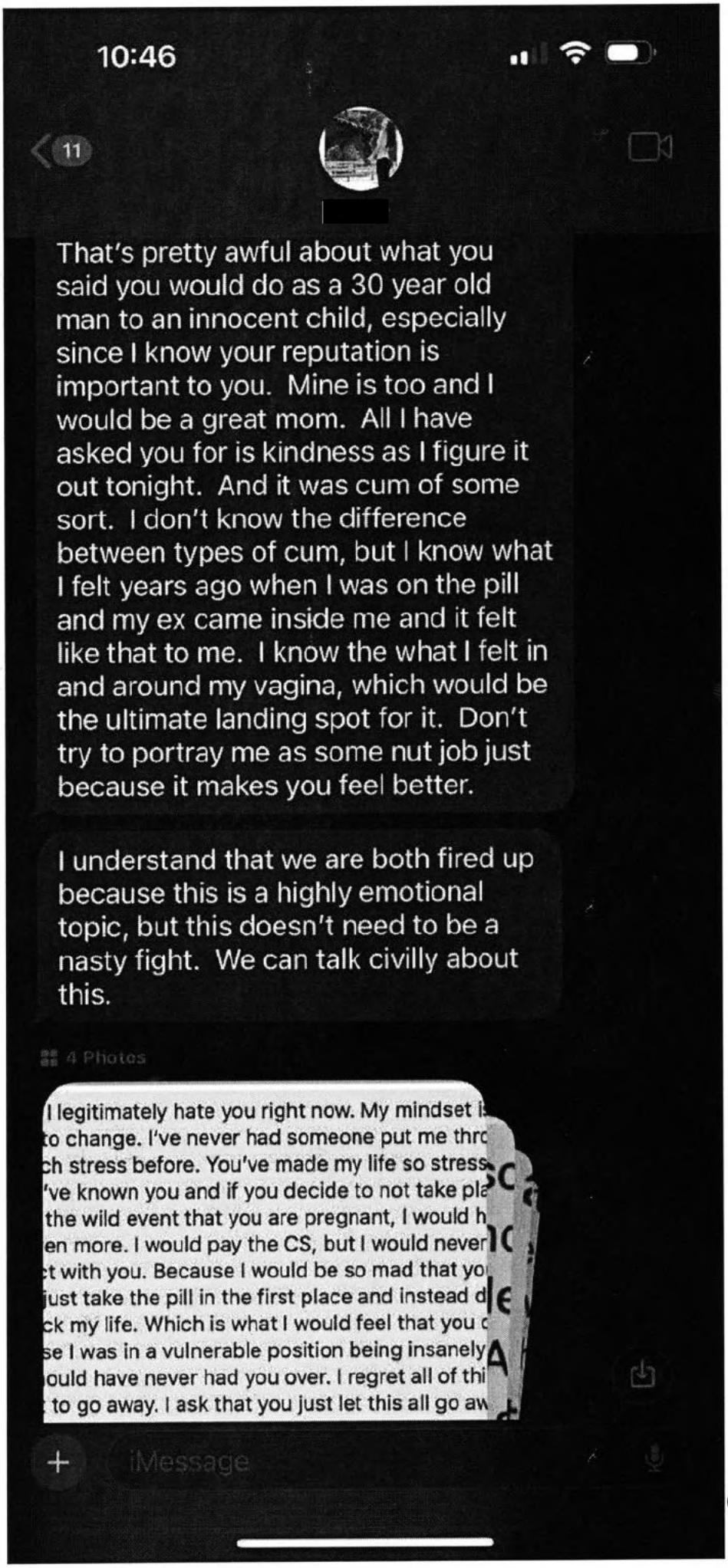
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[redacted]
That's pretty awful about what you said you would do as a 30 year old man to an innocent child, especially since I know your reputation is important to you. Mine is too and I would be a great mom. All I have asked you for is kindness as I figure it out tonight. And it was cum of some sort. I don't know the difference between types of cum, but I know what I felt years ago when I was on the pill and my ex came inside me and it felt like that to me. I know the what I felt in and around my vagina, which would be the ultimate landing spot for it. Don't try to portray me as some nut job just because it makes you feel better.
I understand that we are both fired up because this is a highly emotional topic, but this doesn't need to be a nasty fight. We can talk civilly about this.
4 Photos
I legitimately hate you right now. My mindset is
to change. I've never had someone put me thro
ch stress before. You've made my life so stress
've known you and if you decide to not take pla
the wild event that you are pregnant, I would h
en more. I would pay the CS, but I would never
t with you. Because I would be so mad that yo
just take the pill in the first place and instead d
ck my life. Which is what I would feel that you c
se I was in a vulnerable position being insanely
ould have never had you over. I regret all of thi
to go away. I ask that you just let this all go aw
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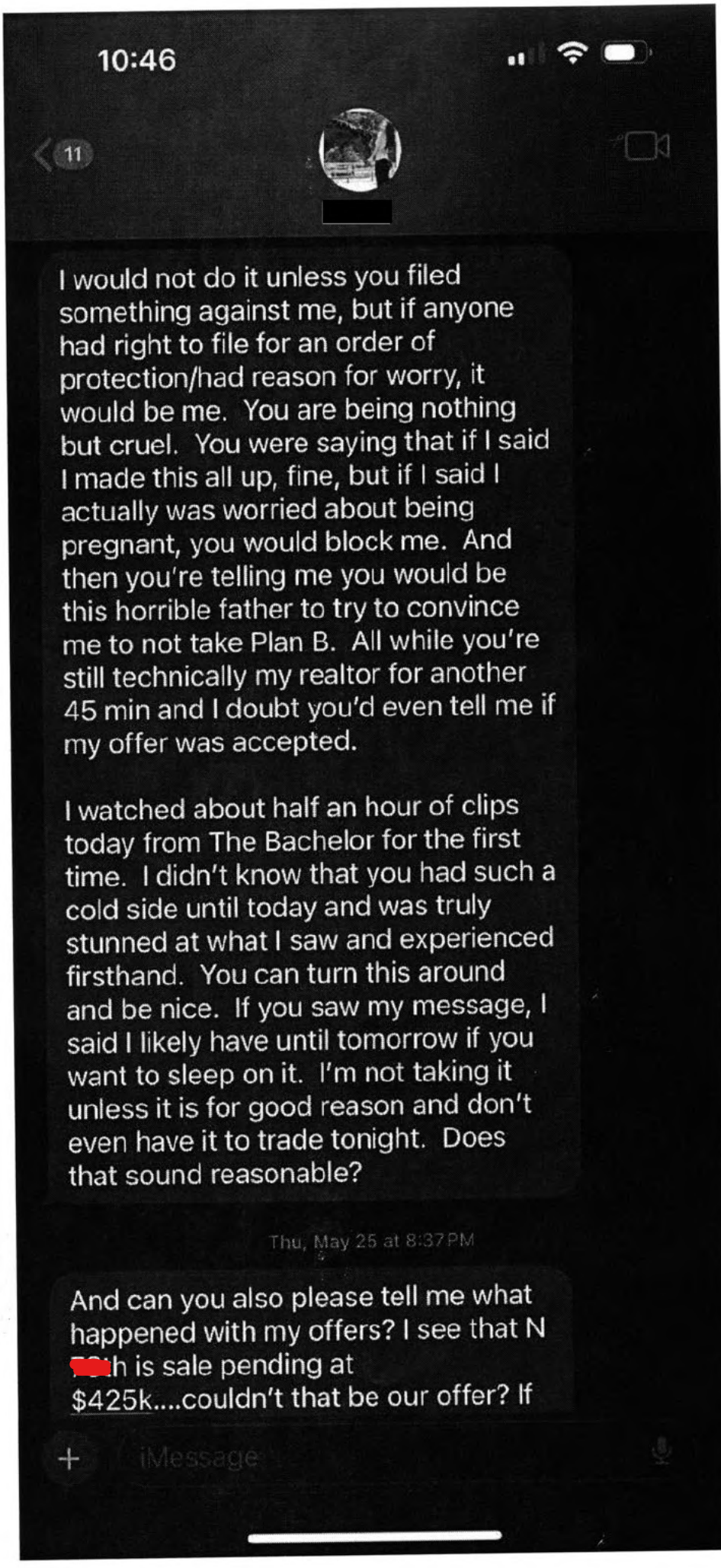
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[redacted]
I would not do it unless you filed something against me, but if anyone had right to file for an order of protection/had reason for worry, it would be me. You are being nothing but cruel. You were saying that if I said I made this all up, fine, but if I said I actually was worried about being pregnant, you would block me. And then you're telling me you would be this horrible father to try to convince me to not take Plan B. All while you're still technically my realtor for another 45 min and I doubt you'd even tell me if my offer was accepted.
I watched about half an hour of clips today from The Bachelor for the first time. I didn't know that you had such a cold side until today and was truly stunned at what I saw and experienced firsthand. You can turn this around and be nice. If you saw my message, I said I likely have until tomorrow if you want to sleep on it. I'm not taking it unless it is for good reason and don't even have it to trade tonight. Does that sound reasonable?
Thu, May 25 at 8:37 PM
And can you also please tell me what happened with my offers? I see that N [redacted]h is sale pending at $425k....couldn't that be our offer? If
iMessage

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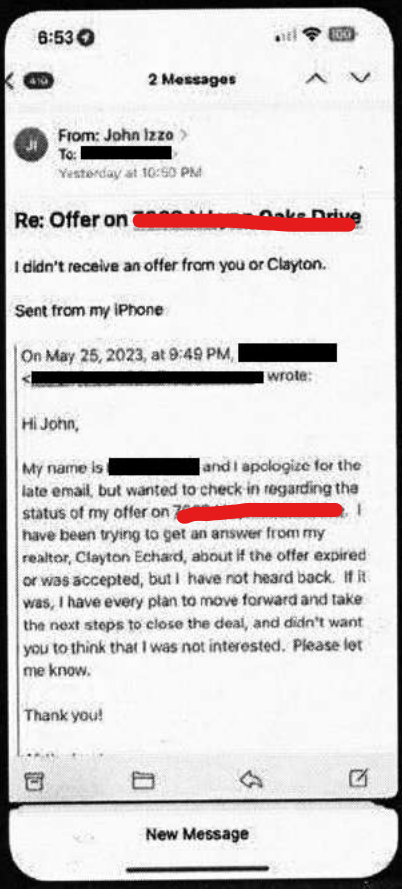
[redacted]

I'll wait until 9:30 to be sure because I don't want to email them if it makes you look bad, but the EMD lender is on me now to let him know if he needs to send money. I want to close on these houses if I got them and need to know how to do that if you're not willing to help. I emailed your agency a few hours ago and have not gotten a response.

Fri, May 26 at 6:54 AM



Can you please explain what he's talking about? You never sent in the

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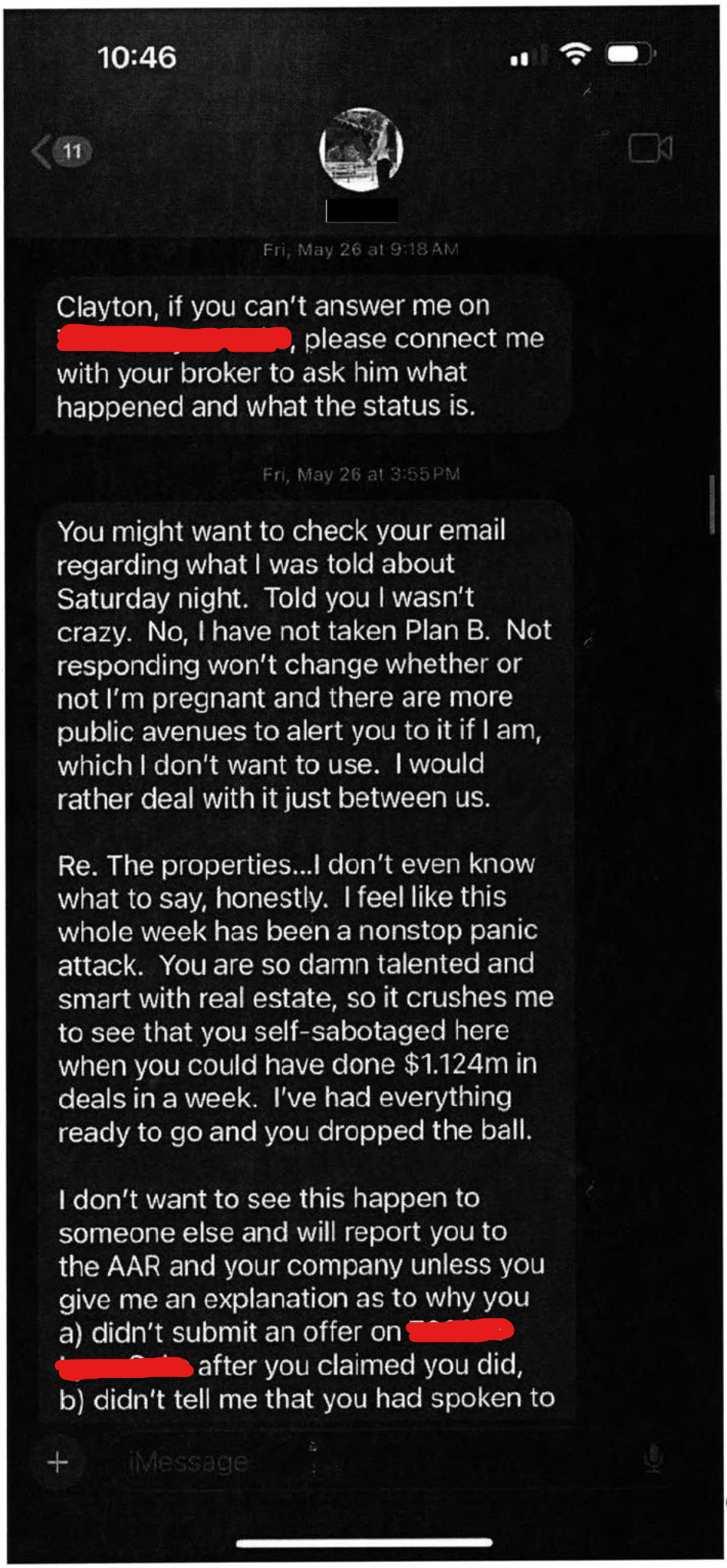
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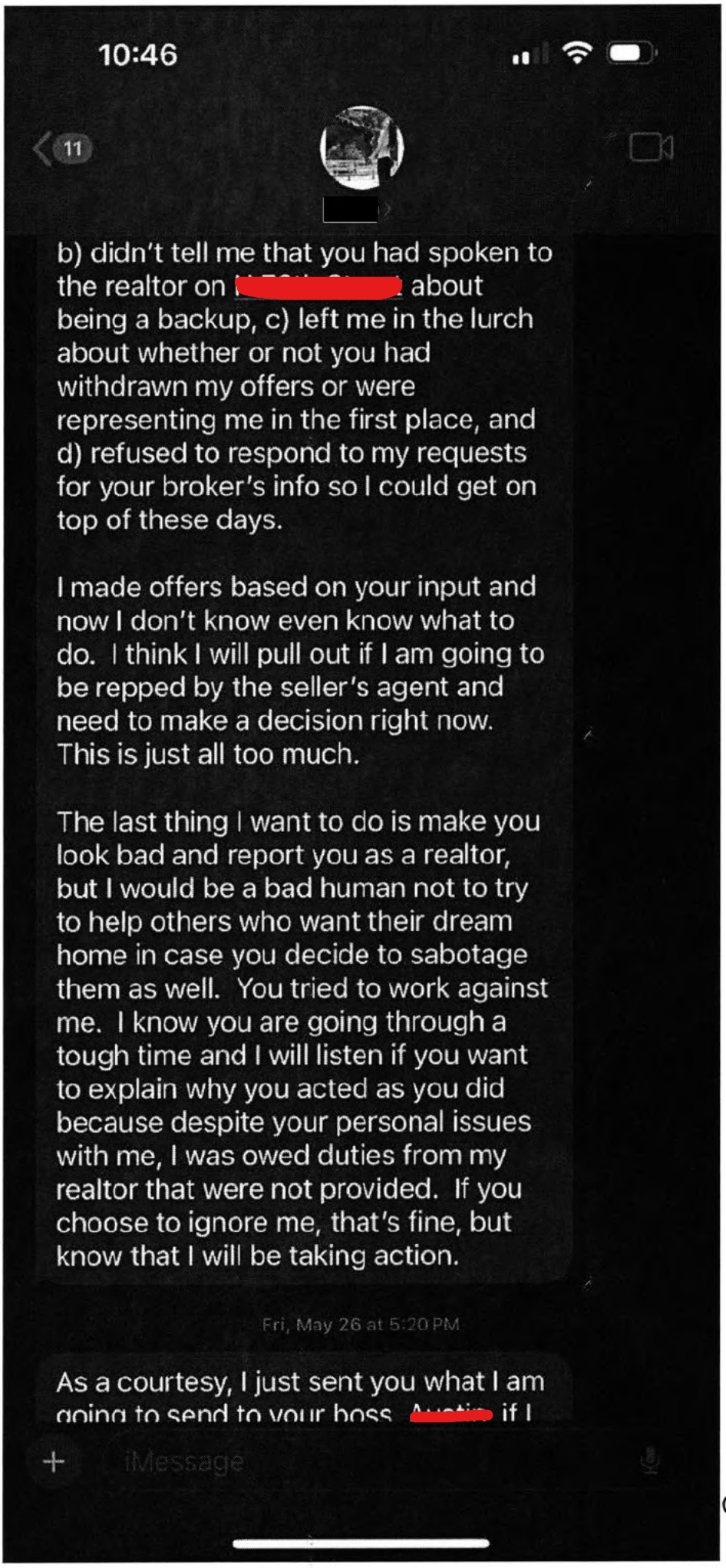
[redacted]
Fri, May 26 at 9:18 AM
Clayton, if you can't answer me on [redacted], please connect me with your broker to ask him what happened and what the status is.
Fri, May 26 at 3:55 PM
You might want to check your email regarding what I was told about Saturday night. Told you I wasn't crazy. No, I have not taken Plan B. Not responding won't change whether or not I'm pregnant and there are more public avenues to alert you to it if I am, which I don't want to use. I would rather deal with it just between us.
Re. The properties...I don't even know what to say, honestly. I feel like this whole week has been a nonstop panic attack. You are so damn talented and smart with real estate, so it crushes me to see that you self-sabotaged here when you could have done $1.124m in deals in a week. I've had everything ready to go and you dropped the ball.
I don't want to see this happen to someone else and will report you to the AAR and your company unless you give me an explanation as to why you
a) didn't submit an offer on [redacted] after you claimed you did,
b) didn't tell me that you had spoken to
iMessage

CE0021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[redacted]
b) didn't tell me that you had spoken to the realtor on [redacted] about being a backup, c) left me in the lurch about whether or not you had withdrawn my offers or were representing me in the first place, and d) refused to respond to my requests for your broker's info so I could get on top of these days.
I made offers based on your input and now I don't know even know what to do. I think I will pull out if I am going to be repped by the seller's agent and need to make a decision right now. This is just all too much.
The last thing I want to do is make you look bad and report you as a realtor, but I would be a bad human not to try to help others who want their dream home in case you decide to sabotage them as well. You tried to work against me. I know you are going through a tough time and I will listen if you want to explain why you acted as you did because despite your personal issues with me, I was owed duties from my realtor that were not provided. If you choose to ignore me, that's fine, but know that I will be taking action.
Fri, May 26 at 5:20 PM
As a courtesy, I just sent you what I am going to send to your boss [redacted] if I
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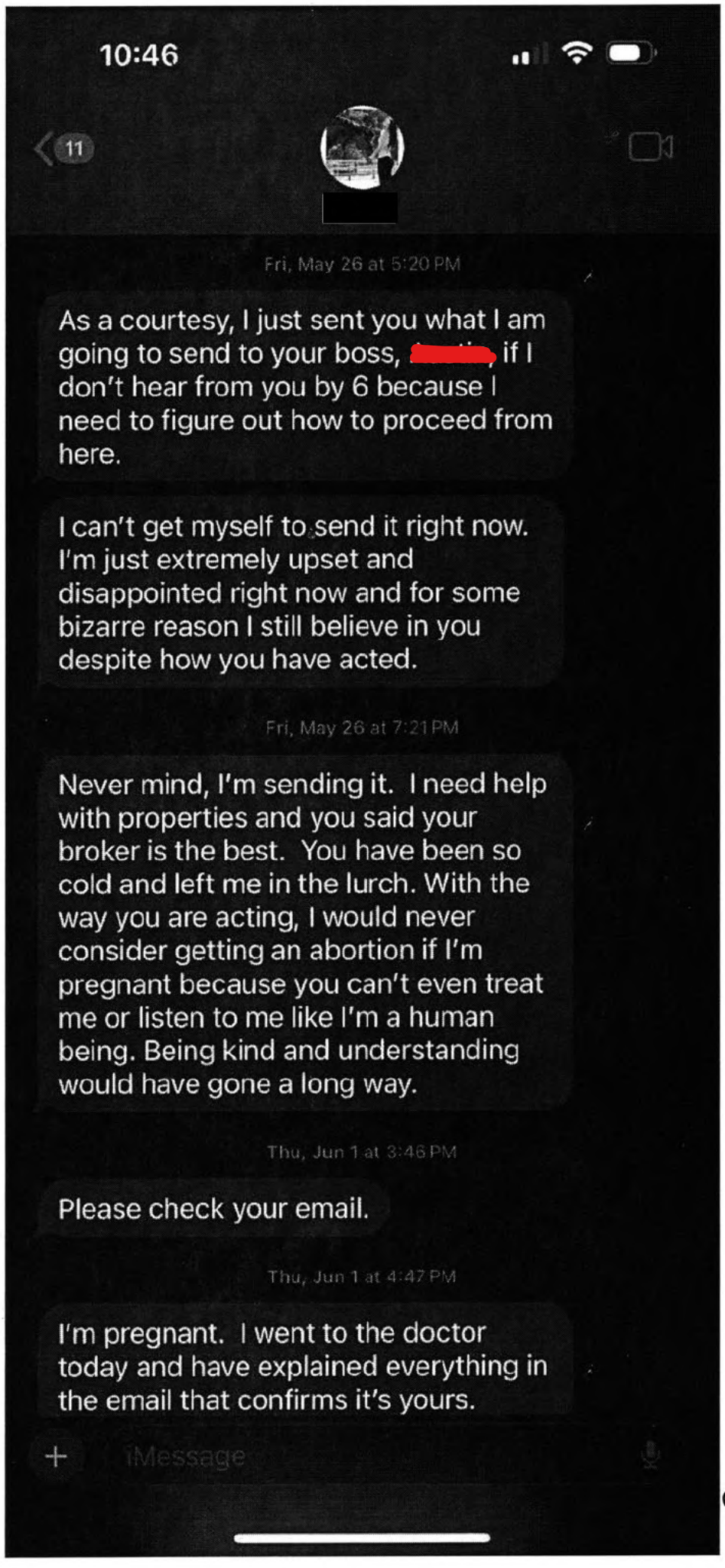
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[redacted]
Fri, May 26 at 5:20 PM
As a courtesy, I just sent you what I am going to send to your boss, [redacted] if I don't hear from you by 6 because I need to figure out how to proceed from here.
I can't get myself to send it right now. I'm just extremely upset and disappointed right now and for some bizarre reason I still believe in you despite how you have acted.
Fri, May 26 at 7:21 PM
Never mind, I'm sending it. I need help with properties and you said your broker is the best. You have been so cold and left me in the lurch. With the way you are acting, I would never consider getting an abortion if I'm pregnant because you can't even treat me or listen to me like I'm a human being. Being kind and understanding would have gone a long way.
Thu, Jun 1 at 3:46 PM
Please check your email.
Thu, Jun 1 at 4:47 PM
I'm pregnant. I went to the doctor today and have explained everything in the email that confirms it's yours.
iMessage

CE0023

10:46

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[redacted]

Patient Name: [redacted]

Medical Record N
Sex: F
Date of Birth: [redacted]
Phone Number: [redacted]

Appointment Information

Appointment Type: CT Head/Neck wo Con SJHPHX
Appointment Date: 05/30/23
Primary Resource: SJHMC CT OP Rm 1
Current Status: Scheduled

t Field: Rad Type

What You Were Seen for Today

Vital Signs

Allergies

Your Care Team

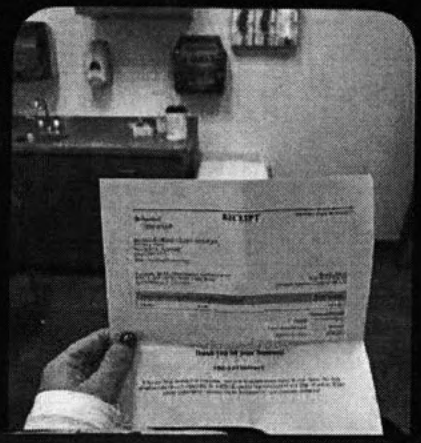
What Happened Today

Test Results from Today

Scheduled Appointments

As you can see, I wasn't two days ago, but was today.

Thu, Jun 1 at 9:18 PM



+ iMessage