ARIZONA SUPREME COURT

Laura Owens, *Petitioner/Appellant*, v. Clayton Echard, *Respondent/Appellee*.	Arizona Supreme Court No.: CV-25-0124-PR Court of Appeals, Division Two Case No. 2 CA-CV-2024-0315 FC Maricopa County Superior Court Case No. FC2023-052114

PETITION FOR REVIEW

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INTRODUCTION

From 2006 until 2019, sanctions in family court were controlled by Rule 31 of the Rules of Family Law Procedure. Rule 31 prohibited groundless pleadings, and it allowed courts to sanction violators. The rule had no prerequisites before sanctions could be imposed. No warning was required, and once a violation occurred, that was it—the violator could not escape sanctions by withdrawing the offending pleading. Rule 31 was simple, clear, and harsh. It was also old and outdated.

To keep up with modern standards, in 2018 this Court abolished Rule 31 and replaced it with something new – Rule 26. Like Rule 31, Rule 26 still prohibits groundless pleadings. But unlike Rule 31, Rule 26 contains new procedural safeguards which must be met before sanctions can be imposed (or even requested).

This brings us to the heart of the problem—in this case, Petitioner Laura Owens ("Laura") was sanctioned $150,000 for filing a pleading in violation of Rule 26. But the trial court followed *none* of the mandatory safeguards of Rule 26. Instead, the trial court utterly ignored Rule 26. Instead, in substance, the court followed the *old, abrogated standards* of Rule 31. This error was clear, plain, and egregious.

This Court has never interpreted Rule 26. The time has come to do so. This case presents a perfect opportunity for the Court to provide clear guidance on this important new rule. In doing so, this Court can help all Arizona family courts and lawyers understand—change may be hard, but it is sometimes necessary.

ISSUES DECIDED BY THE COURT OF APPEALS

AND PRESENTED FOR SUPREME COURT REVIEW

ISSUE 1

Can a family court impose $150,000 in sanctions for a violation of Family Law Rule 26 (the family court equivalent of Civil Procedure Rule 11) without following any of the mandatory safeguards in Rule 26(c) (prohibiting sanctions unless the moving party first personally meets and confers, followed by a written warning and a 10-day period within which the opposing party may "withdraw or appropriately correct the alleged violation(s)….")?

ISSUE 2

If a party is threatened with sanctions for violating Family Law Rule 26, and if the alleged violator responds by invoking the safe harbor of that rule (by moving to dismiss the offending pleading with prejudice), can the family court refuse to allow the pleading to be withdrawn and then impose $150,000 in sanctions for fees incurred *after* the violator moved to dismiss the pleading with prejudice? In other words, when a party is accused of filing a pleading that violates Rule 26, can a family court block that party from invoking the safe harbor and then sanction them for the same pleading they attempted to withdraw?

ISSUE 3

If a party is accused of filing a pleading in violation of Family Law Rule 26, but the procedural requirements of Rule 26 are not followed, can the trial court fix the defect by using *other* authority (such as A.R.S. § 25–324 and/or A.R.S. § 25–809(G)) to punish the same Rule 26 violation in a manner that does not comply with the safeguards of Rule 26? In other words, does Rule 26 provide the *exclusive* remedy for a violation of Rule 26, or can a court ignore the requirements of Rule 26 and impose sanctions under other authority for the same violation of Rule 26?

ISSUE 4

Can a family court award $150,000 in fees under A.R.S. § 25–324 or A.R.S. § 25–809(G) without making specific factual findings that a party's unreasonable conduct *caused* the other party to necessarily incur reasonable fees?

ISSUE 5

When a trial judge considers *ex parte* evidence such as anonymous social media posts made after a hearing which are not admitted in evidence, and the court makes an adverse factual finding based solely on that extra-judicial evidence, is the judge obligated to recuse and, if recusal is denied, is that subject to harmless error review which requires a separate showing of actual prejudice, or is it structural error requiring automatic reversal without any further proof of prejudice?

MATERIAL FACTS

The first dispositive issue is purely a question of law—did the trial court apply the *wrong legal standard* when it ordered Laura to pay $150,000 in sanctions for filing a pleading that violated Rule 26 without following any of the procedural requirements of Rule 26? Resolving this question of law involves no factual disputes. Even if every adverse finding of fact against Laura is true, the lower courts still erred as a matter of law because they misapplied Rule 26.

This Court has never interpreted the Rule 26 safe harbor, but countless federal courts have done so with its federal counterpart. Decades ago, in 1993, federal civil Rule 11 was amended to add a safe harbor exactly like the one in Rule 26. In the ensuing 32 years, federal courts have consistently held if the safeguards of Rule 11 are not followed, sanctions are unavailable. This is true even if the underlying pleading was frivolous. *See* *Holgate v. Baldwin*, 425 F.3d 671, 678 (9th Cir. 2005) ("We must reverse the award of sanctions when the challenging party failed to comply with the safe harbor provisions, even when the underlying filing is frivolous.") Arizona trial courts concur; "Rule 11 sanctions are not available to a party that fails to strictly comply with the requirements of the 'safe harbor' provision." *Gallagher v. Surrano Law Offices P.C.*, 2020 Ariz. Super. LEXIS 514, *5–6, Maricopa County Superior Court Case No. CV2019-011348 (Nov. 23, 2020).[1]

1 Unpublished authority cited for persuasive value only. Ariz. Sup. Ct. R. 111(c)(1)(C).

Because the error here was procedural/legal, the facts are essentially irrelevant to the question of Rule 26's application. However, some background detail is helpful for context. As such, a condensed summary of the facts is offered.

1. Background

A two-hour evidentiary hearing was held on June 10, 2024. The transcript is provided in Petitioner's Appendix ("Pet.Appx.") as Exhibit B. The basic facts come from that transcript.

Laura claimed in May 2023, she had a one-night sexual encounter with Respondent Clayton Echard ("Clayton"). 11 days later, Laura took a test that showed she was pregnant. Clayton denied sexual intercourse occurred, but he initially acknowledged (in writing) there was sufficient other sexual contact that pregnancy was a possibility.

Months after the case began (with both parties proceeding *pro se*), in mid-December 2023 Clayton retained counsel who accused Laura of fabricating the pregnancy. Clayton's counsel threatened to seek sanctions under Rule 26.

Days later, Laura retained counsel, and on December 28, 2023, Laura invoked the Rule 26 safe harbor by moving to dismiss with prejudice. Pet.Appx. Ex. C. In her motion, Laura explained, "Petitioner is not now pregnant with Respondent's children …. Here, there is no paternity or maternity to establish, as Petitioner is no longer pregnant. Accordingly, this case must be dismissed." *Id*.

Despite Laura invoking Rule 26's safe harbor, six days later, on January 3, 2024, Clayton moved for sanctions under Rule 26. Pet.Appx. Ex. D. That motion cited no other authority other than Rule 26 as grounds for sanctions.

Clayton's motion failed to comply with Rule 26's new procedural requirements in multiple ways. First, Clayton failed to provide the written warning required by Rule 26(c)(2)(B). Second, Clayton failed to attach a copy of the written warning to his motion as required by Rule 26(c)(3)(D) (because no such warning was given). Third, Clayton filed the motion before the 10-business day safe harbor period required by Rule 26(c)(2)(B) lapsed. Fourth, Clayton filed the motion despite Laura promptly doing exactly what the safe harbor permitted—she withdrew the alleged violation.

The trial court found Laura's petition violated Rule 26. Pet.Appx. Ex. D. Despite this, the court held compliance with the safeguards of Rule 26 was not necessary because fees/sanctions can be ordered under other authorities (i.e., A.R.S. §§ 24–324 and/or 25–809(G)), and those other authorities do not have the same safeguards as Rule 26. The Court of Appeals affirmed that logic. Pet.Appx. Ex. A.

2. Additional Facts Relevant to Structural Error

After receiving the trial court's post-hearing ruling, Pet.Appx. Ex. E, Laura noticed a key factual finding was not based on any evidence admitted at trial. Rather, the finding appeared to have been copied from a social media post made by an

anonymous third party on the Internet *after* the trial concluded.

Specifically, in summarizing the trial testimony of Clayton's medical expert, Dr. Samantha Deans, the court made the following "findings":

> She [Dr. Deans] testified that Planned Parenthood does not accept anonymous patients. They do not accept patients using an alias. Patients are required to provide a government issued form of identification. She further testified that Planned Parenthood is not open on Sundays, when Petitioner testified, she sought care [on] July 2, 2023.

Pet.Appx. Ex. E at 10 (emphasis added).

The specific finding that "Planned Parenthood *is not open on Sundays*" was attributed to the trial testimony of Dr. Deans. But as the trial transcript, Pet.Appx. Ex. B, clearly shows, Dr. Deans said no such thing. Instead, it appears the only basis for the court's finding was anonymous social media posts published online *after the trial concluded*. *See* Pet.App. Ex. F.

Upon seeing this, Laura filed a Notice of Change of Judge For Cause, Pet.Appx. Ex. F, arguing the trial judge's review and consideration of extra-judicial evidence (social media posts published on the Internet after the evidentiary hearing) was sufficient to show bias and prejudice within the meaning of A.R.S. § 12–409(5).

The Presiding Judge denied Laura's notice, concluding (with essentially no explanation) that these facts: "failed to show by a preponderance of the evidence that Judge Mata's finding that 'Planned Parenthood is not open on Sundays' reflects bias or prejudice against Petitioner." The Presiding Judge also found any misconduct was

non-prejudicial, because the issue of Planned Parenthood's business hours was "of little to no importance given the rest of the findings in the July 17 Ruling." Pet.Appx. Ex. G.

Those findings were affirmed by the Court of Appeals which rejected Laura's argument that the judge's review of extra-judicial evidence constituted structural error requiring automatic reversal. The Court further observed, "While a trial court's reliance on extra-judicial information may give rise to a claim of judicial bias apart from any structural-error claim, the critical inquiry that would require reversal is whether the conduct demonstrates an "extrajudicial source of bias or deep-seated favoritism …." Pet.Appx. Ex. A at 10, ¶24. The appellate court concluded that Laura failed to meet this standard, and that the issue of Planned Parenthood's business hours was not prejudicial.

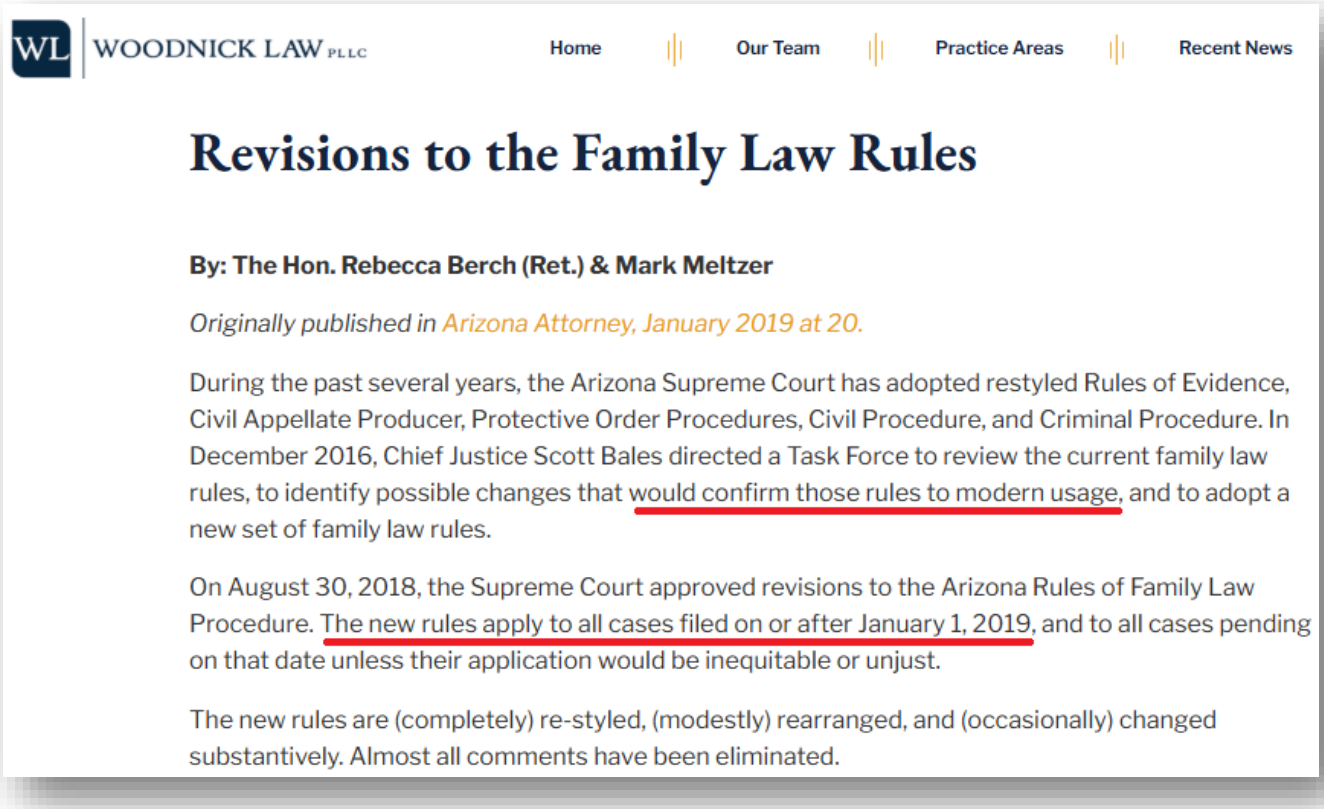
In reaching these conclusions, as explained *infra*, the Court of Appeals misapplied Arizona law and it made the same legal error that was reversed by the Kentucky Supreme Court in *Marchese v. Aebersold*, 530 S.W.3d 441 (Ky. 2017) (finding review of extra judidical evidence in family law matter constituted structural error requiring automatic reversal without any showing of prejudice required, and reversing Court of Appeals decision which held harmless error review applied).

REASONS WHY REVIEW SHOULD BE GRANTED

I. No Published Arizona Decision Controls This Point of Law

Rule 26 is essentially brand-new in family court. On August 30, 2018, this Court ordered sweeping changes to the Rules of Family Law Procedure. *See* R-17-0054. This was the first overhaul since the Family Law rules were created in 2006.

This change was so significant, Respondent's counsel even shared a helpful article about it, observing the update was needed to "confirm[2] [sic] those rules to modern usage …." https://woodnicklaw.com/revisions-to-the-family-law-rules/ (emphasis added).



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Revisions to the Family Law Rules

By: The Hon. Rebecca Berch (Ret.) & Mark Meltzer

Originally published in Arizona Attorney, January 2019 at 20.

During the past several years, the Arizona Supreme Court has adopted restyled Rules of Evidence, Civil Appellate Producer, Protective Order Procedures, Civil Procedure, and Criminal Procedure. In December 2016, Chief Justice Scott Bales directed a Task Force to review the current family law rules, to identify possible changes that would confirm those rules to modern usage, and to adopt a new set of family law rules.

On August 30, 2018, the Supreme Court approved revisions to the Arizona Rules of Family Law Procedure. The new rules apply to all cases filed on or after January 1, 2019, and to all cases pending on that date unless their application would be inequitable or unjust.

The new rules are (completely) re-styled, (modestly) rearranged, and (occasionally) changed substantively. Almost all comments have been eliminated.

2 As the original article notes, the purpose of the change was to "*conform* those rules to modern usage …." Hon. Rebecca W. Berch (Ret.) & Mark Meltzer, *2019:Revisions to the Family Law Rules*, Arizona Attorney (Jan. 2019) (available at: https://www.azattorneymag-digital.com/azattorneymag/201901/MobilePagedReplica.action?pm=2&folio=20#pg23)

When it changed the rules six years ago, this Court fundamental altered the process for seeking (and avoiding) sanctions in family court. Unfortunately, because Rule 26 is so new, and because it contains requirements not present in the old rule it replaced, there is no published authority from this Court, or from the Court of Appeals, interpreting the safe harbor requirements of Rule 26. That lack of guidance allowed the lower courts in this case to severely misunderstand, and misconstrue, the new rule.

This Court has never spoken on the issue of Rule 26's safe harbor. It should do so now. The public, lawyers, and the courts deserve clear, authoritative guidance from this Court explaining exactly how Rule 26 works. That fact, standing alone, warrants this Court's review.

II. This Case Involves Important Questions of Law Which Were Incorrectly Decided

The lack of any published authority involving an important new rule is reason enough to grant review. But another good reason exists—the Court of Appeals' decision was egregiously wrong. The Court of Appeals flatly ignored more than 30 years' worth of federal case law interpreting the now substantively-identical federal version of Rule 11, which Rule 26 was expressly modeled after. Indeed, the Court of Appeals refused to even discuss any of the federal authority supporting Laura's position, concluding, wrongly, that it was not well-grounded in fact and/or law.

Clearly, the opposite is true. Indeed, the Court of Appeals errantly affirmed using the logic and process of the outdated and now-abrogated Rule 31. That error was directly invited by Clayton who improperly cited outdated Rule 31 authority such as *Grow v. Grow*, 2018 WL 283148 (App. 2018), a case decided *before* the 2019 rule change (*Grow* involved Rule 31, not Rule 26).

Because of that invited error, the Court of Appeals improperly ignored helpful (and plentiful) federal cases interpreting aspects of Rule 11 which are functionally identical to Rule 26. In refusing to accept guidance from the federal courts, the appellate court also departed from Arizona's long-standing tradition of doing exactly that. *See James, Cooke & Hobson, Inc. v. Lake Havasu Plumbing & Fire Protection*, 177 Ariz. 316, 318–19 (App. 1994) (Arizona courts consider federal court interpretation of Rule 11).

To help shed light on Rule 26's function, in her appellate briefing, Laura cited extensive federal case law describing several key aspects of Rule 11's purpose and application. First, when the procedural requirements of Rule 11 are not followed, sanctions cannot be awarded even when a pleading violates the rule; "We must reverse the award of sanctions when the challenging party failed to comply with the safe harbor provisions, even when the underlying filing is frivolous." *Holgate*, 425 F.3d at 678; *see also Westerkamp v. Mueller*, 2023 WL 3792739 (D.Ariz. 2023) (denying sanctions when procedural requirements of rule were not met).

Second, when the procedural requirements are not met, a court cannot, *sua sponte*, "fix" the error by converting a defective Rule 11 motion to one made under some other authority (such as the court's inherent authority). This is not permitted because doing so would destroy the safe harbor's purpose. *See* *Radcliffe v. Rainbow Constr. Co.*, 254 F.3d 772 (9th Cir. 2001) (rejecting this approach, and explaining, "It would render Rule 11(c)(1)(A)'s "safe harbor" provision meaningless to permit a party's noncompliant motion to be converted automatically into a court-initiated motion, thereby escaping the service requirement.") Similarly, because the point of the safe harbor is to encourage litigants to withdraw claims without fear of sanctions, a party cannot seek sanctions after a litigant has timely offered to dismiss his case with prejudice; doing so "completely ignore[s] the purpose and requirements of the safe-harbor provision." *Corner Edge Interactive, LLC v. Johnson*, 2021 WL 2517956, *3 (D.Ariz. 2021).

Third, Laura cited extensive authority holding when a party threatens Rule 11/26 sanctions (as occurred here), the accused violator has an absolute right to withdraw the offending pleading before punishment can be imposed. If corrective action is timely taken, as it was here, sanctions cannot be ordered. *See*, *e.g.*, *Barber v. Miller*, 146 F.3d 707, 710 (9th Cir. 1998) (reversing sanctions where alleged violator "was not given the opportunity to respond to [the sanctions] motion by withdrawing his claim, thereby protecting himself totally from sanctions pursuant to

that motion. The purpose of the [1993] amendment was entirely defeated. An award of sanctions cannot be upheld under those circumstances.") (emphasis added).

To the extent Clayton cited any responsive authority at all, it only further supported *Laura's* position. For instance, Clayton cited *dicta* from *Caranchini v. Nationstar Mortgage, LLC*, 97 F.4th 1099 (8th Cir. 2024) which implied (but did not decide) that sanctions for a groundless pleading *might* be available under other authority even if Rule 11's safeguards were not met. But *Caranchini* involved an award of $50,000 in sanctions imposed *after* the alleged violation was resolved (by dismissal of the complaint). Rather than affirming the sanctions on alternate grounds (as Clayton specifically argued was proper), the appellate court *reversed* the award of sanctions. It did so because in that context (where sanctions were requested *after* a violation was cured), the violator "was not afforded an opportunity to remedy the sanctionable conduct and avoid the sanction." *Caranchini*, 97 F.4th at 1102 (emphasis added).

The exact same is error is present here – the trial court imposed $150,000 in sanctions for fees which Clayton incurred *after* Laura invoked the safe harbor. By allowing the case to continue for six months beyond that point, the trial court deprived Laura of her absolute right to the safe harbor. The court's machinations also disregarded this Court's final rule-making authority when it abrogated Rule 31 (which would have permitted this outcome, whereas Rule 26 plainly prohibits it).

The fact that fees/sanctions could have *hypothetically* been awarded under other authority does not change the result. Here, Clayton *actually* threatened Laura with Rule 26 sanctions. Then, he *actually* moved for sanctions under Rule 26. Those are the facts, not hypotheticals.

Applying Rule 26 correctly, the moment Clayton threatened sanctions, the rule gave Laura the absolute right to withdraw her petition within 10 business days (which she did), thereby expeditiously terminating the proceeding (or at least trying to). This result was required to promote the central purpose of Rule 26. *See* *Lake v. Gates*, 130 F.4th 1054, 1060 (9th Cir. 2025) ("[T]he central purpose of Rule 11 is to ... streamline the administration and procedure of the federal courts.")

By refusing to allow Laura to take the safe harbor, the trial court did exactly the *opposite* of what Rule 26 was adopted to achieve; the court needlessly forced the parties to spend *six additional months* litigating a moot issue (when Laura told the court she was no longer pregnant, the issue of paternity clearly became moot). Of course, Clayton argued he still had a "claim for fees", but Clayton was *pro se* and incurred no fees (or at least not $150,000 in fees) from the commencement of the case until the time Laura moved to dismiss. To the extent Clayton incurred any fees meeting and conferring with Laura's counsel about the issue of sanctions before Laura moved to dismiss, those fees were precluded by the effect of the safe harbor; a party who takes the safe harbor is rewarded with safety from sanctions.

III. The Lower Courts Misapplied Arizona Law Regarding Judicial Misconduct

Although it is not necessary for this Court to reach this separate question, the Court of Appeals also improperly decided a separate issue of law involving judicial misconduct. As noted above, the trial judge made a key adverse finding regarding the business hours of Planned Parenthood, but that finding was not supported by any evidence admitted at trial. Instead, this finding was clearly copied from social media posts made on the Internet *after* the June 10 evidentiary hearing concluded. The Court of Appeals held in this context, harmless error review applies, rather than the stricter rule of structural error.

Exactly the same thing happened in *Marchese v. Aebersold*, 530 S.W.3d 441 (Ky. 2017), a case involving a family court proceeding in which the trial judge consider extra judicial evidence regarding the criminal history of a party. In *Marchese* (as here), the intermediate appellate court held judicial misconduct involving review of *ex parte* evidence is subject to harmless error review, requiring proof of prejudice.

Just as this Court should do, the Kentucky Supreme Court granted review and *reversed*, holding:

> [W]e conclude that the trial judge's undertaking to obtain and use as evidence extrajudicial information relating to a party in the case caused her disqualification from proceeding further as the presiding judge in this matter. Her failure to recuse at that point was structural error undermining the integrity of the resulting DVO. Because structural

> error supersedes harmless error review, we need not review the finding of the Court of Appeals that the error was harmless.

Marchese, 530 S.W.3d at 449.

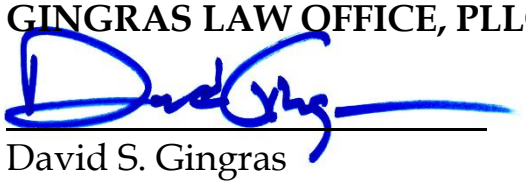
Here, without any discussion, the Court of Appeals rejected the Kentucky Supreme Court's holding in *Marchese*. In doing so, the court also misapplied Arizona case law which reached the same result as *Marchese*. *See State v. Emanuel*, 159 Ariz. 464, 469 (App. 1989) (holding when trial judge conducted *ex parte* interviews of victim in theft case, judge was required to recuse and defendant was entitled to resentencing before a different judge without any showing of prejudice).

IV. CONCLUSION

The word limits of Rule 23 do not provide room for a complete discussion of all other issues, but for the reasons stated above, this Court should grant review of this exceptionally important case. The Court should further order supplemental briefing and oral argument, and should reverse the judgment below.

DATED May 29, 2025.

GINGRAS LAW OFFICE, PLLC



David S. Gingras
Attorney for Petitioner
Laura Owens

FEE REQUEST

Pursuant to Ariz. R. Civ. App. P. 21(a), Laura gives notice that she seeks an award of attorney's fees incurred pursuant to A.R.S. § 25–809(G) (permitting, in any paternity proceeding, award of "attorney fees, deposition costs, appellate costs and other reasonable expenses the court determines were necessary.")

Appendix

Documents		
Ex.	**Date**	**Description**
A	3/28/2025	Memorandum Decision; *Owens v. Echard*; Court of Appeals Case No. 2 CA-CV 2024-0315
B	6/10/2024	Trial Transcript
C	12/28/2023	Petitioner's Motion to Dismiss
D	1/3/2024	Respondent's Motion for Sanctions Pursuant to Rule 26
E	6/18/2024	Under Advisement Ruling
F	7/8/2024	Notice of Change of Judge For Cause; Memorandum & Affidavit in Support
G	8/14/2024	Order Denying Notice of Change of Judge
H	N/A	Arizona Rule of Family Law Procedure, Rule 26
I	N/A	Arizona Rule of Family Law Procedure, Rule 31

Exhibit A

IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

LAURA OWENS,
Petitioner/Appellant,

v.

CLAYTON ECHARD,
Respondent/Appellee.

No. 2 CA-CV 2024-0315
Filed March 28, 2025

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Maricopa County
No. FC2023052114
The Honorable Julie A. Mata, Judge

AFFIRMED

COUNSEL

Gingras Law Office PLLC, Phoenix
By David S. Gingras
Counsel for Petitioner/Appellant

Woodnick Law PLLC, Phoenix
By Markus Risinger
Counsel for Respondent/Appellee

MEMORANDUM DECISION

Judge Vásquez authored the decision of the Court, in which Presiding Judge Eckerstrom and Judge Sklar concurred.

V Á S Q U E Z, Judge:

¶1 In this paternity action, Laura Owens appeals the trial court's award of attorney fees and costs in favor of Clayton Echard. She argues that Echard's "failure to comply with the safe harbor requirements of Rule 26[, Ariz. R. Fam. Law P.], precluded sua sponte sanctions" under any authority and that the amount of fees awarded was unreasonable. She also argues the court committed structural error by conducting its own post-trial investigation into the facts of the case. For the following reasons, we affirm.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to sustaining the trial court's findings and orders. *Hefner v. Hefner*, 248 Ariz. 54, n.2 (App. 2019). In May 2023, Owens and Echard had an intimate encounter. Shortly thereafter, Owens learned she was pregnant. In August 2023, she filed a paternity petition, alleging Echard was the father. Echard denied paternity.

¶3 In December 2023, the case was placed on the administrative dismissal calendar for lack of prosecution. Echard moved to extend the dismissal date, arguing that he was "entitled to an adjudication/finding of non-paternity." He also requested an evidentiary hearing on the paternity issue, attorney fees, and Rule 26 sanctions. In response, Owens informed the trial court she "[wa]s no longer pregnant" and, thus, "[t]here [was] nothing left . . . to adjudicate, and this case should be dismissed." She simultaneously moved to dismiss the case with prejudice; Echard opposed.

¶4 Echard then separately moved for Rule 26 sanctions, arguing Owens's petition was filed for an improper purpose, her motion to dismiss was "unsupported by existing law," and her "factual contentions [were] not supported by evidence and did not become supported by evidence after investigation and discovery." Owens responded that Echard had not complied with Rule 26's requirements because he did not provide her with "written notice of specific conduct alleged to have violated Rule 26" and that she was, therefore, not "afforded time to cure any alleged deficiencies." Echard eventually moved to withdraw his Rule 26 motion, arguing that

"there [was] no reason to participate in the pointless litigation over this issue . . . notwithstanding [his] disagreement with [Owens's] legal positions on Rule 26" because Rule 26 was "not the substantive pleading basis for his claims" for attorney fees and sanctions. The court extended the dismissal deadline, denied Owens's motion to dismiss, and set an evidentiary hearing on "the issue of sanctions and attorney fees."

¶5 After the evidentiary hearing in June 2024, the trial court granted Echard's request for attorney fees and costs. In July, Owens filed a notice of change of judge for cause under Rule 6.1, Ariz. R. Fam. Law P., arguing the judge was biased and had engaged in conduct that violated her right to due process. The presiding judge denied her motion, concluding Owens had failed to prove by a preponderance of the evidence that the judge was biased or prejudiced. Also in July, Owens moved for relief from the judgment or, alternatively, to alter or amend the judgment, which the court ultimately denied. In August, the court awarded Echard attorney fees and costs in the amount of $149,219.76. This appeal followed. We have jurisdiction under A.R.S. §§ 12-120.21 and 12-2101(A)(1).[1]

Discussion

I. Attorney Fees

¶6 Owens argues that because Echard did not comply with Rule 26's safe harbor requirements, she was "shield[ed] . . . from any punishment arising from her alleged violation of Rule 26."[2] As a

[1]The trial court's August 2024 judgment was not certified as final under the applicable rules, and the June 2024 ruling was improperly certified as appealable under Rule 78(b), Ariz. R. Fam. Law P. We therefore suspended the appeal and revested jurisdiction with the trial court to allow it to enter a final, appealable order. After that court amended the August 2024 judgment to include the requisite finality language under Rule 78(c), Ariz. R. Fam. Law P., we vacated the stay and revested jurisdiction in this court.

[2]Rule 26(b) provides that by signing a court filing, a party is, among other things, certifying that it is not being filed for an improper purpose, the claims are supported by existing law and are non-frivolous, and the factual contentions have evidentiary support. If a party violates the rule, the trial court may impose sanctions, including reasonable attorney fees. Ariz. R. Fam. Law P. 26(c). However, before seeking sanctions under the

preliminary matter, we note that a significant portion of Owens's appellate argument relies on her incorrect assertion that the trial court ordered sanctions under Rule 26. The court expressly awarded "attorney fees and costs" under A.R.S. §§ 25-324 and 25-415. We thus decline to consider whether an award under Rule 26 would have been proper.[3] *See Freeport McMoRan Corp. v. Langley Eden Farms, LLC*, 228 Ariz. 474, ¶ 15 (App. 2011) (appellate courts do not decide unnecessary issues or issue advisory opinions).

¶7 We review the trial court's decision to award attorney fees and sanctions under §§ 25-324 and 25-415 for an abuse of discretion. *Myrick v. Maloney*, 235 Ariz. 491, ¶ 6 (App. 2014) (§ 25-324); *Hays v. Gama*, 205 Ariz. 99, ¶¶ 14, 17 (2003) (discovery sanctions). But we review a court's interpretation and application of statutes de novo. *Clark v. Clark*, 239 Ariz. 281, ¶ 6 (App. 2016) (§ 25-324); *Riepe v. Riepe*, 208 Ariz. 90, ¶ 5 (App. 2004) (§ 25-415).

¶8 Owens argues that because the hearing was set in response to Echard's Rule 26 motion, and because he did not file any other motion for fees or sanctions, "[o]f course the court sanctioned [her] under Rule 26." Relying on Rule 35(a)(1), Ariz. R. Fam. Law P., Owens contends a fee or sanctions request must be made by separate motion. While this is true for Rule 26 sanctions, Ariz. R. Fam. Law P. 26(c)(3)(A), the same is not true for attorney fees requests under § 25-324, Ariz. R. Fam. Law P. 78(e)(1); *see Lundy v. Lundy*, 242 Ariz. 198, ¶ 15 (App. 2017), or sanctions for litigation misconduct under § 25-415, *cf. Hays*, 205 Ariz. 99, ¶ 17 (court can impose discovery sanctions under its "inherent contempt power").

¶9 Nevertheless, Echard properly requested attorney fees and costs under those authorities throughout the litigation. For example, he requested attorney fees and costs under § 25-324, "based on [Owens's] unreasonableness," in his motion to extend the dismissal date on the inactive calendar and schedule an evidentiary hearing, which was filed

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rule, the moving party must attempt to resolve the matter by consultation. Ariz. R. Fam. Law P. 26(c)(2).

[3]In its ruling, the trial court ruminated about whether it could sua sponte award sanctions under Rule 26 after a party moves and then withdraws a motion for Rule 26 sanctions. Presumably, it did so because this question was heavily litigated by the parties below. Ultimately, however, the court did not award Rule 26 sanctions.

before Owens moved to dismiss the case. Echard made the same request under § 25-324 in his reply, as well as in an amended response to the paternity petition. Moreover, in Echard's motion to withdraw his Rule 26 motion, he argued that he was entitled to attorney fees and costs under A.R.S. §§ 25-324, 25-415, and 25-809(G), and that his "claims for fees and sanctions exist independently" of Rule 26.[4] These requests were also repeated with supporting arguments in his pretrial statement.

¶10 Owens argues the trial court lacked the authority to impose attorney fees and sanctions independently from Rule 26 because Echard filed and subsequently withdrew the Rule 26 motion. She maintains that Rule 26 "must control and must provide the exclusive remedy" for conduct that would fall under a Rule 26 violation. In support of this argument, she relies on the proposition that when "two rules deal with the same subject, the more specific rule controls." *In re Marriage of Thorn*, 235 Ariz. 216, ¶ 6 (App. 2014). But the statutes under which the court granted attorney fees do not govern the same subject matter as Rule 26. Section 25-324 governs attorney fees, not sanctions. And the sanctions for costs and attorney fees that the court ordered under § 25-415 were based on Owens "knowingly present[ing] a false claim, [and] knowingly violat[ing] a court order compelling disclosure or discovery," which is distinct from conduct that would constitute a Rule 26 violation. *Compare* § 25-415(A)(3), *with* Ariz. R. Fam. Law P. 26(c). We decline to "hastily find a clash between a statute and court rule," *Duff v. Lee*, 250 Ariz. 135, ¶ 14 (2020), especially when the statue and rule govern different subjects.

¶11 Owens next argues that the attorney fees and costs awarded under §§ 25-324 and 25-415 were improper because they were neither "necessary nor reasonable." She asserts Echard's fees "were literally $0" prior to November 2023 and if his counsel had "simply picked up the phone in mid-December and asked [her] about her intentions . . . she would have informed him that she was no longer pregnant, and there was nothing

[4]Echard repeated this argument in his response to Owens's combined motion for judgment on the pleadings and his renewed motion to dismiss. The trial court found Owens's motion to be moot and "decline[d] to take further action." However, there was a delay in the parties' receipt of the court's ruling, and the court found this motion was "filed with the belief the court had not accepted [Echard's] motion to withdraw."

further to litigate." She similarly argues that Echard's decision to file the Rule 26 motion was the precipitating factor in incurring fees. She contends that if Echard had "done nothing," the case would have been administratively dismissed "without a single dollar of fees incurred by either side." Therefore, she maintains that even if her petition were unreasonable, it was not the filing itself that caused fees to be incurred but rather Echard's choice to pursue sanctions. But that administrative dismissal would have been without prejudice, so it would not have precluded Owens from initiating a future paternity action. Nor would that dismissal have been equivalent to the order Echard sought—and ultimately obtained—that he was not the father in connection with the alleged pregnancy.

¶12 At any rate, none of these scenarios posited by Owens have any bearing on the propriety of the fees awarded in this case, as that determination must be based not on conjecture, but on what actually occurred. At the time of Echard's request for an evidentiary hearing on the paternity issue, attorney fees, and Rule 26 sanctions, Owens had not informed him that she was going to move to dismiss the case. And in her response to Echard's request, filed simultaneously with her motion to dismiss, she acknowledged that "the only remaining issue [was Echard's] request for attorney fees." Echard objected to Owens's motion to dismiss, arguing her avowal that she was "no longer pregnant" was insufficient to grant a dismissal. He also requested an "adjudication that she was never pregnant or, at least, that she was never pregnant by [him]" and an evidentiary hearing on his attorney fees request. The trial court ultimately granted Echard's motion to extend the dismissal deadline, stating "the issue of sanctions and attorney's fees remain." Owens does not challenge this ruling on appeal. And the fact that the parties incurred attorney fees because they heavily litigated these issues was within the court's discretion to consider and not something this court will reweigh.

¶13 Here, the trial court found Owens had "acted unreasonably in the litigation" by filing the case "without basis or merit." *See* § 25-324 (court may award attorney fees after considering, in part, "the reasonableness of the positions each party has taken throughout the proceedings"); *see also Magee v. Magee*, 206 Ariz. 589, n.1 (App. 2004) ("[A]n applicant need not show both a financial disparity and an unreasonable opponent in order to qualify for consideration for an award."). The court also found it "disingenuous at best but certainly misleading to the [c]ourt" that Owens had testified the purpose of her motion seeking mediation was to inform Echard the pregnancy was not viable. It further found she had

failed to comply with disclosure requirements, which "caused [Echard] to incur substantial legal fees attempting to locate records that may, or may not [have] exist[ed]." The court also concluded that § 25-324(B) applied because Owens had "provided false testimony as to the viability of the pregnancy" and had sent Echard a letter prior to her deposition that "indicat[ed] her intention to sue him for 1.4 million dollars in collateral allegations unless he agreed to dismiss this action that she initiated."

¶14 On appeal, Owens does not meaningfully challenge these findings but, instead, argues § 25-324 does not apply in paternity actions. Section 25-324(A) permits a court to "order a party to pay a reasonable amount to the other party for the costs and expenses of maintaining or defending any proceeding under [chapter 3] or chapter 4, article 1 of this title." Chapter 3 governs dissolution of marriage and, relevant here, chapter 4, article 1 governs legal-decision making and parenting time. Owens argues that paternity actions are "[b]y definition" excluded. A family court's authority to conduct legal decision-making and parenting time proceedings is provided by A.R.S. § 25-402. Under that statute, a parent is required to request such a determination in "any proceeding for marital dissolution, legal separation, annulment, paternity or modification of an earlier decree or judgment." § 25-402(B)(1); *see Tanner v. Marwil*, 250 Ariz. 43, ¶ 11 (App. 2020). Here, Owens petitioned the trial court for orders concerning paternity, legal decision-making, parenting time, and child support. While the court ultimately did not issue legal decision-making and parenting time orders, Echard "defend[ed] any proceeding under . . . chapter 4, article 1 of this title," by virtue of Owens's petition, as was reflected in his amended response. § 25-324(A).

¶15 Even assuming the trial court's fee award was improper under § 25-324 because of this case's procedural posture, the court's findings would have supported a fee award under § 25-809(G). *See Forszt v. Rodriguez*, 212 Ariz. 263, ¶ 9 (App. 2006) (we may affirm trial court if legally correct for any reason). Echard cited § 25-809 in seeking attorney fees, so the issue was also properly before the court. The language in § 25-809(G) largely mirrors that in § 25-324(A), and permits a court to "order a party to pay a reasonable amount to the other party for the costs and expenses of maintaining or defending any [paternity] proceeding." We reject Owens's suggestion that this paternity action somehow transformed into some other type of proceeding because the parties only incurred fees after it was scheduled for administrative dismissal without prejudice. The court did not err in awarding attorney fees.

¶16 The trial court also properly awarded fees and costs as a sanction under § 25-415. The court found that fees under this statute were appropriate because Owens had "knowingly violated a court order compelling disclosure or discovery." Owens argues she fully complied with the court's disclosure order as was "demonstrated by the fact [Echard] never brought any motion seeking sanctions under A.R.S. § 25-415." She argues because no motion had been filed, she did not have the opportunity to prove she fully complied with the court's order. Although § 25-415 does not require the filing of a separate motion, as previously noted, Echard requested relief under this statute. Section 25-415(A)(3) states that "[t]he court shall sanction a litigant for costs and reasonable attorney fees incurred by an adverse party if the court finds that the litigant . . . [v]iolated a court order compelling disclosure or discovery."[5] Here, the court made such a finding; thus, it was required to sanction Owens for the costs and reasonable attorney fees Echard had incurred. Owens does not meaningfully challenge that finding. Again, the court did not err in awarding Echard his costs and reasonable attorney fees.

¶17 On appeal, Owens also claims that the amount of the fee award was unreasonable. The substance of her argument is that below she had "noted the *amount* of fees was patently unreasonable in light of the controlling standard of E[thical] R[ule] 1.5." But because she "fails to identify with any particularity what evidence supports" her argument, "we conclude that the court did not abuse its discretion in fixing the amount of attorneys' fees it awarded [Echard]." *A. Miner Contracting, Inc. v. Toho-Tolani Cnty. Imp. Dist.*, 233 Ariz. 249, ¶ 43 (App. 2013).

II. Denial of Motion for Relief from Judgment

¶18 Owens argues that the trial court erred by denying her motion for relief from judgment or, alternatively, to alter or amend the judgment. We review the denial of such motions for an abuse of discretion. *Pullen v. Pullen*, 223 Ariz. 293, ¶ 10 (App. 2009) (motion to alter or amend judgment); *Quijada v. Quijada*, 246 Ariz. 217, ¶ 7 (App. 2019) (motion for relief from judgment). Because Owens does not argue how the court erred in denying her motion but instead asserts that the "only available remedy" is "automatic reversal" because the "misconduct is per se structural error of

[5]Section 25-415(A)(3) provides two exceptions: if "the court finds that the failure to obey the order was substantially justified or that other circumstances make an award of expenses unjust," it is not required to impose sanctions. The trial court made no such findings here.

the most obvious kind," we do not address the court's denial of her motion. *See Polanco v. Indus. Comm'n*, 214 Ariz. 489, n.2 (App. 2007) (undeveloped argument waived on appeal).

III. Judicial Bias

¶19 Owens argues the trial court improperly "performed an independent and undisclosed investigation into the facts of this case" and, from this investigation, "made post-trial findings" not based "on the evidence admitted at trial." In the findings of fact section of its ruling, the court stated that Echard's expert had "testified that Planned Parenthood is not open on Sundays, when [Owens] testified, she sought care July 2, 2023 [a Sunday]." The parties agree the expert did not testify that Planned Parenthood is closed on Sundays, and that the court's finding was therefore erroneous. Instead, they dispute which standard of review should apply. Owens argues this amounted to structural error, requiring automatic reversal, because it "prove[s] the trial judge was biased, as shown by the judge's decision to engage in unlawful conduct which violated [her] right to due process." Conversely, Echard argues that "[t]he controlling standard for alleged mistakes in family law proceedings is harmless error."

¶20 Structural error is generally applied in criminal cases and is error that affects the framework within which the trial proceeds, rather than simply an error in the trial process itself. *State v. Henderson*, 210 Ariz. 561, ¶ 12 (2005). "The Supreme Court has defined relatively few instances in which we should regard error as structural," but one of those instances is "a biased trial judge." *State v. Ring*, 204 Ariz. 534, ¶ 46 (2003). We nevertheless decline to apply a structural-error analysis given the record before us.

¶21 Here, Owens moved for a change of judge for cause under Rule 6.1, Ariz. R. Fam. Law P., on the basis of bias and prejudice within the meaning of A.R.S. § 12-409(B)(5). The presiding judge denied her motion. While acknowledging that the trial judge's finding about Planned Parenthood's business hours was clearly erroneous, the presiding judge concluded that Owens had "failed to show by a preponderance of the evidence" that this finding "reflect[ed] bias or prejudice against [her]." Owens contends that we need not "separately decide whether the Presiding Judge erred when she denied [Owens]'s Notice of Change of Judge For Cause" because the requested "relief is subsumed within the structural error arguments" that we "must review de novo." But as we explain below, the record does not show that the trial judge was biased. Thus, even assuming without deciding that structural error applies in family cases, it

did not occur, and the presiding judge did not abuse her discretion in denying Owens's motion for change of judge for cause. *See Stagecoach Trails MHC, L.L.C. v. City of Benson*, 232 Ariz. 562, ¶ 21 (App. 2013) ("We review for an abuse of discretion the denial of a motion for change of judge based on a claim of judicial bias.").

¶22 Owens argues the trial court's erroneous finding of fact demonstrated it was biased and therefore committed structural error. Her argument is based on conjecture; she does not provide any evidence showing actual bias. Her claim of bias is based on her assertion that the court intentionally "tried to conceal [its] misconduct" in "performing [its own post-trial] investigation into the facts" by "falsely attributing the testimony" to Echard's expert. Owens claims this is the "only plausible conclusion" given that online supporters of Echard had "vociferously post[ed] about this issue online hours after the trial ended." These unsupported and speculative allegations fail to meet her burden to prove bias by a preponderance of the evidence. *State v. Ellison*, 213 Ariz. 116, ¶ 37 (2006).

¶23 Owens further contends that "*any* independent factual investigation by a trial judge is unlawful . . . [and] shows bias." But for structural-error review to apply, the type of judicial bias that must be shown is that which implicates a party's due process rights, "such as bias based on a 'direct, personal, substantial pecuniary interest.'" *State v. Granados*, 235 Ariz. 321, ¶ 11 (App. 2014) (quoting *Tumey v. Ohio*, 273 U.S. 510, 523 (1927)). None of those grounds apply here. We therefore review for an abuse of discretion. *Stagecoach Trails MHC, L.L.C.*, 232 Ariz. 562, ¶ 21.

¶24 While a trial court's reliance on extra-judicial information may give rise to a claim of judicial bias apart from any structural-error claim, *see State v. Emanuel*, 159 Ariz. 464, 469 (App. 1989), the critical inquiry that would require reversal is whether the conduct demonstrates an "extrajudicial source of bias or deep-seated favoritism," *Stagecoach Trails MHC, L.L.C.*, 232 Ariz. 562, ¶ 21. Owens correctly notes that the court misstated trial testimony. But she is incorrect in asserting that "because harmless error analysis does not apply," she does not need to make a separate showing of resulting prejudice. "Prejudice will not be presumed but must be evidenced from the record." *Town of Paradise Valley v. Laughlin*, 174 Ariz. 484, 487 (App. 1992); *see* Ariz. R. Fam. Law P. 86 ("Unless justice requires otherwise, an . . . error by the court or a party . . . is not grounds for . . . disturbing a judgment or order."). Therefore, even if the court conducted independent research, under a prejudice analysis, we would still

have to determine whether Planned Parenthood's business hours were "vitally important" to the court's ultimate conclusions, as Owens claims. However, Owens does not argue prejudice. Consequently, the presiding judge did not err in denying Owens's motion for change of judge for cause. The record does not show judicial bias and Owens does not challenge any of the presiding judge's rulings under the appropriate standards for appellate review. *See Polanco*, 214 Ariz. 489, n.2.

IV. Attorney Fees on Appeal

¶25 Owens and Echard request their attorney fees and costs on appeal under § 25-809(G). Echard additionally requests fees and costs under § 25-324. Under both statutes, the court may award attorney fees and costs "[a]fter considering the financial resources of both parties and the reasonableness of the positions each party has taken throughout the proceedings." § 25-324(A); § 25-809(G). While the record does not support a disparity in the parties' financial resources, Owens's position on appeal is unreasonable. *See Magee*, 206 Ariz. 589, n.1. Her Rule 26 argument is not grounded in law or fact. Likewise, her assertion that the trial judge was biased and committed structural error does not meaningfully address the trial court's rulings below and also ignores the applicable jurisprudence. We therefore award Echard his reasonable attorney fees and costs on appeal upon his compliance with Rule 21, Ariz. R. Civ. App. P. *See* § 25-809(G) (fees); § 12-341 (costs).

Disposition

¶26 For the foregoing reasons, we affirm the trial court's judgment.

Exhibit B

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

LAURA OWENS,	)	
	)	
Petitioner,	)	
	)	
and	)	FC2023-052114
	)	
CLAYTON ECHARD,	)	
	)	
Respondent.	)	
_____	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EVIDENTIARY HEARING

BEFORE THE HONORABLE JULIE MATA

Phoenix, Arizona
June 10, 2024

CERTIFIED COPY

Prepared for:
PETITIONER

Reported by:
Nicole Tatlow, RPR
Certified Reporter No. 50671

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I N D E X

P R O C E E D I N G S

THE COURT: Good morning, everyone. This is the time set in FC2023-052114.

Appearances, please, beginning first with Petitioner's counsel.

MR. GINGRAS: Good morning, Your Honor. David Gingras on behalf of Laura Owens.

Ms. Owens is present with me in court today, along with her -- her mother and our medical expert, Dr. Michael Medchill.

THE COURT: Good morning to you all.

And from the Respondent, please?

MR. WOODNICK: Good morning, Judge. Gregg Woodnick. I'm here for Clayton Echard.

And also with me is my cocounsel, Deandra Arena and Isabel Ranney.

THE COURT: Good morning to all of you.

Is that, by chance our expert, maybe?

THE COURTROOM ASSISTANT: Yes.

THE COURT: Oh, no. I wasn't talking to the media. You're fine. I was talking to Leala.

All right. So, Counsels, I know we discussed in chambers whether the rule's going to be invoked or not. What did we decide?

MR. GINGRAS: We're not invoking it.

MR. WOODNICK: We're good.

THE COURT: Okay. All right. So then as I told the parties, that extends your time by five minutes. Each party will be given 50 minutes.

We will take a ten-minute break roughly halfway through. I allow ten minutes for technical difficulties because they just happen to everybody.

Are either counsel using a laptop that may kick you out on Wi-Fi? No? All right. So that won't be an issue, then, this morning.

And then the additional ten minutes has now been absorbed into the parties' time.

Counsel, I note that you wish to make a record before we begin. Did you wish to make that now?

MR. GINGRAS: I do, Your Honor, as quickly as I possibly can.

THE COURT: Okay.

MR. GINGRAS: So we object to Mr. Michael Marraccini being called as a witness. There are two bases for this objection. The first is nondisclosure. I raised this before in a motion in limine, if the Court would remember. I don't think the Court had all the facts at that time, and I don't know that I had an opportunity to present them, so I just want to briefly explain what the basis is

for the nondisclosure objection.

I got involved in this case on March 25th, 2024. Two days after that, Mr. Woodnick served a -- a second supplemental disclosure statement. That was the first time that Mr. Marraccini was identified as a witness. The entire disclosure was a single sentence long, and I'll -- I'll read it. "This witness is expected to testify about his prior interactions with the petitioner, her two alleged pregnancies during their relationship, and the subsequent litigation." That was the entirety of the disclosure as to Mr. Marraccini.

As I would in any case, Your Honor, once I got a copy of the file, I started to investigate, and I reached out to the contact person listed for Mr. Marraccini, who was a lawyer in California named -- named Randy Sue Pollock. I spoke to Ms. Pollock. She expressed extreme surprise. She had never heard of this case, she'd never heard of Mr. Woodnick, she had no idea why I was calling her. I told her that her client had been listed as a witness and that I wanted to know if he was going to come to trial or not. If he was, I may want to speak to him, may want to depose him. She said that she would get back to me and let me know.

She sent me an e-mail the next day, dated April 19th, which I have a copy of, and I'll put it into record if -- if Your Honor would allow. She said to me in

writing, "My client will not be testifying." Referring to Mr. Marraccini. I thought, great, one less person, one less time issue to deal with.

That remained my understanding until the morning of April 30th, when I received a new disclosure from Mr. Woodnick that totally changed the -- the landscape. This was the first time that I'd heard there was an issue of fake medical records with Mr. Marraccini and my client in California some eight years ago. That's why I -- literally within an hour of seeing that information, I filed an emergency motion for a court hearing. The Court, unfortunately, took two and a half weeks and then denied that, so I was not given an opportunity to explain the problem.

Here we are, Your Honor, the morning of trial. I still don't know what Mr. Marraccini is going to say. That is a complete violation of Rule 49. The whole purpose of the disclosure rules is to avoid surprise. And yet here we are, surprised, waiting to see what he's going to say. That's improper.

The second issue, Your Honor, deals with this California court restraining order. I think you have a copy of it. It's one of our trial exhibits. We have a court record from the State of California that prohibits Mr. Marraccini from being within a hundred yards of

Ms. Owens. He's in violation of it right now. There is no exception for court appearances. She is so terrified that she may not be able to sit here during this trial.

Under the full faith and credit cause of the U.S. Constitution and also under federal law, this Court is required to enforce that order as it is written. You can't change it, you can't modify it, you can't disregard it. And yet here we are.

So for those two reasons, I would ask the Court to exclude Mr. Marraccini.

THE COURT: Thank you.

Response?

MR. WOODNICK: I can do it in 30 seconds, Judge.

Number one, you already ruled on this. And number two, there's a lack of transparency in the comments because, number one, Your Honor already saw Mr. Marraccini's correspondence to Mr. Gingras as to why he didn't want to talk to him, and number two, Mr. Marraccini is here and is available, and certainly Mr. Gingras could have walked out in the hallway and talked to him, but instead, he called 9-1-1.

THE COURT: Thank you.

MR. GINGRAS: Your Honor, just --

THE COURT: Any response?

MR. GINGRAS: Very briefly.

The whole point here is I wanted to talk to Mr. Marraccini. I wanted to interview him either informally, which I would do in any case, or depose him if he wouldn't participate. I couldn't do that because I didn't have contact information from him, and his attorney told me he wasn't coming. So somebody lied to me. I don't know who it was, but I don't care. The disclosure rules require him to disclose everything to me so that I am not surprised. That was not done. He shouldn't be allowed to testify.

THE COURT: Thank you.

Okay. The Court did previously rule on this. My ruling will stand. But I appreciate the record.

So at this point, Counsel, on your client's behalf, how many people will be testifying, and are they in the courtroom right now?

MR. GINGRAS: We have three, and they are -- they are all here.

THE COURT: Okay.

Do we have the expert available virtually?

THE COURTROOM ASSISTANT: Yes.

THE COURT: Okay.

And then, Counsel, from your perspective, which witnesses are you calling, and are they all here?

MR. WOODNICK: We have Mr. Echard,

Mr. Marraccini, Mr. Gillespie, and Dr. Deans, who is by phone -- or by video.

THE COURT: Okay. All right.

All right. So what we're going to do at this time is we're going to swear everybody in. That gives the parties a little bit more time. So I'm going to have anyone who is being called as a witness to please raise your right hand to be sworn in.

And I apologize, Dr. Deans. I can't see you. But if you would, please, raise your right hand.

(WHEREUPON, the witnesses were duly sworn by the Court Clerk.)

THE COURT: Dr. Deans?

DR. DEANS: I do.

THE COURT: Thank you.

All right. And counsel may or may not choose to make an opening statement. Just as a strategic method, sometimes attorneys choose to reserve their time for testimony and evidence.

That being said, does either party wish to make an opening statement?

MR. GINGRAS: I do, Your Honor. I'll take about 15 seconds.

THE COURT: Okay. When you're ready.

MR. GINGRAS: Your Honor, the file

notwithstanding, I'm actually a fan of keeping things simple. I believe that simple is better. That means focusing on what matters and filtering out what does not matter.

We're here on a petition to establish paternity. Unless I'm missing something, the only possible outcomes of that petition are that paternity is established or it is not. There is no baby in this case. There is nothing to establish. Our position is that the petition's moot, that the Court can simply deny it, dismiss it; use whatever verbiage you want to.

The only remaining issue is, I guess, this issue of Mr. Echard's request for a judgment of non-paternity. My position is he bears the burden of proving that. There's absolutely no evidence to support that. And Ms. Owens, at the end of the day, she was pregnant, Your Honor. The fact that she was pregnant negates everything else that you're about to hear. Whether she lied to an ex-boyfriend eight years ago has nothing to do with whether she was pregnant last year. Nothing. It does affect credibility, but as you're about to hear from our medical expert, there's objective proof of pregnancy that does not require relying on her credibility. It's that simple.

So we would like the Court to dismiss, deny the petition. There's no basis for fees. There's no fee

request in front of you right now, so -- I -- I -- I guess you could offer some guidance on what the Court would do in the future, but there is no -- there is no sanctions request to grant, there's no fee motion to grant.

THE COURT: Thank you.

Counsel, did you wish to make an opening statement?

MR. WOODNICK: Generally, no, but today, yes.

Judge, we stand by our pretrial statement and detail as verified by Mr. Echard. I'll remind the Court that the Court not only has the establishment of paternity matter, which was filed woefully inappropriately, as you'll hear today and as you know from prior pleadings in this matter; but we've got the collateral protective order proceedings and the orders of protection related to that that Your Honor indicated that you'd already watched or were watching the videos related. That's all before the Court today.

And Your Honor has authority to make the findings today that the petition was filed in bad faith, that there was pervasive fraud on this Court in multiple proceedings, and that attorney's fees and sanctions can be ordered in this matter.

THE COURT: Thank you.

All right. So now we'll begin.

Yes, Counsel?

MR. GINGRAS: Oh, sorry.

THE COURT: That's okay. Did --

MR. GINGRAS: I was going to call my first witness.

THE COURT: Oh. Okay. Yeah.

So as -- as witnesses come up to the witness stand, you can bring water with you. The exhibits will be displayed for you. Please let us know if you can't see it.

And, Counsels, you should each be made a presenter when it's your turn, but if you haven't, please let Leala know.

MR. WOODNICK: Judge, are you keeping time, and what's our time-check?

THE COURT: Yeah. Sure. Petitioner's at 4 minutes, 34 seconds. Respondent's at 1 minute, 11 seconds.

MR. WOODNICK: Thank you.

THE COURT: Uh-huh.

When you're ready.

MR. GINGRAS: Your Honor, I call Laura Owens.

THE COURT: All right.

LAURA OWENS,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GINGRAS:

Q. Laura, how are you feeling?

A. Nervous.

Q. Okay. Just breathe and we'll get through this really quick. Okay?

Laura, we've talked about the timeline of events, and I want to just really quickly run through.

When did you first meet Mr. Echard?

A. May the 17th, I believe, we connected on LinkedIn.

Q. Okay. And did you -- were you intimate with him at some point?

A. Yes.

Q. When was -- what day was that?

A. May 20th.

Q. At some point after you were intimate with him, did you test positive for pregnancy?

A. Yes.

Q. Do you remember the first time that happened?

A. It was the evening of May 31st.

Q. Okay. After you tested positive the first time, did you do anything to confirm the pregnancy?

A. Yes.

Q. What did you do?

A. I went to Banner Health Urgent Care the next day, and I took a test there.

Q. On June 1st?

A. Yes.

Q. If you can look at the screen in front of you there, is Ex- -- it says Exhibit 2. That's actually the wrong number. But that's a -- a printout of the -- the positive pregnancy test you received from Banner?

A. Yes.

Q. On June 1st?

A. Yes.

Q. Okay. And after you got the second positive test, what did you do?

A. I told Mr. Echard.

Q. All right. Did you go see him at some point to talk about it?

A. Yes.

Q. What day was that?

A. June 17th.

Q. When you -- and you went over to his house, I understand?

A. Yes.

Q. When you showed up at his house, did he ask you to take a pregnancy test?

A. He did.

Q. Did you know in advance that he was going to give you that test?

A. I did not.

Q. Did you take the test in front of him?

A. Yes, I did.

Q. Did he actually watch you pee on a stick?

A. Yes, he did.

Q. What was the result of that?

A. It was positive.

Q. After you had the third test that was positive with him, did he send you an e-mail at some point to talk about the -- the situation?

A. Yes.

Q. All right. Looking at the screen in front of you, is this the e-mail that Mr. Echard sent you on, it looks like, June 21st?

A. Yes.

Q. The third paragraph down has some highlighted text, and I'll just read it.

"Considering you only performed oral sex on me, and no vaginal penetration occurred, the chances of you being pregnant seem considerably low. Although, again, maybe rubbing up against one other allowed a sperm to make its way inside you, it's a very low probability. Nevertheless, it is one."

First of all, Clayton wrote that to you. Yes?

A. Yes.

Q. And did you have conversations with him where he told you that he thought you were pregnant?

A. Yes.

Q. Is that verbal conversations or text or e-mail or all three?

A. All three.

Q. Okay. Moving right along, after you got this e-mail on --

MR. GINGRAS: And I'll move to admit, Your Honor, Petitioner's Exhibit A2.

THE COURT: Any objection?

MR. WOODNICK: No.

THE COURT: A2's received.

BY MR. GINGRAS:

Q. After the e-mail of June 21st, what happened next in terms of your proceeding to verify the pregnancy?

A. I took additional tests.

Q. Did you have a sonogram done in California?

A. Yes, I did.

Q. And where was that done?

A. Planned Parenthood.

Q. And you understand -- and I'm sure Mr. Woodnick will ask you about this. Planned Parenthood has not been

able to verify that you were ever seen there. You understand that?

A. Yes.

Q. Can you explain that?

A. Yes. I went under a fake name when I went there.

Q. Okay. And you had a sonogram done. Did you ever present that sonogram as evidence in any court proceeding anywhere?

A. No.

Q. We have, obviously, presented it in this case. But you -- you've admitted already that you changed the name at the top or the location --

MR. WOODNICK: Objection. Leading.

BY MR. GINGRAS:

Q. Did you --

THE COURT: Sustained.

BY MR. GINGRAS:

Q. Did you change the name at the top of the sonogram?

A. Of the location, yes.

Q. Why did you do that?

A. I changed it because Mr. Echard was being threatening towards me, and I didn't want him to know where I had gone and try to track down my providers.

Q. Okay. After the Planned Parenthood sonogram --

do you remember approximately what date that was? I know you signed a declaration, I think, that said July 2nd, and then there may be a conflict. Do you remember what date that was that you went?

A. It was actually the end of June.

Q. Okay. Did you -- were you in California both weekends? Is that what the confusion was?

A. Yes.

Q. All right. After the sonogram in California, around July 23rd, did something happen in terms of you passing tissue or anything like that?

A. Yes.

Q. Can you explain briefly what happened on July 23rd?

A. Yeah. I wasn't having any symptoms at all, but I did pass tissue that looked like it could have potentially been a miscarriage.

I'm not sure if you're going to pull that up, or if I was looking for something.

Q. I'll wait till --

A. Okay. Yeah.

It looked like it could potentially be miscarriage tissue, but I -- I wasn't sure.

Q. Did you seek any medical care after July 23rd after the tissue passed?

A. Yes.
Q. Related to that?
A. Yes.
Q. What did you do?
A. I texted a hotline for pregnancy and miscarriage questions, and I also did an appointment with a telemedicine doctor as well.
Q. Okay. And what did they tell --
A. Video visit.
Q. I'm sorry.
What did they tell you?
MR. WOODNICK: Objection. Hearsay.
THE WITNESS: They --
MR. GINGRAS: Effect on listener.
THE COURT: Hold on one second.
Overruled.
BY MR. GINGRAS:
Q. Go ahead.
A. Oh. That means go ahead? Okay.
What was the question? What did they tell me?
Q. Yeah. What -- what information did they give you, if any?
A. They told me that I needed to monitor myself, but that they felt like unless I had more symptoms, I didn't need to worry that it was a miscarriage.

Q. Okay. And after July 23rd, did you take any other pregnancy tests shortly after that date?

A. Yes, I did.

Q. What date?

A. I believe the 27th and then also August 1st before I filed this case.

Q. Okay. So the day that you filed -- before you filed this case, how many pregnancy tests did you have?

A. Five.

Q. So you had one on May 31st, you had one on June 1st at Banner, you had another one on June 17th with Clayton, you took one -- I have -- my notes say July 25th, but I think you just testified maybe a little -- day or two differently. August 1st also. So five positive tests before you filed this case?

A. Yes.

Q. Did you have any -- any negative tests before you filed this case?

A. No.

Q. Laura, Clayton has argued -- let me -- let me go back to the night of May 20th.

You have -- in your deposition you said that Clayton actually had sexual intercourse with you. Do you recall that?

A. Yes.

Q. And was that true?
A. Yes.
Q. Did you tell him that night that you did not want to have sex?
A. Yes.
Q. And did he honor that request?
A. No.
Q. Laura, you've heard Clayton argue at various places in this case that you were trying to trap him in some way by what happened here.
Can you explain, if you were trying to trap him, why did you tell him that you didn't want to have sex?
MS. ARENA: Objection. Leading.
THE WITNESS: I wasn't trying to trap him.
THE COURT: Hold on one second.
THE WITNESS: Sorry.
THE COURT: Sustained.
BY MR. GINGRAS:
Q. Okay. But you never -- that first night with Clayton, you never said to him, "Let's" -- "Let's do it all night long," anything like that?
MS. ARENA: Objection. Leading.
THE COURT: Sustained.
BY MR. GINGRAS:
Q. Did you -- did you tell Clayton that you wanted

to have sex that night?

A. No.

Q. Okay. Laura, let's switch very quickly.

Actually, let's go back to our timeline.

After you filed the case on August 1, did you do anything in terms of DNA testing to verify -- again, verify the pregnancy and verify that Clayton was the father?

A. Yes.

Q. What did you do to verify that?

A. We took a test -- well, I paid for a test in August at Ravgen, which was the lab that he chose to conduct the test. And I paid for it, and he did not schedule his part of the test.

Q. So according to my notes, August 15th was Ravgen, the initial booking for $725 you paid. Is that accurate?

A. Yes.

MS. ARENA: Objection. Leading.

THE COURT: Sustained.

BY MR. GINGRAS:

Q. What -- what date did you initially book the Ravgen test for?

A. August 15th.

Q. And what you pay for it?

A. $725.

Q. Okay. And why didn't that test go forward? Or

did it go forward?

A. Clayton did not schedule his part of the test.

Q. Okay. So you had to cancel?

A. Yes.

Q. You eventually successfully completed testing?

A. Yes.

Q. What were the out- -- what was the result of that?

A. It was inconclusive. Little to no fetal DNA.

Q. Okay. And do you remember when that result came back?

A. I believe we took the test September 28th, so shortly thereafter.

Q. All right. After the Ravgen results came back, did you have any further pregnancy tests?

A. Yes.

Q. Do you remember the date, when and where that happened?

A. Yeah. It was October the 16th, I believe, and it was at Any Lab Test Now.

Q. And was that a quantitative test? Was it -- did it involve a blood draw?

A. It was a blood draw, yes.

Q. And do you remember the results of that test?

A. It still showed that I was pregnant.

Q. Okay. At some point, did you eventually learn that you were no longer pregnant?

A. Yes.

Q. What date did that happen?

A. November 15th, I believe.

Q. And was that -- did you go to a facility called MomDoc?

A. Yes.

Q. And did you take -- how many -- did they give you a pregnancy test then?

A. Yes.

Q. Was it more than one test?

A. They just gave me one test.

Q. Okay. And -- and the results were both negative?

A. Yes.

Q. Okay. After you learned that you were no longer pregnant November 14th [sic], did you file anything further in this case?

A. No.

Q. Did you -- what was your intent -- if we go back to the -- Any Lab Test Now, October 16th, you filed a request for mediation two days after that, correct?

A. Correct.

Q. What was your intent in doing that?

A. I wanted to dismiss the case. Or I wanted to go

over the test results.

Q. Did you -- did you know how to dismiss the case?

A. No.

Q. So you were -- you were making an effort to let Clayton know that you weren't -- you thought the pregnancy was probably ending badly, and you wanted to drop the case?

MS. ARENA: Objection. Leading.

THE COURT: Sustained.

BY MR. GINGRAS:

Q. All right. Laura, let's -- let's switch topics briefly.

Clayton lie- -- did Clayton ever lie to you about real estate contracts?

A. Yes.

Q. Can you briefly explain what happened with that?

A. Yeah. I first met him as a Realtor, and I had him make two offers on two different properties on the same day and found out he never submitted those offers.

Q. When --

A. I signed them.

Q. When were the offers submitted?

A. May 24th.

Q. And when did you find out that they -- that Clayton didn't send them to the -- to the seller?

A. May 25th. Because they were only good for 24

hours.

Q. So he lied to you and said that he had sent offers in that he didn't?

A. Correct.

MS. ARENA: Objection, argumentative, and objection, relevance.

MR. GINGRAS: Goes to --

THE COURT: Overruled.

BY MR. GINGRAS:

Q. Go ahead.

A. Correct.

Q. Did -- at some point, did you file a complaint against Clayton with the real estate board?

A. Yes, I did.

Q. Did you receive a response from the board regarding your complaint?

A. Yes.

Q. What was that response?

A. They found him in professional violation of a couple of things, but I can't remember what they were.

Q. Laura, that issue with the real estate contracts happened before you tested positive for pregnancy, if I -- if I'm understanding the timeline correctly. Is that right?

A. Yes.

Q. Did you ever learn why Clayton did not submit

those offers, or why he said he didn't?

A. He said I [sic] didn't because he said I wasn't -- I had no intention of purchasing real estate.

Q. Were you -- did you have an intention of purchasing real estate?

A. Yes.

Q. Did you wind up purchasing real estate?

A. Yes.

Q. Okay. Let's talk about proof of pregnancy again. So did you take a photo of the test that you took on May 31st?

A. Yes, I did.

Q. All right. I think attached -- if you -- do you still have -- yeah, you still have that exhibit?

A. Yeah, I still have the exhibit in front of me.

Q. So attached to this e-mail are a couple of photos here. One -- one's right there. Day 11, it says. Is that -- is this a photograph that you took?

A. Yes. Day 11 is one I took. And I believe the one above is one Clayton took.

Q. Okay. So -- so the one that says Day 11 is a photo that you took, and you sent that to Clayton at or around that time?

A. Yes.

Q. And then the one above that is -- it says Day 21,

and it also appears to show positive. And that's the test that Clayton gave you?

A. Yes.

Q. And he sent that picture back to you?

A. Yeah. He took it right after the test at his place.

Q. All right. And the test that you took at Banner and the results that you received there on June 1st, did you send that to Clayton?

A. Yes.

Q. And that's Exhibit -- it's our Exhibit A1.

MR. GINGRAS: And I'll move to admit that one as well, Your Honor.

THE COURT: Any objection?

MS. ARENA: No objection to A1, Your Honor.

THE COURT: A1's received.

BY MR. GINGRAS:

Q. Okay. Laura, did you do -- regarding the Banner test, the Day 11 test, or the Day 21 test, those three tests, did you do anything at all to tamper with the results of those tests?

A. No.

Q. Did you take any drugs, hormones, or any substance at all to -- to affect the outcome?

A. No.

Q. Did you use someone else's urine to change the outcome?

A. No.

Q. Laura, in Clayton's deposition, this exact issue came up about him giving you the test and wanting you to take it in front of him. And he testified -- I'll just -- I'll just read from his deposition.

"Yeah, I wanted to make sure she didn't bring anything into the bathroom, but she couldn't pee right in front of me because she said she had stage fright, so I closed the door so she would -- so she would be able to pee."

Is that deposition testimony truthful?

A. I did have stage fright. He was right, I did tell him that. But I did pee in front of him because he insisted that I did that.

Q. Okay. And when he sent you the e-mail on July 19th, two days after -- I'm sorry -- June 19th, two days after you went to his house and took that third test in front of him, did he say anything at all about the fact that you closed the door and couldn't pee in front of him?

A. No.

Q. Okay. And Clayton -- he obviously saw the first pregnancy test that you took; he saw the second one that you took, or the results of it, anyway; and the third one that

you took in front of him.

If we go back to Exhibit A2, at the end of this e-mail, Clayton says -- at the very top of the page, he says, "I say all this" -- and in the e-mail, he talks about the fact he thought you might be on some medication that affected the results, I guess. But he says -- at the top paragraph, he's --

MS. ARENA: Your Honor, I'm going to object. He's reading information off of a -- a potential piece of evidence that hasn't been admitted, and he's giving quite a narrative.

MR. GINGRAS: It has been admitted.

THE COURT: Yeah, 2's been received. If you look in the top left-hand corner, if there's a green sticker, that means it's been received. If --

MS. ARENA: My apologies, Your Honor.

THE COURT: -- it's brown, it means it was declined.

Go ahead, Counsel.

BY MR. GINGRAS:

Q. Laura, the question I have for you regarding the first paragraph at the top of the page there, Clayton wrote, or the e-mail says, "This is why it's important for us to do the paternity test because there's no question that if it comes back positive, it is mine."

Did Clayton ever tell you that he wanted you to have a paternity test done?

A. Yes.

Q. Did he ever say to you that if you didn't file this case, that he would?

A. Yes.

Q. How many times?

A. I don't know how many times. A bunch of times.

Q. At some point before you filed this case, did you hire a lawyer to help you?

A. Yes.

Q. And who was that?

A. Bonnie Platter.

Q. And she never appeared in any case for you, is my understanding. Is that right?

A. Yeah, she never appeared.

Q. Okay. But what did you have her do with regard to Clayton and -- and the pregnancy issue?

A. I wanted to prevent filing a case publicly in court. For both of our sakes, I didn't want it to be public and thought that we could come up with a parenting plan. If, in fact, the pregnancy was Clayton's, I thought we could come up with it on our own without having to involve the court.

Q. Okay. So you -- before you filed this case, you

made an effort to work with him to get the test done privately without the court being involved?

A. Yes. And I -- I hired the attorney. I said I would pay for it.

Q. Did he hire anyone?

A. No.

Q. To your knowledge?

Laura, let's move forward to look at Exhibit A3, which -- have you ever seen this before?

A. Yes.

Q. Do you -- can you tell us what it is?

A. This is the -- this is a message in my patient portal for -- I'm part of a domestic violence brain injury program in -- at Barrow, and this is a conversation with my doctor there.

Q. Okay. Did you send this e-mail? Looks like it's an e-mail dated June -- June 28th from you to a Dr. Glynnis Zieman, Z-I-E-M-A-N. Did you write that e-mail?

A. Yes.

MR. GINGRAS: Your Honor, I move to admit Exhibit -- whatever that is. A -- A3.

THE COURT: Any objection?

MS. ARENA: No objection, Your Honor.

THE COURT: A3's received.

////

BY MR. GINGRAS:

Q. Laura, in this e-mail, at the very top there, you write to Dr. Zieman that you went to Planned Parenthood while in California. And you said they did a scan there, it was confirmed that you were pregnant, and that they saw -- they saw a sac.

Does that refresh your recollection about the date that you went to see Planned Parenthood?

A. Yes.

Q. And is the statement that you made to Dr. Zieman truthful?

A. Yes.

Q. Did you -- when you wrote that, did you know that anyone would ever see that in the light of day other than you and Dr. Zieman?

A. Nope. I had no idea.

Q. Okay.

Okay. Can you explain why you changed the name at the top of the sonogram that we talked about before from Planned Parenthood? I think -- I don't know if you answered that before.

A. Yeah. I just didn't want Clayton to know where I had gone to get the -- the sonogram because he had been intimidating before.

MR. GINGRAS: If the Court can help me switch

from my exhibits to Clayton's.

THE COURT: Sure. If you scroll down to where -- yeah. That -- exactly. Now go all the way to the bottom. There should be an R.

Keep going if you're able to.

MR. GINGRAS: I -- yeah, it stopped there.

THE COURTROOM ASSISTANT: Sir? Sir? You're just going to go to the very top where it says "Change."

MR. GINGRAS: I don't see that.

THE WITNESS: It's --

THE COURTROOM ASSISTANT: Right above where it says your -- your -- sorry -- your exhibits.

MR. GINGRAS: Oh. Right. It's tiny. I'm blind -- I'm blind.

THE COURTROOM ASSISTANT: Yeah.

MR. GINGRAS: There it is. Yup.

THE COURTROOM ASSISTANT: And then "Share Window."

MR. GINGRAS: Yup. Got it. And we're going to go . . .

THE COURTROOM ASSISTANT: And then scroll all the way down.

MR. GINGRAS: Yeah. Okay.

Oop.

I want to see Clayton's exhibits, though.

THE COURTROOM ASSISTANT: Yeah. You're going to scroll all the way down.

MR. GINGRAS: Ah. Respondent's. Gotcha. Gotcha, gotcha, gotcha.

BY MR. GINGRAS:

Q. Okay. Laura, looking at Respondent's Exhibit 31 --

Oh. I don't know why that doesn't match.

This -- no, that's not it either.

These are not the same as . . .

THE COURT: So what you want to do is -- it may not be the exhibit numbers that the attorneys labeled it as being. Those are the Court --

MR. GINGRAS: Uh-huh.

THE COURT: -- designations. So --

MR. GINGRAS: I'm looking for -- I'm looking for his Exhibit 31.

THE COURT: All right. So if you look for his Exhibit 31, that does show that it is Exhibit 31.

MR. GINGRAS: Exhibit 31 on -- on his exhibit list is listed, "Petitioner faking ultrasound."

Ah. I'm sorry. I -- I didn't realize it -- it was a video.

There we go. That's what I wanted to see right there.

BY MR. GINGRAS:

Q. Laura, Exhibit -- Clayton's Exhibit 31 is a -- appears to be an e-mail from you to Clayton. It says "Ultrasound Video Proof." "Clayton, here's my 100 billion percent real" -- "real ultrasound video."

Do you recognize that?

A. It's not an e-mail that I sent, but I've seen it since.

Q. Okay. Did -- well, you answered my question. Do you know what, first of all, what that -- what this shows? Do you know what it shows?

A. I do now.

Q. Laura, did you -- if this -- assuming that what we're looking at here is -- is meant to be an e-mail from you, did you send this to Clayton?

A. I did not.

Q. Did you ever send Clayton an e-mail with an ultrasound video attached to it?

A. I did not.

Q. Do you have any idea why Clayton would think that you sent him an e-mail like this?

A. Well, yeah. It has my signature on it.

Q. Well, that's a fair statement. But you didn't send this. Do you know who did?

A. I have sus- -- my suspicions, but I can't

be . . .

Q. No, let's hear it. I'd like to hear it.

A. I have a suspicion that an ex of mine sent this to Clayton.

Q. Who? Which ex?

A. Greg Gillespie.

Q. Is he in the courtroom today?

A. Yes.

Q. Okay. Why do you think Greg Gil- -- Greg Gillespie sent this?

A. Because Greg has hacked my e-mail before and has admitted to hacking other people's e-mails.

Q. Okay. So you're -- you're, obviously, under oath. Under penalty of perjury, you did not send that e-mail, and you don't know who did?

A. Correct.

Q. Okay. Let's talk about --

Going back to our Exhibit A5.

Got it.

Whoops.

So can you tell us what Exhibit A5 is? Do you recognize this?

A. Yes.

Q. Is this a receipt that -- well, it's an e-mail, but does -- does it reflect the Ravgen that you talked about

before?

A. Yes.

Q. Okay. And that was August 15th that you made that payment?

A. Yes.

Q. And then later on here, at the bottom, you indicate -- let's see here. Fri- -- this appears to be an e-mail from you Friday, August 18th. Did you write that e-mail?

A. Yes.

Q. You send that to, it looks like, to Clayton and also cc'd Ravgen?

A. Yes.

Q. And it states here that, "Unfortunately, Clayton has refused to take the prenatal paternity test." Is that accurate?

A. Yes.

Q. And is that the reason why the test didn't happen in mid August?

A. Yes.

MR. GINGRAS: Okay. Your Honor, I move to admit Exhibit A5.

THE COURT: Any objection?

MS. ARENA: No objection, Your Honor.

THE COURT: A5's received.

BY MR. GINGRAS:

Q. Okay. Let's look at Clayton's Exhibit 9. Hopefully -- there we go.

Laura, do you recognize this exhibit, Exhibit 9?

A. Yes.

Q. This appears to be an e-mail from you to Clayton dated October 14th, 2023. And this is an e-mail that you sent him?

A. Yes.

Q. All right. In this e-mail, first of all, you're -- you're saying some -- a reference to a sonogram video, and you said, "It matches up with a still video that Dave sent me." I assume that we're talking about Dave Neal?

A. Yes.

Q. And you told him, "This was not my ultrasound. I stand by that a hundred percent."

Did -- did Dave Neal ever -- did Dave --

Well, first of all, who's Dave Neal?

A. Dave Neal's a content creator.

Q. And at some point, did Dave send you a sonogram video and ask if it was yours?

A. Yes.

Q. What did you say to him?

A. I said it was not mine.

Q. Did you ever have a sonogram video of any kind

with Clayton?

A. No.

Q. Did you ever send a sonogram video to anyone claiming that it showed the pregnancy with Clayton?

A. No.

Q. If we go down to the second paragraph, Laura, I'm going to see if I can highlight here. And again, this is you ta- -- I can't highlight.

The second sentence in the second paragraph. I'll read it.

"I think you were very, very high that night, and you forgot that when you were on top of me" -- "top of you on the cou-" -- "on your couch, you were begging me to let you put it in for 30 seconds, then 25, then 20, 15, 10, and I said no each time. Then I thought you were just fingering me, but you stuck it in briefly."

First of all, you wrote those words to Clayton, right?

A. Yes.

Q. And were those words accurate?

A. Yes.

Q. Is that what happened that night on -- on May 20th?

A. Yes.

Q. When you sent this e-mail to Clayton, did he ever

respond back to you and deny that that's what happened?

A. No.

Q. Okay.

Let's talk now about the last positive test that you took.

Let me see here. It says Exhibit A9, but that's not it.

The -- you went to Any Lab Test Now at some point; is that correct?

A. Yes, I did.

Q. And -- and when did that happen?

A. On October 16th, I believe.

Q. Okay. I don't know why -- again, these aren't matching up. That's not it. Because we're -- are we on -- yeah, we're on his. That's why. Okay. I need new glasses.

There it is. Okay.

So, Laura, looking at Exhibit A9, do you recognize what this is?

A. Yes.

Q. What is it?

A. It's the results from the test I took at Any Lab Test Now.

Q. And is it your understanding that that result -- it says 102H -- is it your understanding that you were testing pregnant at -- still in October, mid October, 2023?

A. Yes.

MS. ARENA: Objection. Misstates the evidence.

THE COURT: Overruled. It can be addressed in cross-examination.

BY MR. GINGRAS:

Q. So did you -- again, did you do anything at all to tamper with this test, take any drugs, inject yourself with anything at all to effect this?

A. No, I did not.

Q. And this was a blood draw that came out of your arm?

A. Yes.

Q. Did you -- did you supply them with the blood yourself, or did a phlebo- -- phlebotomist take it out of your arm?

A. A phlebotomist took it.

Q. Okay. So two days after this is when you filed the request for mediation, I think, in this case. Right?

A. Yes.

Q. And -- and after that date, you filed nothing further?

A. This was two days -- two days prior to when I filed for mediation.

Q. Did -- did you pretty much understand that when you got this test, that that was probably not going to be a

viable pregnancy?

A. That it was probably not, yeah. But I still saw that it said anything over 4 was pregnant, so . . .

MR. GINGRAS: Your Honor, I move to admit Exhibit A9.

MS. ARENA: No objection, Your Honor.

THE COURT: A9's received.

BY MR. GINGRAS:

Q. And A11 is going to be -- can you -- can you tell us if you recognize what this is?

A. The records from MomDoc.

Q. Okay. And this is an OB-GYN facility that you visited?

A. Yes.

Q. And according to the date here, it says November 14th, 2023. Is that accurate?

A. Yes.

Q. And so this is when you went in and had a test done that came back negative, correct?

A. Yes.

Q. Okay.

MR. GINGRAS: Move to admit A11 if we haven't.

MS. ARENA: No objection.

THE COURT: A11's received.

////

BY MR. GINGRAS:

Q. All right. Laura, let's look at Exhibit A6.

Hang on.

Okay. There we go.

Can you tell us what Exhibit A6 is?

A. Yes. That's me showing my pregnant stomach.

Q. And when did you create that video? Do you know?

A. September the 19th.

Q. Okay. Did you -- let me see here.

MR. GINGRAS: Your Honor, I'll move to admit A6.

MS. ARENA: No objection, Your Honor.

THE COURT: A6 is received.

BY MR. GINGRAS:

Q. And let's look -- look at A7. It's a similar video.

Did you -- did you take this video yourself? Or it looks like -- you're obviously --

A. Yeah.

Q. -- not holding the camera, but, what, you put it on a little stand?

A. Yeah, I put it on the stand. Yeah.

Q. You took this video. Do you remember the date of this?

A. October the 9th.

Q. Okay. I don't know if it even showed anything

there, but -- it's real short.

Okay. Laura, between May 20th and November 14th -- we've established November 14th you were no longer pregnant -- did you inexperience any pregnancy symptoms?

A. Yes.

Q. Can you explain what those symptoms were?

A. Yeah. I had very bad morning sickness and nausea, and my breasts were very tender.

Q. Do you remember how much you weighed when you went to see MomDoc?

A. I believe it was 121.

Q. Mm --

A. I'm sorry. No, not MomDoc. I thought you were meaning in -- in May.

I was 133 at -- at MomDoc. I'm sorry about that.

Q. So around the time that this was taken, your weight was 133. What do you weigh today?

A. 91 pounds.

MS. ARENA: Objection. Relevance.

THE COURT: Overruled.

BY MR. GINGRAS:

Q. Will you stand up and show the Court and everyone what you look like now compared to the picture behind you?

Can you turn -- can you come out from behind the

screen there?

And just -- just do a little turn for us.

Laura, you --

That's enough. Thanks.

For the last time, were you pregnant with Clayton?

A. Yes.

Q. Did you think that you were pregnant with Clayton?

A. Yes.

Q. Did you have any reason to think that you weren't when you filed this case?

A. No.

Q. Did you lie about being pregnant with Clayton?

A. No.

MR. GINGRAS: No further questions, Your Honor.

THE COURT: Okay, Counsel. You've used 29 minutes and 30 seconds.

When you're ready.

MS. ARENA: And, Your Honor, is it okay if I proceed from the podium? Will the Court be able to hear me?

THE COURT: Yeah, no, that's -- that's absolutely fine.

And we have a -- we have a media cam -- we have a media microphone on the podium, correct?

THE COURTROOM ASSISTANT: I believe so.

THE COURT: Okay. All right.

When you're ready.

MR. WOODNICK: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. ARENA:

Q. Good morning, Ms. Owens.

A. Good morning.

Q. You understand that you're currently under oath and must testify truthfully today, correct?

A. Correct.

Q. And you understand the difference between the truth and a lie, right?

A. Obviously, yes.

Q. And you would agree with me that fabricating or doctoring evidence is dishonest and unreasonable behavior, right?

A. Right.

Q. And you're aware that lying under oath is a crime in the state of Arizona, correct?

A. Correct.

Q. And the reason I'm asking you these questions, Mr. Owens, is because I've cross-examined you before, right?

A. Right.

Q. I cross-examined you in the injunction against harassment hearing before Commissioner Gialketsis on November 2nd of 2023, right?

A. Right.

Q. And during this hearing, that hearing, you'd recall that I gave you the opportunity to correct the record and come clean about any false information or testimony you may have provided, right?

A. Right.

Q. And you told me you had nothing to correct, right?

A. Correct.

Q. And then you proceeded to lie to the Court, correct?

MR. GINGRAS: Objection. Argumentative, Your Honor.

THE COURT: Sustained.

BY MS. ARENA:

Q. You testified that you were a hundred percent pregnant on November 2nd, correct?

A. Correct.

Q. And you testified that you were 24 weeks pregnant, specifically?

A. Correct.

Q. I'd like you to take a look at your Exhibit A11,

please.

MS. ARENA: And they're on the screen behind her, Your Honor, so I'm not sure if --

THE COURT: She's got them in front of her.

THE WITNESS: I can see. Yeah.

BY MS. ARENA:

Q. Ms. Owens, this appointment that you attended at MomDoc on November 14th of 2023 was 12 days after I cross-examined you, right?

A. Correct.

Q. And during that cross-examination, I pointed out that you had no legitimate medical records to support the pregnancy, right?

A. I mean, you said that, but I don't agree with it, no.

Q. At this appointment, Ms. Owens, it was confirmed that you were not pregnant, correct?

A. Correct.

Q. These MomDoc records also indicate that you were diagnosed with PCOS, which is polycystic ovarian syndrome, right?

A. I've had that since I was 17. Yes.

Q. Okay. And you'll recall at the hearing on November 2nd, I specifically questioned you about any physical health diagnoses that you had, right?

A. I don't remember, but if you say so, I -- then yes.

Q. You failed to testify that you had PCOS, right?

A. I -- I can't say one way or the other if I did or didn't. I'll take your word for it, but it's not something that I --

Q. Ms. Owens --

A. -- live with daily.

Q. -- you also --

THE COURT REPORTER: One at a time.

BY MS. ARENA:

Q. Ms. Owens, you also failed to tell me that in 2016, Drs. Chan and Yee diagnosed you with cancer and apparently removed one of your ovaries.

A. They did not.

Q. Okay. So as you sit here today, you're denying that that happened?

A. I will absolutely deny that that happened.

Q. Now, per what you reported, what you self-reported to MomDoc, they listed a spontaneous abortion date of August 12th of 2023 at eight weeks pregnant, correct?

A. They listed a lot of things that were inaccurate here. I never told them that I had an abortion that date.

Q. Okay. Well, a spontaneous abortion, if I were to

tell you, is consistent with a miscarriage. Would you agree with me that they listed a miscarriage date of August 12th of 2023 at 8 weeks pregnant?

A. Yes, but they -- I also never was pregnant in 2019, so I don't know where that came from.

Q. And, Ms. Owens, based on what you know about pregnan- -- pregnancy, as someone who's allegedly been pregnant three or four times in the past, if you miscarried at eight weeks pregnant, that wouldn't line up with your alleged conception date with Mr. Echard, would it?

A. I don't know, and I'm telling you I never told them that I was eight weeks pregnant and lost that on -- on August 12th.

Q. We'll move on, Ms. Owens.

In your MomDoc records and also in your deposition, you self-reported that you passed two sacs which appeared to have a membrane, correct?

A. Correct.

Q. And I'd like you to take a look at what we've marked as Exhibit 49. This is your deposition transcript.

And, Ms. Owens, you recall sitting for a deposition on March 1st of 2024, correct?

A. Correct.

Q. And your counsel at the time, following that deposition, was provided with a copy of this transcript as

well as you, correct?

A. Correct.

Q. And you didn't take any opportunity to correct this transcript --

A. I actually didn't see it until you guys sent it to us. I -- my former counsel never showed this to me. So . . .

Q. Okay. Well, you're aware that this has been marked as a copy of your deposition transcript for March 1st of 2024, correct?

A. Correct.

Q. And this is a true and accurate copy of the transcript that you received, correct?

A. From your office, yes. I did not get one prior to that.

MS. ARENA: I move for the admission of Exhibit 49, Your Honor.

THE COURT: Any objection?

MR. GINGRAS: No objection.

THE COURT: Is that A or B, Counsel? I apologize.

MS. ARENA: I -- I guess it would be B, Your Honor.

THE COURT: B49 is received.

////

BY MS. ARENA:

Q. And, Ms. Owens, during your deposition, specifically on page 149, lines 18 through 21, you testified that you started spotting, meaning you were having a light period, in August or September of 2023, correct?

A. I wasn't having a light period. It didn't -- I didn't end up getting a period until November.

Q. Well, in your deposition --

A. I said light spotting, but --

THE COURT REPORTER: Excuse me. One at a time.

THE WITNESS: Sorry.

I said light spotting, but that wasn't a period.

BY MS. ARENA:

Q. Okay. In your deposition, page 151, line 24, you claim you passed the two sacs which appeared to have a membrane in September or October, correct?

A. Correct.

Q. But in the MomDoc records, you claim you passed the two sacs a few weeks after your alleged ultrasound at Planned Parenthood, right?

A. Several weeks after.

Q. Okay. Well, you would agree with me there's an inconsistency there, right?

A. Right. I wasn't sure --

Q. Ms. Owens --

A. -- what the date with.

Q. -- no OB-GYN or qualified medical professional conducted an ultrasound, performed a physical examination, or performed a blood test to confirm your alleged pregnancy on or before August 1st of 2023, right?

A. Wrong.

Q. Okay. Let's talk about that. Because I suspected you would answer that this way.

You claim that you had an alleged ultrasound at Planned Parenthood in Southern California, correct?

A. Correct.

Q. And you testified during your deposition that the alleged ultrasound with Planned Parenthood was in Mission Viejo, California, on July 7th of 2023 --

A. Mm-hm.

Q. -- right?

A. I did say it was there. That's where I was staying at the time, at -- in Mission Viejo.

Q. And while being examined by your attorney, Mr. Gingras, you said that you went to Planned Parenthood under a fake name, right?

A. Right.

Q. But you didn't bother to provide our office with the alleged name that you went to Planned Parenthood under, right?

A. Right.

Q. And you knew that we were seeking your records from Planned Parenthood specifically because of the alleged ultrasound that you had there, right?

A. Right.

Q. So wouldn't it have made sense for you to provide our office with a copy -- or of the name that you allegedly went to Planned Parenthood under?

A. I felt like the whole purpose of going to Planned Parenthood is to remain anonymous and that that's one of my protections.

Q. Okay. I want you to take a look at Exhibit 28.

MS. ARENA: And this is B28, Your Honor.

BY MS. ARENA:

Q. Is this a true and accurate picture of the ultrasound you claim you received at Planned Parenthood in California in July of 2023?

A. That looks like it, yes.

MS. ARENA: I'd move to admit Exhibit B28, Your Honor.

THE COURT: Any objection?

MR. GINGRAS: No objection.

THE COURT: B28's received.

BY MS. ARENA:

Q. And, Ms. Owens, this ultrasound image does not

say Planned Parenthood. It says SMIL, which I'll call "smile" for purposes of court today, correct?

A. Correct.

Q. And in your deposition, you admitted you altered this ultrasound picture to say SMIL instead of Planned Parenthood, right?

A. Correct.

Q. And you admitted in your deposition to altering this picture on the Adobe Acrobat program at your house, right?

A. Correct.

Q. During your deposition, you testified that the date listed here of July 7th of 2023 was correct and hadn't been edited by you, right?

A. Correct.

Q. But you later admit that you lied about this July 7th ultrasound date, right?

A. Correct.

Q. And you executed an affidavit on April 16th of 2024 claiming the correct date for this already doctored ultrasound was actually July 2nd of 2023, correct?

A. Correct.

Q. So I want to get this straight, Ms. Owens. You initially claimed you had an ultrasound at Planned Parenthood on July 7th, which you doctored to say it

was from SMIL, right?

A. Correct.

Q. Then the story changes again, and you claim that the ultrasound image should actually be dated July 2nd of 2023, right?

A. Correct.

Q. So you changed the date on the ultrasound from July 2nd to July 7th, correct?

A. Correct.

Q. And you utilized this altered or fake ultrasound to try to convince Mr. Echard and the Court and the media that you were pregnant with Mr. Echard's twins, correct?

A. This was -- this was never submitted to the Court.

Q. You're aware that Planned Parenthood has no record of an ultrasound for you, correct?

A. Under my real name, yes, and more.

Q. Okay. And again, we've established you didn't provide our office with the name of your -- that you allegedly went to Planned Parenthood under, correct?

A. Correct.

Q. You never attended an appointment with Planned Parenthood in this case, Ms. Owens.

A. Yes, I did.

Q. Can you take a look at Exhibit B29?

This is a true and accurate copy of our request and the response from Planned Parenthood regarding your records dated April 26th of 2024, correct?

A. Correct. I don't believe I've seen this, but I have no idea.

THE COURT: And, Counsel, I'm so sorry. I'll stop the clock, like I've done for the others.

We're going to give you a microphone because, as I anticipated, there was a problem picking up your -- your cross-examination.

MR. WOODNICK: Audio-check?

THE COURTROOM ASSISTANT: I think it's just if it's on there. That would be great.

THE COURT: We work with what we have. Right?

THE COURTROOM ASSISTANT: Yeah.

THE COURT: All right. Go ahead. Thank you.

MS. ARENA: And I'll ask that question one more time, Your Honor.

BY MS. ARENA:

Q. Ms. Owens, Exhibit 29 is a copy of our request and the response from Planned Parenthood regarding your records dated April 26th of 2024, correct?

A. Correct.

MS. ARENA: Move for the admission of Exhibit B29, Your Honor.

THE COURT: Any objection?

MR. GINGRAS: No objection.

THE COURT: B29's received.

BY MS. ARENA:

Q. And while you've indicated today that you went to Planned Parenthood under a fake name, this letter actually indicates that you had scheduled an appointment for July 2nd, but that you failed to attend?

A. Correct.

Q. It also indicates that the ultrasound image that you claimed was from Planned Parenthood was not from Planned Parenthood because it was not consistent with ultrasound images generated by their practice, right?

A. Not by the one in Mission Viejo, correct.

Q. Ms. Owens, these are yes or no questions.

This document states that the ultrasound image you have claimed is from Planned Parenthood is not consistent with ultrasound images generated by their practice, right?

A. By that practice. But as they said, it -- I could have been seen by another -- different ent- -- entity.

Q. Ms. Owens, you're well aware that this request covered all of Orange County and San Bernardino, Cal- --

A. It didn't cover Los Angeles, though.

Q. So now you're saying you went to

Planned Parenthood in Los Angeles?

A. Yes.

Q. So you're telling us you went to Planned Parenthood in Los Angeles on the day of trial, today?

A. Yes.

Q. Okay. When did you go to Planned Parenthood in Los Angeles?

A. Exactly when I said I went.

Q. When was that?

A. July 2nd.

Q. Okay.

I'd like to go back to the two sacs you passed. So again, in your deposition, you claimed you passed them in September or October, right?

A. Yes.

Q. But then you changed the date and claimed that you passed these two sacs on July 23rd of 2023, right?

A. Right.

Q. And you actually had an appointment scheduled with Dr. Makhoul, who you've claimed is your high-risk perinatologist, for July 24th of 2023, right?

A. Right. That I canceled days prior.

Q. Okay. So you canceled that appointment --

A. Days prior.

Q. -- and then you rescheduled it to August 7th, right?

A. Yes, if that's the date that I did.

Q. So wouldn't you agree with me that for someone who has had miscarriages in the past and who has an alleged high-risk pregnancy, it would be prudent to attend an in-person appointment shortly after passing two sacs?

A. Well, that's why I asked the doctors online.

Q. Ms. Owens, these are yes or no questions.

A. I'm -- I'm --

Q. I see you're looking at your attorney, but you need to look at --

A. He's shaking --

Q. -- me and answer the question for me.

A. Okay. Can you ask the question again?

Q. Wouldn't you agree that as someone who has a high-risk pregnancy, that allegedly passed two sacs on July 23rd of 2023, it would have been important for you to see your high-risk perinatologist immediately after that happening?

A. Well, that's why I scheduled the -- that's why I immediately contacted telemedicine.

Q. You would --

A. It was at night.

Q. You contacted a telemed provider instead of

attending the appointment with your high-risk perinatologist?

A. It had already been canceled days prior.

Q. Ms. Owens, you had four appointments scheduled with Dr. Makhoul that you never attended, right?

A. Correct.

Q. And you intentionally failed to attend those appointments because all of those appointments would have resulted in a medical record that stated you were not pregnant, right?

MR. GINGRAS: Objection. Argumentative.

THE COURT: Sustained. To the form of the question, but you can ask the question a different way.

MS. ARENA: I'll move on, Your Honor.

BY MS. ARENA:

Q. During the November 2nd hearing, you denied that the DNA test results came back with little to no fetal DNA, right?

A. What?

Q. During the November 2nd hearing --

A. I said that the -- the -- the test --

Q. Can I finish the question, Ms. Owens?

During the November 2nd hearing, you denied that the DNA test results came back with little to no fetal DNA.

Ms. Owens, I see you continue to --

A. No.
Q. -- look to your attorney.
A. I didn't -- I never said it didn't --
MR. GINGRAS: I'm confused --
THE WITNESS: I said it came back inconclusive.
MR. GINGRAS: I'm confused about what date she's referring to. What --
MS. ARENA: November 2nd.
MR. GINGRAS: November 2nd hearing?
MS. ARENA: Yes. The November 2nd hearing.
MR. GINGRAS: Okay. Again, before my time, so that's why I'm confused. I apologize.
BY MS. ARENA:
Q. You can answer the question.
A. I said it was inconclusive and it was little to no fetal DNA. I never said it came back anything but that.
Q. Okay. Well, today you've admitted that there was little to no D- -- little to no fetal DNA, right?
A. I've never said it was anything else.
Q. You also ordered and took a blood hCG test through Any Lab Test Now on October 16th of 2023, correct?
A. Correct.
Q. And I'd like you to take a look at Exhibit 36, Bates page 201.
Actually, this has already been admitted, so

we'll move past that.

By the time of this test on November 16th, you had claimed you were previously seen at Banner, Planned Parenthood, Dr. Makhoul, Dr. Hidley -- Higley, and even Dr. Zieman, right?

MR. GINGRAS: Your Honor, objection. She misstated the date. She said September [sic] 16th, I believe. It's October 16th.

THE COURT: That can be addressed in redirect.

THE WITNESS: I -- I said that Dr. Makhoul's my doctor. I did not say that I had seen him. I said I had seen Dr. Higley and the rest, correct.

BY MS. ARENA:

Q. Okay. And we'll talk about Dr. Higley soon here. But your answer is --

Would you like me to repeat the question, Ms. Owens?

A. Sure.

Q. Okay. I'm going to stand here because it seems like you're looking at Mr. Gingras quite a bit for guidance. So --

A. No, I don't need -- I don't need guidance from Mis- -- from my attorney. I know how to answer the questions.

Q. By the time of your appointment, or this test, on

October 16th of 2023, you claimed you were previously seen at Banner, Planned Parenthood, Dr. Higley, and even Dr. Zieman, right?

A. Yes.

Q. But instead of going to any of those providers for this test, you went to an entirely new provider, correct?

A. I just went on my way home from taking the Ravgen test, actually.

Q. These are yes or no questions, Ms. Owens.

A. Well, I didn't -- it wasn't a provider. It was a self-paid test, so . . .

Q. Okay. So you didn't go to any of your prior listed providers for this test, right?

A. Correct.

Q. Okay. By your own admission in your affidavit signed April 16th of 2024, this result of an hCG level of 102 was not consistent with pregnancy, right?

MR. GINGRAS: Objection. Misstates the testimony.

THE COURT: Overruled.

You can answer.

THE WITNESS: Oh.

Can you say it again? I'm sorry.

////

BY MS. ARENA:

Q. By your own admission, the test result of 102 for the level for hCG was not consistent with a pregnancy?

MR. GINGRAS: Objection.

THE WITNESS: I -- I --

MR. GINGRAS: Withdrawn.

Go ahead.

THE WITNESS: I learned that it was.

BY MS. ARENA:

Q. You learned that it was consistent with pregnancy or was not consistent with pregnancy?

A. Well, the test results said anything above 4 was pregnant, so I thought 102 was pregnant. But then I learned it was not.

Q. Okay. So you would agree with me that this was not consistent with pregnancy?

A. No, I wouldn't.

Q. Okay. You doctored this particular test twice, Ms. Owens, correct?

A. I doctored the test once.

Q. Okay. And when was that?

A. When I tried to send it to Dave Neal to get him to stop creating harassing videos of me.

Q. And what amount did you doctor the hCG level to for that particular --

A. I -- it was, like, 102,000, I believe.
Q. Okay.
MS. ARENA: Isabel, can you please pull up Exhibit 17, Bates page 113?
BY MS. ARENA:
Q. Ms. Owens, you'll recognize this, as it looks like the same test from October 16th, but it has an hCG level different than what you just indicated, and it says 131,902.
A. Okay.
Q. Correct?
A. Yes, that's --
Q. So you also doctored this test?
A. No. I didn't know what the number was that I had made it to.
Q. Well, Ms. Owens, I agree with you. You doctored this test twice. One to say 102,000 and again to say 131,902, right?
A. I doctored it, I guess, to say 131,902.
Q. Okay. As of October 17th, 2023, when you received this test result, you had reason to believe you were not pregnant, right?
A. Yes. After doing some research, yes.
Q. Okay. But then you proceeded to lie under oath at hearings before this Court on October 24th, October 25th,

and November 2nd, correct?

A. That's not correct, no.

Q. Instead of telling the truth, you tampered with this hCG test to increase the level and offered that as support for a pregnancy?

A. To a content creator. Not to the Court.

Q. You also testified on November 2nd unequivocally that your OB-GYNs were Dr. Makhoul and Dr. Higley, right?

A. Right.

Q. In fact, you went so far as to state that your main OB-GYN is the perinatologist Dr. Makhoul, right?

A. Correct.

Q. You further testified on November 2nd that you had last seen Dr. Higley on last Friday, right?

A. Right.

Q. You lied to the Court when you made those statements?

A. I had the appointment scheduled, which --

Q. Ms. Owens --

A. -- you guys have.

Q. -- these are yes or no questions.

A. I know, but they -- it needs to be answered correct- -- it needs to be answered.

I had an appointment scheduled with him that I did not attend, but I did have an appointment scheduled.

Q. Okay. So when you say you were seen by a doctor, that's not the same as having an appointment sche- -- an appointment scheduled, correct?

A. Correct.

Q. So we would agree that you were dishonest when you said you were physically seen by Dr. Higley the Friday before the November 2nd hearing?

A. Correct. That's a very minor thing.

MR. WOODNICK: Hey. Stop. Stop.

THE WITNESS: Yeah. Really.

BY MS. ARENA:

Q. Ms. Owens --

A. You know --

Q. -- you've never been seen by --

A. -- I mean, if this is going to -- I -- I'm not comfortable if this -- if the JFC crew is going to be --

Q. Ms. Owens --

A. -- having reactions, honestly.

THE COURT: Okay. I'm going to stop the clock at this time.

Counsel, you ask questions. Ma'am, you answer the questions.

I could ask the gallery to please keep your --

THE WITNESS: You know, I think I can't --

THE COURT: -- reactions --

I'm still talking, ma'am.

Keep your comments to a minimum, or you will be asked to leave.

Go ahead, Counsel.

BY MS. ARENA:

Q. Ms. Owens, you've never been seen by Dr. Makhoul or Dr. Higley for any medical appointment, correct?

A. Correct.

Q. And the records from Dr. Makhoul's office indicate that you made four appointments that you never attended, correct?

A. Correct.

Q. And the records from Dr. Higley's office that we obtained indicate that they have no records for you from August 2020 through the present, right?

A. I'm -- I'm sorry. You said Dr. Higley or Dr. Makhoul? I'm --

Can I, like, take a minute?

MR. GINGRAS: Your Honor, can we have just a -- a five-minute recess?

THE COURT: Sure. At this time --

MS. ARENA: Your Honor, I --

THE COURT: Oh. No, go ahead. What were you going to say, Counsel?

MS. ARENA: I -- I'm just concerned about our

time constraint. That's all, Your Honor. So --

THE COURT: Well, we factored in a ten-minute break, so what we'll do is we'll take it now. And then when we come back, there will be no further breaks, so that's just something for the parties to keep in mind.

We'll stand in recess.

(WHEREUPON, a recess was taken.)

THE COURT: All right. Welcome back, everybody.

I do remind our witnesses that you are still under oath.

Counsel, if your client would like to resume the witness stand.

MR. WOODNICK: Can we get a quick time-check, Judge?

THE COURT: Sure. Petitioner's at 29 minutes and 30 seconds. Respondent's at 22 minutes and 1 second.

You ready?

MS. ARENA: I'm ready, Your Honor. Thank you.

BY MS. ARENA:

Q. Ms. Owens, you testified at the November 2nd hearing that you had a due date of February 14th of 2024, which is Valentine's Day, correct?

A. Correct.

Q. But you don't have a single medical record to support that alleged due date, right?

A. No. I do. I was -- I was trying to say I do have a record. That's what I was told by Tamara Lister at Banner Health, was that it would be Valentine's Day.

Q. And you're aware that the record that you've provided from Banner does not indicate any due date, right?

A. It was in conversation with her as to when the due date would be.

Q. Ms. Owens, these are yes or no questions.

You're aware that the record you provided from Banner lists no such due date, right?

A. It can't be answered in a yes or no manner. It's -- I'm saying I --

THE COURT: You can answer "yes," "no," or "I don't know."

THE WITNESS: So then can you please repeat the question?

BY MS. ARENA:

Q. Ms. Owens, you're aware that the record from Banner that you provided that your attorney just admitted into evidence does not have an alleged due date of any kind on it, right?

A. Okay. Then yes.

Q. I want you to take a look at what's our Exhibit 17, page 110. And this is the same as your Exhibit A1.

This is a picture you took of a portion of a page from Banner, correct?

A. Correct.

Q. Where is the rest of the document, Ms. Owens?

A. Clayton had it.

Q. I'm asking you, where is the rest of the document in this particular exhibit?

A. I -- I don't know, but there's nothing I was trying to hide from it. Clayton got the entire thing.

Q. Ms. Owens, you recognize you've been accused of faking records in this case, right?

A. Yes.

Q. And you expect the Court to accept a picture of a portion of an alleged record?

A. You guys got the results yourselves, so --

Q. Ms. Owens, these are yes or no questions. Your attorney --

A. That's not fair.

Q. -- is going to have --

A. That's --

Q. -- the opportunity to conduct redirect examination, and you can elaborate then.

THE COURT REPORTER: And again, one at a time.

THE WITNESS: I mean, that's not fair. You guys know that you have the results of this that show the same

thing. So I wasn't hiding anything here. That's not -- that's not fair.

MS. ARENA: Your Honor, I have to move on, so I'd ask that the Court find this nonresponsive.

THE COURT: Court will designate it as nonresponsive.

BY MS. ARENA:

Q. For someone who's been involved in court cases nonstop since at least 2016 --

A. You know what? That's not accurate. I have not been involved nonstop since 2016.

Q. Ms. Owens --

THE COURT: I'm going to stop the clock for a moment, and I'm going to remind the parties.

Counsel, you ask a question. Ma'am, you answer the question. Otherwise, we -- we move into a different area that I don't think anyone wants to go into.

Counsel, resume.

BY MS. ARENA:

Q. Ms. Owens, you have been involved in court cases since at least 2016, correct?

A. Nonstop or are you saying since 2016?

Q. Ms. Owens --

A. Can you just rephrase the question?

Q. -- please answer the question as I've asked it.

You've been involved in court cases since 2016, correct?

A. No.

Q. Okay. This particular document, Exhibit A1, has three different types of highlighting on it, correct?

A. I see two.

MS. ARENA: And, Isabel, if you can please put our Exhibit 17, page 110.

BY MS. ARENA:

Q. You'll see this is the same document, but I believe maybe when your office scanned it in, you can't see all the highlighting. So I'm going to show you ours.

Do you see there's three different types of highlighting?

A. Yes.

Q. And you highlighted this on the same Adobe Acrobat program that you used to alter the other records, correct?

A. This was -- the doctor highlighted "point of care," "test results," and then I highlighted "first trimester pregnancy" and "encounter for pregnancy test" on my iPhone, but it wasn't Adobe Acrobat.

Q. Okay. But you would agree with me there's three different types of highlighting on this document, correct?

A. Yes.

Q. And I want to talk to you about the date of this alleged hCG test.

We can agree that a woman typically takes a pregnancy test when they've missed their menstrual period, right?

A. Well, my case was different.

Q. Ms. Owens, these are yes or no questions.

A. I think the answer depends. I don't get a period, so I don't -- I don't know how to answer that.

Q. Okay. So you don't get a regular period, right?

A. I don't.

Q. So you took this test before even missing a period, right?

A. Correct.

Q. And between 2014 and the present, you have alleged that you were pregnant by four different men, correct?

A. Correct.

Q. And all four of those men told you, one way or another, that they believed you fabricated those pregnancies, right?

A. The first was not so specific about that.

Q. And three of them are here today, right?

A. Correct.

Q. And they also believe that you doctored medical

records, right?

MR. GINGRAS: Objection. Foundation.

THE COURT: Sustained.

MS. ARENA: I'll move on, Your Honor.

BY MS. ARENA:

Q. Ms. Owens, each time that one of these three men refused to be in a relationship with you and questioned your preg- -- pregnancy narrative, you obtained an order of protection against them, right?

A. False.

Q. Okay. Well, you have an order of protection against Mr. Greg Gillespie, correct?

A. Correct.

Q. And he didn't believe that you were ever pregnant with his child, right?

MR. GINGRAS: Objection.

THE WITNESS: No, that's wrong.

MR. GINGRAS: Foundation --

THE WITNESS: That's --

MR. GINGRAS: -- and hearsay.

THE WITNESS: He had me -- I went to a doctor. He had me -- he told me I needed to go to the specific doctor to confirm a pregnancy, which I did, who spoke to him.

THE COURT: Okay. Stop. I'm striking that

response.

The court reporter has been very clear. Everyone's talking over each other. For appellate purposes, and the fact that one of the parties is paying for the court reporter, implore you, please, to talk one at a time.

With regards to the objection, it's overruled.

Go ahead, Counsel.

MS. ARENA: And, Your Honor, I'll move on in the interest of time.

BY MS. ARENA:

Q. Ms. Owens, you didn't file an affidavit of financial information in this case, did you?

A. I did.

Q. When did you file that?

A. August or September. It's with the Court.

Q. Okay.

A. It's on the record.

Q. Well, consistent with your deposition testimony and your April 16th affidavit, you would agree with me that you make approximately $200,000 a year and then have approximately $500,000 in, like, a money market account, right?

A. I don't have $500,000 in a money market account.

Q. Okay. But you would agree with me that you make approximately $200,000 a year?

A. It's with businesses I have with my mom, so it's proportional to us.

Q. Okay.

A. With our companies. Yeah.

Q. Ms. Owens, I want to give you one more opportunity. The media is here. You know that this case has gone viral. You have an opportunity right now to come clean and start fresh. So I'm going to ask you one final time.

You were never pregnant by Clayton Echard, correct?

A. That is absolutely incorrect.

MS. ARENA: I have no further questions, Your Honor.

THE COURT: Okay.

MR. WOODNICK: Time, Judge?

THE COURT: Time-check, 28 minutes, 46 seconds.

Redirect when you're ready.

MR. GINGRAS: Your Honor, I've got about three questions.

REDIRECT EXAMINATION

BY MR. GINGRAS:

Q. First of all, Laura, looking at Exhibit A0 --

MR. GINGRAS: Are we on -- on my screen?

THE COURTROOM ASSISTANT: Yeah.

BY MR. GINGRAS:

Q. -- this is the timeline that we talked about before. Can you just go back over that real quick?

And does that accurately reflect the testimony you gave earlier regarding the -- your version of the events?

A. Yes.

MR. GINGRAS: Your Honor, I move to admit Exhibit A0 under -- it's a Rule 1006. It's a summary of testimony.

MS. ARENA: Your Honor, I would object. I don't believe this is an accurate summary of her testimony today.

MR. GINGRAS: That's for the find- -- sorry.

THE COURT: Over objection, the Court will receive what's been marked as A30 [sic], giving it the weight that it deserves.

MR. GINGRAS: Okay.

THE COURT: It does appear to be a demonstratively --

MR. GINGRAS: Right.

BY MR. GINGRAS:

Q. Laura, regarding Banner, there was some comment just a minute ago that -- that you didn't produce records from Banner.

To your knowledge, did you authorize Mr. Woodnick or his firm to gets records from Banner?

A. Yes.

Q. And looking at Exhibit A1, it's not just a photo of -- the first page is a photo of something, but can you tell us what the second page here is?

A. That's from my patient portal showing that I was positive through -- for Banner.

Q. Okay. And to your knowledge, did Mr. Woodnick actually receive records from Banner? Did he ask for them?

A. Yes.

Q. And did he get them?

A. Yes.

Q. Okay.

One final thing. You said before on dir- -- on cross-examination that when you saw that hundred -- 102 hCG test from -- from October 16th, that you believed that meant you were not pregnant.

Do you understand the difference between a viable pregnancy and a nonviable one?

A. Yes.

Q. Do you believe that the 102 number that you got in -- October 16th of 2023 meant that you were not pregnant at all?

MS. ARENA: Objection. Leading.

THE COURT: Sustained.

BY MR. GINGRAS:

Q. What was your understanding of that 102 number? What did it mean to you?

A. That I was still pregnant, as it was over 4, was what it said.

Q. Okay.

MR. GINGRAS: No further questions, Your Honor.

THE COURT: Okay.

All right, ma'am. You can go sit back down.

MR. WOODNICK: One more time-check, Judge.

THE COURT: Sure. Respondent's at 28 minutes, 46 seconds. Petitioner is at 31 minutes, 14 seconds. Of the 50.

You can call your next witness when you're ready.

MR. GINGRAS: Your Honor, Petitioner calls Dr. Michael Medchill.

THE COURT: All right.

Doctor, if you'd like to bring water with you, you may.

MR. GINGRAS: Did we swear him already? We did.

MICHAEL MEDCHILL,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GINGRAS:

Q. Good -- good morning, Dr. Medchill.

State your name, please.

A. Dr. Michael Medchill.

Q. We have -- we have about 15 minutes, so I've got to go really, really quick here.

I know you're retired now. Can you tell the Court what you did before you retired?

A. I was the chairman of the department of obstetrics and gynecology at St. Joseph's Hospital. I was in private practice at the same time, and I was also on the teaching faculty of the Phoenix integrated residency program in obstetrics and gynecology.

Q. Okay. So you have a medical doctorate degree?

A. Yes.

Q. And you practiced medicine in Arizona for about 30 years; is that right?

A. That's correct.

Q. And according to the Arizona Medical Board, it -- it says that you were first licensed in Arizona in 1992, and your medical license expired on March 7th, 2022. Is that accurate?

A. Yes.

Q. It was about two years ago?

And you -- you retired from medicine in good standing with the medical board?

A. That's correct.

MR. GINGRAS: Your Honor, I tender Dr. Medchill as an expert in the area of obstetrics and gynecology.

MR. WOODNICK: No objection.

THE COURT: All right. So stipulated.

BY MR. GINGRAS:

Q. Okay. Dr. Medchill, in front of you there, we've got your CV, I guess. This is Exhibit A12.

And everything in your CV is accurate?

A. Yes.

Q. Is that up-to-date and current?

A. Yes.

Q. Okay. And like you said, you served as the chairman of the obstetrics -- obstetrics and gynecology department at St. Joseph's Hospital in Phoenix?

A. Yes, for four years.

Q. In that capacity, how many children did you personally deliver?

A. I delivered over 20,000 babies.

Q. And I think when we were talking, you explained that the success rate of a pregnancy when a woman becomes pregnant and then delivers a baby, not all of them make it; is that right?

A. Almost half of all pregnancies end in a miscarriage.

Q. Okay. And so if you delivered 22- -- or 20,000 children, how many patients did you see that didn't deliver healthy babies?

MR. WOODNICK: Objection. Relevance, Judge.

THE COURT: Sustained.

MR. GINGRAS: Goes directly to the -- I'm sorry?

THE COURT: Sustained.

BY MR. GINGRAS:

Q. In addition to women that did not deliver a healthy baby, did you -- or I'm sorry. In addition to women who delivered healthy children, did you have patients who had miscarriages?

A. Thousands.

Q. And -- and so you have extensive training and experience with -- with regard to women that have non-normal pregnancies?

A. Correct.

Q. All right. Dr. Medchill, in -- in your report here, which, again, is Exhibit A12, you summarize --

There's a -- there's a written report, and it's going slow. Let me see here.

Did you -- did you review some records as part of your retention in this case?

A. Yes.

Q. And your report has an index of exhibits that you looked at. There's a Banner pregnancy test, an image of some tissues. They're all attached to your report.

Other than what is listed there, did you review anything else?

A. Just the ones that I've listed.

Q. Okay. And after you performed that initial review, you asked for some records. You had a question regarding medications?

A. Yes.

Q. And did you get those records?

A. Yes, I did.

Q. Do you recall where they're from?

A. From Barrow Neurologic Institute.

Q. And you're familiar with Barrow?

A. Very familiar. They're at St. Joseph's Hospital.

Q. That's part of the same hospital where you used to work?

A. Yes.

Q. Dr. Medchill, based on your review of Laura's medical records that you've identified in your report, did you form any opinions at all regarding whether or not she was pregnant in 2023 at any time?

A. Absolutely, I believe she was pregnant, with over

99 percent probability.

Q. Okay. And can you explain what facts support that conclusion? That you -- the facts that you considered, anyway?

A. I am kind of -- of the Sergeant Friday of Dragnet. I only take in the facts, the bare facts, that I -- are known to be proveable.

Number one, there was intimacy of some -- some type. Disputed what exactly it was.

Number two, she had a positive pregnancy test at a lab at Banner, which means that there's a 99 percent chance that that's a positive pregnancy.

Number three, she had a negative test, or little or no fetal DNA, found on a test in late September looking for fetal DNA in the blood. What that tells me is that by that point, at the end of September, the pregnancy had failed. That even though she still had a positive pregnancy test, it was no longer a viable pregnancy.

The fourth thing is, is that she still had a positive pregnancy test in the blood of 102 on October 16th, which, again, greater than 99 percent positive that she was pregnant.

And the fact that between June 1st and October 16th, she's got two laboratory-proven pregnancy tests. That indicates that all of the urine pregnancy

tests, any other pregnancy tests that she had done, likely are also demonstrably positive.

And the final thing is, is when she had bleeding in Sep- -- in November and then a couple of days later had a negative pregnancy test at the MomDoc, it also illustrates, one, that the pregnancy finally was completed. So what happened was she had a pregnancy. It failed at some point. There's no way of knowing exactly when. Frequently, very frequently, when people miscarry, they're incomplete. Some of it miscarries, the fetus is no longer alive, but you still contain -- continue to have a positive pregnancy test because there's still tissue there that hasn't been expelled. That finally happened in November when that pregnancy was completed, when that miscarriage was completed.

Q. Okay. Dr. Medchill, Mr. Echard has said that he doesn't believe that a pregnancy was possible here because there was no intercourse.

Do you have an opinion about that? Regarding general. Not regarding him or her, but in general.

A. Well, it's said that men are like basketball players. They dribble before they shoot. They also dribble afterwards. And if you are rubbing genitalia together, it is possible to get pregnant.

Q. How much weight would you assign to the fact that

Mr. Echard denied sexual intercourse? Is that -- is that significant to the question of whether she was pregnant or is it a minor point?

A. It has nothing to do with whether she was pregnant.

Q. Okay.

THE COURT: Hold on one second, Counsel.

MR. WOODNICK: I'll withdraw it.

THE COURT: Withdrawn? Okay.

MR. WOODNICK: I'll withdraw it.

BY MR. GINGRAS:

Q. Dr. Medchill, I think you said earlier that it's impossible to know for sure when Laura's pregnancy ended.

Do you have an opinion about -- based on the records that you've seen and the information that's been provided to you, do you have a theory about when?

A. It -- it actually ended in November when her pregnancy test was negative. When it failed -- in other words, when it was no longer viable -- there's no way of knowing exactly when that happened.

Q. Okay. Dr. Medchill, somebody online, I think, made a comment -- it's just a theory, obviously -- that -- that Laura may have injected herself with hCG. I think that we talk- -- we talked about a trigger shot or something like that.

First of all, what is an hCG trigger shot?

A. It's used in trying to help somebody get pregnant. And it's by prescription. It's an injection.

And I saw no records that indicated that anybody would have given her a prescription for hCG.

Q. Okay.

A. Nor would there be a reason to give her one. Especially if she was already pregnant.

Q. Right.

Dr. Medchill, Clayton in his pretrial statement objected to your testimony on a couple of grounds. And I know you and I talked about this. I'll -- I'll just read one of his objections: That you have relied on an admittedly-tampered-with data set.

Do you feel that you've relied on admittedly tampered data in any way, shape, or form in forming your conclusions?

A. Absolutely not. All I've included were the fact that they both admitted that there was some type of intimacy, that there were -- all the other things that I used to make my decision was based on laboratory tests.

Q. And -- and the Planned Parenthood sonogram that we've spoken about -- and I think you -- you were sitting here and saw and heard that testimony -- did you rely on that Planned Parenthood sonogram in any way?

A. No.

Q. And the -- the hCG test from Any Lab Test Now that Laura did not send to any Court, the one that said 130-something-thousand, did you rely on that in any way?

A. No.

Q. Does the fact that Laura has those credibility problems and that she did some things that we all agree are dumb, does that change your opinion on whether or not she was pregnant?

A. No.

Q. Why not?

A. The lab tests, like I said, are 99-plus percent, and they were repeated over and over and over. And so she was pregnant.

Q. One other objection that Clayton made to your testimony, Dr. Medchill, is that you, with zero scientific or DNA basis, made a conclusion that Clayton was the father of twins. Have you reached that opinion at all?

A. No. That's preposterous.

Q. I mean, I don't -- I don't see it in your report. I'm just wondering if you -- you agree that you can't make any conclusions at all because we don't have DNA?

A. Correct.

Q. And you're -- you're familiar with the Ravgen test process?

A. Yes.
Q. Can you think of any reason why a woman who is not pregnant would want to take a test like that?
MR. WOODNICK: Objection. Foundation.
THE COURT: Sustained.
BY MR. GINGRAS:
Q. Dr. Medchill, if Laura was not pregnant and she took -- and she submit- -- submitted a sample to Ravgen, would Ravgen be able to confirm that she wasn't pregnant?
MR. WOODNICK: Objection. Foundation.
THE COURT: Sustained.
BY MR. GINGRAS:
Q. Dr. Medchill, you're -- you're familiar with Ravgen. You just said that.
A. Yes.
Q. Did you -- did you ever use them in your practice or something like that? A similar service?
A. Yes.
Q. And as part of using a DNA testing service like that, does the service confirm that the woman is or isn't pregnant? Can they come back and say, "This woman's not pregnant"?
MR. WOODNICK: Objection. Foundation.
THE COURT: Sustained.
////

BY MR. GINGRAS:

Q. Did you ever have that happen? Did you -- when you used DNA testing as a doctor, did you ever have a test come back that said a woman was not pregnant?

MR. WOODNICK: Objection. Foundation. And also, Ravgen's only been around for a few years, and I think he's been retired for a few.

MR. GINGRAS: I'm asking about the process generally, Your Honor.

THE COURT: Overruled. He can answer the question.

THE WITNESS: Free-cell DNA, which Ravgen is a type, has been around for a number of years. I used it frequently. It not only tells you if you're pregnant, it tells if it's a boy or a girl, it'll tell you if it has genetic defects. It's incredib- -- it's the biggest, best new technology that we've had in the last 20, 30 years.

BY MR. GINGRAS:

Q. I -- I was looking at my notes when you answered. So a Ravgen-type test, or Ravgen itself, can tell whether it's a boy or girl?

A. Yes.

Q. And tell -- then necessarily can tell whether the woman's pregnant at all?

A. Yes, obviously.

Q. Okay.

Dr. Medchill, one -- one final question. One series.

Can you see the picture behind you there --

A. Yes.

Q. -- of Laura's body?

As a physician and as a man -- or a doctor who's delivered lots of healthy babies and maybe some that didn't end healthy, can you explain how Laura's body could be that size, and she never said that she passed any dead fetus?

MR. WOODNICK: Objection. Exceeds the scope of his presentation. He didn't review the photo as part of the exhibits.

THE COURT: Overruled. He can answer if he has an opinion. The Court will give it the weight it deserves, which could be a little, a lot, or none at all.

MR. GINGRAS: That -- that photo's actually one of the things that --

BY MR. GINGRAS:

Q. Did you look at this photo as part of your review?

A. I saw that photo earlier, yes.

Q. And regarding the size of Laura's belly, which clearly is not here anymore, is that -- does that show you anything regarding whether or not she was pregnant?

A. It could indicate that she was pregnant. Could indicate other things.

Q. The fact that Laura didn't -- didn't claim to pass a large fetus, is that something surprising to you, or is that something that could logically be explained medically?

A. The fact that this pregnancy, in all likelihood, was no longer viable early in this -- this pregnancy, doesn't surprise me that she didn't pass much tissue at all.

Q. How -- how does that happen? Does the body --

A. What happens is the fetus starts to grow. At some point, the fetus stops growing, there's no longer a heartbeat. If it's very early, they may just get a period. If it's -- if they miscarry, they may pass a little tissue. Maybe not. And some of that tissue remains enough that it continues to produce hCG. That's why she continued to have the positive pregnancy tests. And that's why we call it an incomplete abortion once we know that there's no longer a viable pregnancy there, but the pregnancy doesn't end until that -- all that tissue is gone, at which time it is a completed miscarriage.

Q. Okay. Two more questions, Dr. Medchill.

Have you reviewed the expert report of Dr. Deans, who's Clayton's expert?

A. Yes.

Q. Do you disagree with anything that Dr. Deans said?

A. Not really. The only thing that was amusing to me was the fact that they're relying on a clinical pregnancy. There's an old adage, either you're pregnant or you're not. The adage isn't you're either clinically pregnant or not. And the reason for that is because to be clinically pregnant, that means that you have to have prenatal care. Laura did not have prenatal care.

I took care of hundreds of women who had no prenatal care, so technically were not clinically pregnant, walked into the hospital, and I delivered a nine-pound baby. Even though they weren't clinically pregnant.

Clinical pregnancy only means that they've gotten prenatal care that you could see on ultrasound or you could hear with an instrument. And so a clinical pregnancy is not relevant here. It's either you're pregnant or you're not.

Q. And -- and your opinion is that Laura was pregnant? Even if it wasn't a clinical pregnancy, she was pregnant?

A. Correct.

MR. GINGRAS: Thank you. No further questions.

THE COURT: All right, Counsel. You're at 45 minutes and 43 seconds.

Counsel, you have 28 minutes, 46 seconds.

CROSS-EXAMINATION

BY MR. WOODNICK:

Q. Thank you, Doctor.

You consider yourself a scientist, correct?

A. Yes.

Q. And so you know that when collecting data, it's garbage in, garbage out. If you're not relying on good data, the opinion you're going to give is not going to be credible. Is that correct?

A. I -- that's why I only re- -- relied on the data that I thought was totally credible.

Q. And that was the data that Mr. Gingras gave you, correct?

A. That was the data that was presented to me.

Q. I saw when you drove into the parking lot you walked in with Laura's mom in the parking lot. Are you friendly with -- with her mother?

A. That -- I just met her this morning.

Q. Okay. That's nice.

Did you -- in -- well, let's go here.

Mr. Gingras asked you whether or not you relied on the ultrasound, but you're aware that the ultrasound was a fake, correct?

A. I've been told that, and that's why I didn't rely on it.

Q. Okay. But knowing that the ultrasound was a fake, doesn't that cause you to be incredulous about the other data that Ms. Owens presented you?

A. That's precisely why I only used the data that was laboratory-proven.

Q. Well, you actually sat in here and are relying on a photocopy or a picture of a medical record that Laura gave. That was the Banner with the three colors of highlighter. Do you remember seeing that?

You were just sitting here. That exam.

A. Yeah, I -- I saw that. Yes.

Q. And you understand Laura has admitted to faking medical records in this case?

A. Yes.

Q. She faked ultrasounds by putting other lab names on them; she faked the two versions of the hCG test that you relied on, correct?

MR. GINGRAS: Objection. Misstates the testimony.

MR. WOODNICK: That's exactly what --

THE COURT: Overruled.

MR. WOODNICK: -- she testified to.

THE COURT: It can be addressed -- it can be addressed in redirect.

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BY MR. WOODNICK:

Q. You know she --

A. The -- the data that I relied on was stuff that was verified from the laboratory itself.

Q. That's not true. You relied on a photocopy that Laura took a picture of and provided you. It's in your file.

A. The Sonora Quest test done October the 16th was, I believe, derived directly from Sonora Quest.

Q. Okay. Let me --

A. I think the --

Q. -- pause you.

Does it concern you as a scientist if three men have accused Laura of fabricating medical doctor -- documents?

A. That has nothing to do with the data.

Q. Does it concern you as a --

Doesn't have anything to do with the data? Doesn't -- doesn't it mean that you should do a deeper dive to verify the authenticity of the data?

A. If you have proof that the -- the tests from Banner or from Ravgen or from the quantitative hCG were fake, I -- I'm willing to take a look at them, but --

Q. We --

A. -- that's what I have.

Q. But, Doctor, we have proof. She changed the sonogram and she changed the hCG levels in one of the tests that you relied on.

A. I didn't rely on the h- -- on the ultrasound, and I didn't rely on the faked 100-and-whatever-thousand.

Q. Okay. You know that Laura testified that she --

Well, we can agree you reviewed absolutely zero records from Laura's PCP, correct?

A. I don't know who her PCP is.

Q. Well, that's a problem. Wouldn't you have wanted to talk to her PCP and see what drugs she was on?

A. I saw what drugs she was on from -- on Barrow.

Q. No, you saw what drugs she was on from a neurologist that she had telemed visits with. You didn't request, Doctor, records from her PCP, correct?

A. I did not.

Q. And you would agree that --

Thank you.

You would agree that it would have been helpful had you reviewed her historic gynecological records, correct?

Correct?

A. The testing of -- of her -- whether she was pregnant or not had nothing to do with her gynecological records.

Q. Well, you have no idea whether or not she had elevated hCG in her system in the years before with any of the other litigation, do you?

A. The fact that she had a negative hCG at the end of her pregnancy tells me that she didn't have familial hCG in her system.

Q. Okay, Doctor. Let's really quickly talk about other things that could have caused Laura's hCG to be elevated.

As a physician and a scientist, you would agree that hCG could be elevated due to pituitary gland issues, correct?

A. Yes.

Q. It could be elevated due to cancer, correct?

A. Yes.

Q. Ovarian cysts?

A. Depending on if it was cancer.

Q. And you're aware that Dr. Yee and Dr. Chan both provided medical record- -- well, both indicated that Laura had ovarian cancer?

A. I saw those records.

MR. GINGRAS: Objection. Foundation.

THE WITNESS: I didn't --

MR. GINGRAS: Objection. Foundation.

MR. WOODNICK: I'll move on.

THE COURT: Sustained.

BY MR. WOODNICK:

Q. Let's go back.

It could be -- elevated hCG could be caused by weight loss drugs?

A. I'm not aware of weight loss, but there are drugs that can alter hCG results.

Q. Let's talk about that a little bit more.

How about anxiety medications?

A. Yes.

Q. How about antidepressants?

A. Yes.

Q. And you -- you have no idea whether or not Laura was on any of those medications because you didn't review her historic medical records other than what was provided to you by telemed at Barrow's, correct?

A. I saw that she was on some of those medicines.

Q. What medicines?

A. The antianxiety med- -- medicines.

Q. An antianxiety medicine that you just said could elevate her hCG.

A. (No oral response.)

Q. Last, Doctor. IVF drugs also cause escalated hCG, do they not?

A. Certain types.

Q. Laura could have been on Novarel or Pregnyl, correct? Pregnyl?

A. I saw no records of that, and there would be no reason why, if she was pregnant, that she'd be on those.

Q. One last question, Doctor. The antipsychotic clozapine causes elevated hCG, does it not?

A. It's been reported to.

MR. WOODNICK: Thank you, Judge.

THE COURT: All right.

Redirect?

MR. GINGRAS: One question.

REDIRECT EXAMINATION

BY MR. GINGRAS:

Q. Dr. Medchill, regarding the potential of some issue other than pregnancy being the source of Laura's hCG in her blood, her -- are you aware that after November 14th, she -- or on November 14th, she tested negative twice?

A. Yes.

Q. If Laura had drugs or tumors or cysts or anything else that was causing an elevated hCG level, would she have tested negative for pregnancy twice on November 14th?

A. No. They would have still been positive.

MR. GINGRAS: That's it.

THE COURT: Okay.

Before you sit down, Doctor, I just have a few questions.

So you said that hCG requires a prescription, correct?

THE WITNESS: The injection, yes.

THE COURT: Okay. Does Planned Parenthood have the authorization to write those prescriptions, as far as you know? In Arizona, anyway?

THE WITNESS: I can't imagine any reason why they would. It's a drug that's used to induce ovulation, so it's in -- used in infertility patients.

THE COURT: Okay.

THE WITNESS: Planned Parenthood doesn't normally do infertility.

THE COURT: I understand, but that wasn't my question. My question was: At -- are the medical doctors there able to write a prescription for it if they chose to, if they deemed it medical -- medically necessary?

THE WITNESS: Yes.

THE COURT: Okay.

Did you review either the Planned Parenthood records from Mission Viejo or Los Angeles?

THE WITNESS: No.

THE COURT: Okay.

Follow-up to the Court's questions?

MR. WOODNICK: Nothing. Thank you, Judge.
THE COURT: Follow-up to Court's questions?
MR. GINGRAS: No.
THE COURT: Thank you, Doctor. You can step down.
And, Counsels, before we call the next witness up, just so that I'm -- I point this out to the parties, we've explored B9, B31, and A12 that have not been moved. So I don't know if that was just an oversight or if the parties are intending to move those.
MR. GINGRAS: I'm sorry. Could I have those numbers again?
THE COURT: Sure. B9, B31, and A12 were addressed but not moved.
MR. GINGRAS: I would move to admit A- -- A12 is Dr. Medchill's report.
THE COURT: Okay.
MR. WOODNICK: And no objection to that.
And we move to admit B9 and B31.
THE COURT: All right.
Any -- and I assume no objection, Counsel?
MR. GINGRAS: I just wanted to look what they were. I didn't --
THE COURT: You explored them with your client on direct.

MR. WOODNICK: Those are his, actually, so --
MR. GINGRAS: Yup. No objection there.
THE COURT: Okay. The Court will receive what's been marked as B9, B31, and A12. Thank you.
You can call your next witness.
MS. ARENA: And, Your Honor, if we can get a time-check again, if you don't mind.
THE COURT: Sure. Respondent's at 34 minutes, 36 seconds. Petitioner is at 46 minutes and 6 seconds.
MR. GINGRAS: Your Honor, I'm going to reserve the rest of my time, so I'm done.
THE COURT: Okay. All right.
Counsel?
MR. WOODNICK: Judge, with some technological help, and hopefully we're not on the clock, we're going to call Dr. Deans.
THE COURT: Okay. All right. So you're on the clock for her testimony, but getting her set up is not.
MR. WOODNICK: Thank you.
THE COURT: Okay. Dr. Deans, are you able to hear me?
THE WITNESS: Yes, I can.
THE COURT: Okay.
Counsel?
MR. WOODNICK: Before we go on the clock,

Dr. Deans, can you hear me? It's the voice of Gregg Woodnick.

THE WITNESS: Yes. I can see you too.

MR. WOODNICK: Oh.

THE COURT: Counsel --

MR. WOODNICK: There you are. Thank you.

All right. We're ready, Judge. Thank you.

THE COURT: Hold on one second. I want to make sure she can hear everybody.

Counsel, will you do a test, please?

MR. GINGRAS: Hi, Dr. Deans. Good morning.

THE COURT: Okay.

THE WITNESS: Good morning. I can hear you.

MR. GINGRAS: Can you see me?

THE WITNESS: I can.

THE COURT: All right. And, Doctor, before we get started -- and I -- I give this advisory whenever we have virtual witnesses -- is if you need -- I understand we've all got multiple screens going. If you need to look at a report or your notes or something different, I need you to let me know that you're going to do that. We'll give you an opportunity to do it. Wherever that document is located, once your reflect- -- once your recollection has been reflected, please look away from that screen and let us know that you're ready.

Additionally, you should be able to see, once we put it up, any exhibits that either counsel will ask you to review. Please let me know if you can't see it. Okay?

THE WITNESS: I will. Thank you.

THE COURT: You're welcome.

When you're ready, Counsel.

SAMANTHA DEANS,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WOODNICK:

Q. Hi, Dr. Deans. I'm going to go lightning-fast. Introduce yourself to the Court, please.

A. Hi. I'm Dr. Samantha Deans.

Q. Where did you go to medical school?

A. Indian University, School of Medicine.

Q. Are you board-certified?

A. Double board-certified, yes.

Q. What's your first board?

A. Obstetrics and gynecology.

Q. And your second board?

A. Complex family planning.

Q. You have two fellowships?

A. Just one fellowship.
Q. Thank you.
Do you teach?
A. I do.
Q. Medical students and -- and physicians?
A. Medical students and resident doctors, yes.
Q. You teach them gynecological and early family planning?
A. Yes. Complex family planning, yes.
Q. All right. Thank you, Professor Deans.
You've provided us with your CV, which is Exhibit 39.
MR. WOODNICK: I'd move to admit.
THE COURT: Any objection?
MR. GINGRAS: No objection.
THE COURT: B39's received.
BY MR. WOODNICK:
Q. You also did a report for us. It's Exhibit 41, which we'll pull on the screen.
Did you have an opportunity to review the medical records for Laura Owens?
A. Yes, the ones I was provided with.
Q. Exhibit No. 41, did you know that that was published online on a website?
A. Just to confirm, I'm looking at my report. And,

no, I did not know that was published on a website.

Q. Did you -- did you give Ms. Owens permission to publish your report on a website?

A. I did not.

Q. Okay.

MR. WOODNICK: Judge, I'm tendering Dr. Deans as a -- as an expert here.

THE COURT: Any objection?

MR. GINGRAS: I -- no. I have one voir dire question for her.

THE COURT: Sure. Go ahead.

VOIR DIRE EXAMINATION

BY MR. GINGRAS:

Q. Dr. Deans, hi. Good morning. How many doc- --

A. Good morning.

Q. How many children have you delivered as an OB-GYN?

A. Probably too many to count, but I would say at least 3,000 at this point.

MR. GINGRAS: Okay. I stipulate to her expertise.

THE COURT: All right. So stipulated.

////

DIRECT EXAMINATION CONTINUED

BY MR. WOODNICK:

Q. All right. Basic question, Dr. Deans. I'm going to go fast here.

Do you have concerns regarding the legitimacy of some of the records you reviewed?

A. I do.

Q. If this Court were to assume that the June 1st hCG test actually came from Laura, would that confirm pregnancy?

A. No.

Q. What is the medical standard of care to confirm a pregnancy?

A. That would have to be either serial hCG's, showing a trend over time, or a pregnancy test and/or an ultrasound, or a physical exam that confirms an intrauterine pregnancy.

Q. And we had none of that here, correct?

A. Correct.

Q. All right. I'm showing you Exhibit No. 28.

Are you aware that -- that's the ultrasound from Laura. Are you aware that that was altered?

A. Yes, I am.

Q. Laura claimed it was anonymous and from Plan -- Planned Parenthood. Any thoughts about that?

A. Patients cannot be seen anonymously at Planned Parenthood. Planned Parenthood -- I -- having been a former medical director of Planned Parenthood, PPFA, which is our national guidelines, require identification at the time of a visit to confirm the identity of the patient. The patient can't be seen anonymously.

Q. Thank you.

Laura claims she was pregnant with twins. Anything you reviewed in any of the medical records confirm that Laura was pregnant with twins?

A. No.

Q. Laura claimed that the twins were boy- and girl-gendered. Anything that you reviewed that confirms that?

A. No.

Q. Do you recall reviewing the October 16th hCG test? I think it had a hundred, or three-digit, hCG level on it.

A. I do.

Q. Do you -- are you aware that there's actually two other versions of that exact same test in circulation?

A. I've heard that. I have not seen them.

Q. If I told you there was another version with a thousand times higher hCG level, would that cause you concern?

A. Yes, it would.

Q. Are there alternate causations for a positive hCG test, as we have here?

A. Yes, there are.

Q. Did you review the --

Well, I'm going to skip over the photos.

Did you review Dr. Medchill's report?

A. I did.

Q. You're aware that Laura first claimed she miscarried in September, October, and then the photos that are in your report indicate that it happened in the third week of July, correct?

A. Correct.

Q. Pursuant to Dr. Medchill's report, he concluded -- well, do you agree with his conclusion that the data here warrants that Laura was 99 percent pregnant?

A. No, I do not agree with that assessment.

Q. Do you agree with Dr. Medchill that the record confirms -- this is from his report -- a May 20th conception date?

A. Absolutely not. There's no data to confirm a conception date at this point. That would require an ultrasound, dating of a pregnancy.

MR. WOODNICK: Professor Deans, thank you.

Judge, I just move to admit Exhibit 41 if I

didn't already.

THE COURT: Any objection?

MR. GINGRAS: No objection.

THE COURT: B41's received.

Cross-examination when you're ready.

CROSS-EXAMINATION

BY MR. GINGRAS:

Q. Dr. Deans, you reviewed records that showed that Laura had hCG in her blood October 16th, 2023. Are you familiar with those?

A. Yes.

Q. Where did that hCG come from?

A. It could come from a variety of sources.

Q. Okay. And your report mentions some of those sources. I -- I'm just going to ask about specific things.

Exogenous injection. I'm assuming that's a fancy word -- way of saying sticking yourself with a needle.

A. Correct. Exogenous would be an hCG source from outside of the body.

Q. And do you have any information or have you seen any records that suggest that that happened here?

A. I don't.

Q. Okay.

Heterophilic antibodies, which I did a little

reading on that. Some sort of allergic response, it sounds like, maybe?

A. Correct. An autoimmune response can be triggered by exposure to animals and create positive tests.

Q. Okay. But the fact that Laura tested po- -- te- -- sorry -- tested negative for pregnancy November 14th would appear to be inconsistent with at least the heterophilic antibody theory. Would you agree with that?

A. I -- it depends on the type of test. A urine pregnancy test might be positive, but a blood test could still be positive. It depends on the assessment and the -- the level of hCG at the time of the test.

Q. Okay. And I think Dr. Medchill said, and I think you also said, that cancer can cause elevated hCG levels. That -- that's a fact, right?

A. Correct.

Q. And have you seen any records to suggest that Laura has cancer presently or that she did in 2023?

A. Not presently, no. I know there's a discussion of a prior history of ovarian cancer.

Q. I understand that. But regarding 2023, if Laura had cancer in 2023 that caused positive pregnancy te- -- false positive pregnancy tests between May and October, when the last one was, how can you explain her testing negative in November?

A. I mean, I think it makes that less likely, unless she had treatment in the meantime.

Q. And -- and another option that you wrote about in your report was something called familial hCG syndrome as being a -- a way that someone could test positive, have hCG in their blood not from pregnancy, correct?

A. Correct.

Q. Do you know how rare that is?

A. Very rare.

Q. I read that it was about ten cases in the planet. Does that sound about --

A. Mm-hm.

Q. -- right to you?

A. That's correct.

Q. And again, if -- if Laura had familial hCG syndrome, that would explain some false positive tests in the middle of the year, but it wouldn't explain the negative at the end, would it?

A. That is correct.

Q. Dr. Deans, in your report you talked about objective evidence of pregnancy. On the first page in particular, you said that the only objective evidence of pregnancy is a Banner Urgent Care serum quantitative hCG from -- well, I think that's actually a misstatement. The October 16th wasn't at Banner. But there was a serum hCG.

And you've referred to that as objective evidence of pregnancy. Is that true?

A. Correct.

Q. And in the absence of some other explanation -- cancer, familial, horse tranquilizers, or whatever -- in the absence of some other explanation, you would agree, and Dr. Medchill, I think, said, that hCG test from October 16th is objective evidence of pregnancy, right?

A. It is objective evidence, and one of the possibilities of that objective evidence is pregnancy.

Q. Right. And if a woman is pregnant, regardless of how much or how little prenatal care she has, she's still pregnant, right?

A. If they are pregnant, yes.

Q. I mean, a woman -- a woman could be pregnant and have no ultrasound until the day the baby comes out, and she's still pregnant, right?

A. Yes, and the objective data would be the baby coming out of her body.

Q. Right. And, Dr. Deans, you worked -- or your report and your resume indicated that you worked at Planned Parenthood for a while?

A. That's correct.

Q. In that capacity, did you counsel women regarding terminating their pregnancies?

A. Correct.

Q. And just for the record, I'm strongly pro-choice, strongly Planned Parenthood.

If a woman was choosing or was thinking about choosing to terminate her pregnancy, why would she have prenatal care?

A. Oftentimes, patients seek care first to confirm their pregnancy before they make their decision about how to end it.

Q. But in a lot of states --

THE COURT: Counsel, I'm sorry to cut you off, but you ran out of time.

MR. GINGRAS: I'm out of time?

Thank you very much. Thank you.

MR. WOODNICK: No redirect.

Thank you, Professor Deans. We appreciate your help.

THE COURT: All right. Any --

THE WITNESS: Thank you.

THE COURT: -- objection to the professor disconnecting?

MR. WOODNICK: No.

MR. GINGRAS: Nope.

THE COURT: All right.

Thank you, Dr. Deans. If you'd like to

disconnect, you may. If you'd like to stay and listen, you absolutely may.

THE WITNESS: Thank you very much.

THE COURT: You're welcome.

MR. WOODNICK: Time-check, Judge?

THE COURT: 38 minutes, 57 seconds.

MR. WOODNICK: We're going to call Clayton quickly.

CLAYTON ECHARD,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WOODNICK:

Q. Clayton, I'm going to be lightning-fast.

State your name to the Court.

A. Clayton Echard.

Q. Did you participate and sign the pretrial statement that we provided to Judge Mata?

A. Yes.

Q. Are those statements true and accurate?

A. Yes.

Q. Are we asking the Court, in light of our very limited time today, to consider our pretrial statement as

part of your testimony today?

A. Yes.

Q. How did you meet Laura?

A. Laura targeted me on LinkedIn. She asked to do real estate. We ended up exchanging contact info. She became -- she became flirtatious, sent me a provocative photo, I told her to come over, and then we saw homes the next day.

Q. Did you have sex with Laura?

A. Absolutely not. I've said time and time again she performed oral on me twice. That's it.

Q. Have you heard two other versions about what happened?

A. Absolutely. Many versions. She's claimed that she was raped by me. She also claims I was too high to remember what happened that day.

Q. I'm going to repeat what you just said. She claimed you were -- she was raped by you and that you were too high to remember?

A. That's correct.

Q. Were you too high to remember?

A. No, that's incorrect. I remember every single thing from that night.

Q. Did you rape her?

A. No, I did not.

Q. You stated that -- that she had -- gave you oral sex twice that evening; is that correct?

A. That's correct.

Q. Where did you complete?

A. Her mouth both times.

Q. What happened the second time?

A. She ran straight to the bathroom.

Q. Were your fluids ever down there, as Laura has claimed?

A. No.

Q. What happened the next days?

A. The next day, we went and saw houses. I told her that I crossed a professional boundary. I told her that that was a one-time thing, it would not happen again. She became very agitated at that point, was crying, and asked for me to give her a chance.

Q. Hang on for a second. She came over to your house, she gave you oral sex twice. The next day, you told her you weren't interested in her?

A. That's correct. I rejected her, yes.

Q. And then four days later, what happened?

A. Four days later, she started making claims that she could possibly be pregnant.

Q. Hang on. Did your penis ever go inside her accidentally, inadvertently, or anything --

A. No.
Q. -- like that?
A. No.
Q. You're a public figure. You're the Bachelor. That's why everyone's watching today.
Are you embarrassed to say who you've had sex with, Clayton?
A. I think I'm the last person to -- to lie about who I've been intimate with.
Q. Were you -- did you have penile-vaginal sex whatsoever with Laura Owens?
A. No. Absolutely not.
Q. Has that been your story since day one?
A. It's been my story. My story's been consistent since day one.
Q. I'm going to show you Exhibit No. 3.
MR. WOODNICK: Just put that up on the screen. Thanks, Isabel.
BY MR. WOODNICK:
Q. Did Laura start communicating with you more after she said she thought she was pregnant at four days?
A. Yes. Nonstop. She sent me over 500 e-mails and text messages. Thirteen different phone numbers.
Q. Thirteen phone numbers?
A. Thirteen phone numbers.

Q. How many messages?
A. Over 500.
Q. Exhibit 3, is that a sample of those texts and e-mails that were shown to Judge Gialketsis in the injunction against harassment hearing from November 2nd, 2023?
A. Yes.
MR. WOODNICK: I move to admit Exhibit 3. And, Judge, you already took notice because you watched the videos.
THE COURT: I assume no objection?
MR. GINGRAS: No objection.
THE COURT: B3's received.
BY MR. WOODNICK:
Q. At some point, did she start calling your mom, who's in the courtroom?
A. She started reaching out to my parents, she started reaching out to my work organizations, she started reaching out to people -- women I talked to in the past. She went for everybody.
Q. Was she claiming anything in particular?
A. She was claiming that I was, yeah, a deadbeat that's not supporting her through her pregnancy.
Q. Well, hang on. It was more than that, Clayton. It was a deadbeat who was not supporting her through her

pregnancy of what?

A. With twins.

Q. Twins?

A. Yes.

Q. Did she reach out to the Sun Magazine?

A. She did, yes.

Q. Did she ever tell you what genders the imagined twins were?

A. A boy and a girl.

Q. Did she ever tell you -- well, drawing your attention to some motions Laura filed, and for purposes of attorney's fees, she filed a motion to communicate on August 8th; a motion to compel communication on August 23rd; and August 29th, a few days later, an expedited motion to communicate; and then shortly thereafter, she filed an order of protection against you, correct?

A. Yes.

Q. And you're aware that she's filed orders of protection against two other individuals seated in the back of the courtroom, correct?

A. That's correct, yes.

Q. They are on the left?

A. Yes. Well, my right, but yes. Your left.

Q. Thank you. Greg Gillespie and?

A. Michael Marraccini.

Q. I want to look at Exhibit No. 7, Clayton.

Is that a true and accurate copy of e-mail communication between you and Laura from July 1st, 2023?

A. Absolutely. Yes.

Q. You received it?

A. I did, yes.

Q. And she sent it?

A. She sent it, yes.

Q. You heard her testify with Ms. Arena from my off- -- or excuse me -- with Mr. Gingras denying the e-mails exchange were from her. She seems to be blaming, I guess, Greg Gillespie, for faking her e-mails. Did you remember her testimony?

A. Yes. Yeah, she said that. But nothing she says is true.

Q. She's actually sent you e-mails with videos attached to them, and you've had -- and you've responded back to them, correct?

A. That's correct, yes.

Q. All right. Specifically, Exhibit No. 7. I think you stated that it was a true and accurate copy.

I think the caption -- I'm going to try to read it on the caption. The top. I think it says, "The final opportunity to consider abortion."

Do you remember getting this from Laura?

A. Yes.

MR. WOODNICK: Move to admit Exhibit 7.

THE COURT: Any objection?

MR. GINGRAS: Yeah, no objection, Your Honor.

THE COURT: 7's received.

BY MR. WOODNICK:

Q. Further down in that e-mail, Clayton -- and this'll get awkward. But further down in that e-mail on July -- from July 1st, which was weeks after the alleged encounter, Laura references her tight vagina. Why is that both uncomfortable and relevant to the Court today?

A. Because she's stating that if I would have felt how tight her vagina was, I might change my mind. Which is her stating that I never penetrated her. We never had penetrative sex.

Q. Wait. The exhibit that the Court just received has Laura saying that her vagina was tight, as if you hadn't been in there before?

A. That is correct.

Q. Well, had you been in there before?

A. I had not, no.

Q. All right. She also sent you communications in Exhibit No. 7 talking about wanting to have sex with you during a week. A trial week. What was that about?

A. Yeah. She said that she would be the safest

person to have sex with since she was already pregnant.

Q. Hang on for a second. She told you she wanted to have sex with you because she was already pregnant?

A. That's correct.

Q. How did you feel when you read that e-mail, Clayton?

A. I mean, sick to my stomach. All of this has made me sick.

Q. Did you feel like she was trying to trap you?

A. Absolutely.

Q. You heard the testimony with Dr. Medchill concerning that Laura was on IVF medications trying to get pregnant. Is that consistent with those concerns?

A. Yeah, I believe that she was taking medications.

Q. I'm going to show you Exhibit No. 6.

And let me restate that question.

You heard my question to Dr. Medchill about IVF medications, which are used to cause pregnancy. And -- and you share concerns that she was using those to trap you; is that correct?

A. Absolutely. Yes.

Q. All right.

MR. WOODNICK: Exhibit No. 6, Isabel.

BY MR. WOODNICK:

Q. Exhibit No. 6 is another e-mail dated June 28th,

2023. Is that a true and accurate copy of the correspondence between you and Laura?

A. Yes, it is.

Q. You remember reading this?

A. I remember reading this, yes.

Q. Do you remember reading it on June 28th-ish when you received it?

A. I do, yes.

Q. And the title of this -- can you read the title of this out loud for the Court?

A. "Having the baby if I don't hear back tonight."

Q. "Having the baby if I don't hear back tonight."

MR. WOODNICK: Move to admit Exhibit 6.

THE COURT: Any objection?

MR. GINGRAS: No objection.

THE COURT: Exhibit 6 is received.

MR. WOODNICK: Thank you.

BY MR. WOODNICK:

Q. I'm going to show you Exhibit 11.

Did Laura send you ultrasounds during this time period?

A. Yes, she did.

Q. Is Exhibit 11 an image of an ultrasound you received from Laura?

A. Yes.

Q. She's going to claim that she didn't send this to you, but how do you know this came from Laura?

A. Because I was interacting with her from that same e-mail address. I also took a screen-record showing that it was from her e-mail address, and that's where all my other communications have come from her.

Q. Real quick, so on October No. 11, this one says -- the caption on it says "Ultrasound Video Proof," correct?

A. That's correct.

Q. And the signature block on there and the picture is the exact same signature block and picture from the other e-mail, which is also not favorable to Laura, which she claims is not hers, correct?

A. Yes, that's --

MR. WOODNICK: Move to admit Exhibit 11.

THE COURT: Any objection?

MR. GINGRAS: No objection.

BY MR. WOODNICK:

Q. On Exhibit 11 -- well, do you know where the video came from on Exhibit No. 11?

A. Yeah. From a YouTube video from seven years ago.

Q. YouTube video from seven years ago?

A. Correct.

Q. On that -- this is the one that says SMIL, right?

A. Yes.
Q. Okay.
A. Yeah. Yeah.
Q. This one says GE.
A. Now this one's a different one, yes.
Q. Okay. Because how many are there? How many ultrasounds have you seen?
A. Three.
Q. Okay. This one, I think, on the -- on the caption says, "And here's my hundred million percent real ultrasound"?
A. Yeah. A lot of zeros, yeah.
Q. Do you remember --
I don't know if my math is right on that.
Do you remember receiv- -- receiving that?
A. Yes. I received it from Laura, yes.
Q. Court already admitted it.
I'm going to show you Exhibit No. 28.
You recall receiving this ultrasound?
A. Yes. I saw this from Bonnie Platter.
Q. Okay. I'm going to be real clear about this. Ms. Owens just testified that she did not use this ultrasound in a court proceeding, but it was actually admitted as an exhibit by Laura through her counsel at the February 2nd, 2024, deposition of you, correct?

A. Correct.

Q. All right. That video deposition of you, have you seen that recently?

A. Yes, I have.

Q. Where did you see the video deposition of yourself, Clayton?

A. It was posted on YouTube by either her counsel or herself.

Q. Wait. Laura or her counsel posted your video deposition on YouTube?

A. That's correct.

Q. How many paternity tests did you take, Clayton?

A. Three.

Q. I'm going to show you Exhibit No. 36.

You know what? I'm going to skip past that. That was the -- Dr. Medchill's -- I'll skip past that, but --

Well, you know what? Real quickly, how many versions of the -- of the hCG test have you seen?

A. I -- two, I believe. Yeah. The 102 and 102,000.

Q. The one with more digits on it?

A. Yes. Yes.

Q. All right.

I'm going to show you Exhibit No. 46.

Would you agree that Exhibit No. 46, for

attorney's fees, is a blog from Mr. Gingras where he acknowledges his client faked some of the science tests?

A. Yes, that's correct.

Q. I'm going to show you, to move this along, Exhibit No. 55.

Exhibit No. 55 was right before your March 1st deposition. Or right before -- excuse me -- Laura's March 1st deposition.

Actually, did she show up at her earlier deposition?

A. No, she didn't.

Q. And the Court ordered her compel to attend, and we're still waiting for the Court to order on attorney's fees for that; is that correct?

A. Correct.

Q. But at her -- right before, what happened a day or two, related to Exhibit 55, a day or two before your deposition?

A. She threatened to extort me for -- to the tune of $1.4 million in order for me to drop the deposition and the case entirely.

Q. Wait a minute. She sent you a letter a day before, trying to get out of the deposition?

A. Yes. She threatened me.

Q. Threatened you with what?

A. Monetary -- monetary means.

Q. Is everything that we've talked about today so far, other than the YouTube videos, which are more recent, is everything addressed in prior pleadings already before Judge Mata?

A. Yes.

Q. Really quickly, for attorney's fees purposes, Exhibit No. --

Well, let me get in a few exhibits real quick.

MR. WOODNICK: Exhibit 29, 37, and 59, these are the medical records from -- pursuant to subpoena from Drs. -- for Planned Parenthood, Dr. Makhoul, and Dr. Higley. We move to admit. They've all been considered by the experts.

THE COURT: I'm sorry. You said 37?

MR. WOODNICK: Strike that. Sorry. 29, 37, and 59.

THE COURT: Any objection?

MR. GINGRAS: Not to those. Did we talk about Exhibit 54 yet?

THE COURT: Hold on. One second.

29, 37, and --

What was the other one, Mr. Woodnick?

MR. WOODNICK: 59.

THE COURT: -- 59 are received.

We'll talk about that one after, Counsel.

MR. WOODNICK: And then I'll go back.

It's Exhibit No. 55, which is the letter that Laura sent you suing you -- to sue you for $1.4 million before the deposition.

Move to admit.

MR. GINGRAS: I -- now, that one, I'll object to. That's a Rule 408 settlement offer, Your Honor. He's offering to prove that the claim's not valid. That's absolutely inappropriate.

THE COURT: Over --

MR. WOODNICK: Judge, just -- sorry.

THE COURT: Over objection, the Court's going to receive it for the purposes of attorney's fees only.

Counsel, you have run out of time.

MR. WOODNICK: I'm out of time?

THE COURT: You're out. You're at 50.

MR. WOODNICK: I'm at 50?

THE COURT: Sir, you can go sit back down.

Okay. So, Counsel, what exhibit were you asking me about? You -- yeah, you said it has something, then move.

MR. WOODNICK: 54. We just cured that, Judge.

THE COURT: Oh. All right. I just wanted to make sure.

Okay. So at this time, what the Court's going to do is I'll take this under advisement. What that means is I'm going to go back, I'm going to review the notes that I took today, I'm going to review the evidence that was admitted to the Court, and then everyone will receive my order in writing.

MR. GINGRAS: Your Honor, I -- I have one housekeeping matter.

I'm leaving the country tonight. I am not back until June 28th. If the Court issues something that requires a quick response, I'm going to be on a boat, and I may not have the ability to respond. So I would just ask either -- that you grant me some extension if I need it. I return back to the country June 28th. So just advising you.

THE COURT: Okay. And -- and I'm sorry, Counsel. When do you leave?

MR. GINGRAS: Tonight.

THE COURT: Okay. All right. So June 10th to the 28th --

MR. GINGRAS: Correct.

THE COURT: -- you will be unavailable. Okay.

MR. GINGRAS: I should have e-mail part of the time, but not all of it.

THE COURT: Yeah. You can't really be held accountable for that. I understand.

Any other thing -- anything else administrative?

MR. WOODNICK: No. Thank you, Judge.

THE COURT: All right.

So how this'll work now at this point is I have relinquished all security to court security and any underlying law enforcement that are present. They will be escorting people out in the manner that they deem to be appropriate. If there's competing orders against harassment or orders of protection, then we can take those things into consideration.

And I just ask that if the people in the gallery are able, any conversations, if you could just take them out into the hall, that would be great for our other people who are here for other matters.

Thanks.

(Matter concluded.)

C E R T I F I C A T E

I, NICOLE TATLOW, Official Certified Reporter herein, hereby certify that the foregoing is a full, true and accurate transcript of all proceedings had in the foregoing matter, all done to the best of my skill and ability.

Dated at Phoenix, Arizona, this 5th day of July, 2024.

/s/Nicole Tatlow
Nicole Tatlow, RPR
Certified Reporter No. 50671
Official Court Reporter
Maricopa County Superior Court

Exhibit C

Clerk of the Superior Court
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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In Re the Matter of:

LAURA OWENS,

Petitioner,

and

CLAYTON ECHARD,

Respondent.

Case No.: FC2023-052114

PETITIONER'S MOTION TO DISMISS PETITION TO ESTABLISH PATERNITY, LEGAL DECISION-MAKING, PARENTING TIME, AND CHILD SUPPORT WITH PREJUDICE

(The Honorable Julie Mata)

Petitioner, **LAURA OWENS**, moves this Court to dismiss her Petition to Establish Paternity, Legal Decision-Making Authority, Parenting Time, and Child Support, filed August 1, 2023. Petitioner is not now pregnant with Respondent's children. Under A.R.S. § 25-801, this Court has "jurisdiction…to establish maternity or paternity." Here, there is no paternity or maternity to establish, as Petitioner is no longer pregnant. Accordingly, this case must be dismissed.

I. FACTUAL BACKGROUND

The underlying Petition was filed on August 1, 2023. Respondent filed a Response on August 21, 2023. On December 27, 2023, Petitioner's counsel sent Respondent's counsel a draft Stipulated Motion to Dismiss with Prejudice. Respondent does not agree to the dismissal and instead seeks to utilize family court resources for a case that does not

involve a family.

II. LEGAL ARGUMENT

Because Respondent has filed a Response to the Petition, this case may be dismissed only by party agreement or by a court order. *See* Ariz. R. Fam. L. P. 36(a)(1)(B)–(C). And because Respondent does not consent to a stipulated dismissal, Petitioner requests that the Court order dismissal pursuant to Rule 36(a).

a. The family court does not have jurisdiction to hear a case involving unmarried parties without a minor child.

A.R.S. § 25-801 grants this court "original jurisdiction in proceedings to establish maternity or paternity." Here, there is no maternity or paternity to establish, as Petitioner is no longer pregnant. Accordingly, this Court no longer has jurisdiction, and the underlying Petition must be dismissed.

Additionally, it is well-established that courts cannot decide moot cases. *Contempo-Tempe Mobile Home Owners Ass'n v. Steinert*, 144 Ariz. 227, 229 (App. 1985). "A case is moot when it seeks to determine an abstract question which does not arise upon [the] existing facts…" *Id.* Because Petitioner is no longer pregnant, this case is now moot and there is no need for this case to proceed.

b. Respondent's only potentially viable claim is for attorney's fees, which he did not personally incur.

On December 12th, Respondent filed a Motion for Leave to Amend his Response. The proposed Amended Response requests the following relief: (1) an order of non-paternity; (2) an order compelling Ravgen Inc., a non-party, to produce fetal DNA records; (3) Rule 26 sanctions against Petitioner; and (4) attorney's fees from Petitioner.

Items 1 and 2 are now moot because Petitioner is not now pregnant. Regarding item 2, the Request for Relief of a Response is not the appropriate place to request a Court to order discovery from a non-party. As to item 3, Respondent failed to comply with any of Rule 26(c)'s prerequisite requirements. Specifically, Respondent did not "attempt to

resolve the matter by good faith consultation as provided by Rule 9(c)." Ariz. R. Fam. L. P. 26(c)(2)(A). Even if he had tried to resolve this dispute, Respondent did not "provide the opposing party with written notice of the specific conduct that allegedly violates section (b)." Ariz. R. Fam. L. P. 26(c)(2)(B).

Additionally, sanctions cannot be requested as part of a Response (or of any other pleading for that matter). Pursuant to Rule 26(c)(3)(A), a motion for sanctions must be made separately from any other motion. Respondent also failed to attach a Rule 9(c) good faith consultation certificate and/or "attach a copy of the written notice provided to the opposing party under subpart (c)(2)(B)." Ariz. R. Fam. L. P. 9(c)(3).

Accordingly, the *only* remaining viable claim in this entire case is Respondent's claim for attorney's fees from Petitioner. Respondent, however, crowd-sourced his attorney's fees through GoFundMe. Exhibit A, *Mr. Echard's GoFundMe*. Respondent did not personally incur attorney's fees and it is doubtful that he intends to reimburse all 331 people[1] who donated to his "cause." Respondent could easily have *no* attorney's fees moving forward if he agrees to the requested dismissal. Any fees incurred moving forward are a result of Respondent attempting to inappropriately utilize the family court's resources for a non-familial dispute.

WHEREFORE, Petitioner respectfully requests this Court dismiss her Petition to Establish Paternity with Prejudice because the family court does not have jurisdiction over any perceived remaining issues.

RESPECTFULLY SUBMITTED this 28th day of December 2023.

MODERN LAW

By: /s/ Alexis Lindvall
Alexis Lindvall
Attorney for Petitioner

[1] Number of donors at the time of filing.

ORIGINAL of the foregoing eFiled this 28th day of December 2023 with:

Clerk of the Superior Court
Maricopa County Superior Court

COPIES of the foregoing delivered this 28th day of December 2023 to:

Honorable Julie Mata
Maricopa County Superior Court

Gregg Woodnick, Esq.
WOODNICK LAW, PLLC
office@woodnicklaw.com
Attorney for Respondent

By: /s/ Sarah Saxon
Sarah Saxon

EXHIBIT A

MODERN LAW

DIVORCE AND FAMILY LAW ATTORNEYS

Clayton Echard Legal Fund

Dave Neal is organizing this fundraiser on behalf of Clayton Echard.

Clayton Echard is facing several legal battles within the Arizona court system and could use a hand in hiring a lawyer to properly represent him in court. I have spoken personally with Clayton and while he never wanted to ask for a handout, it is evident that he can use the help of friends and family that want a fair legal battle.

Clayton is the sole beneficiary of this fund. The funds will go directly to his account from

$8,080 raised of $10,000 goal

331 donations

Share

Donate now

Anonymous
$25 • 3 d

Anonymous
$20 • 7 d

Rachael Lurker
$20 • 7 d

Anonymous
$50 • 8 d

Anonymous
$15 • 8 d

See all ☆ See top

Exhibit D

Clerk of the Superior Court
*** Electronically Filed ***
C. Brown, Deputy
1/3/2024 4:43:32 PM
Filing ID 17128207

WOODNICK LAW, PLLC
1747 E. Morten Avenue, Suite 205
Phoenix, Arizona 85020
Telephone: (602) 449-7980
Facsimile: (602) 396-5850
Office@WoodnickLaw.com

Gregg R. Woodnick, #020736
Isabel Ranney, #038564
Attorney for Respondent

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In Re the Matter of: **LAURA OWENS**, Petitioner, and **CLAYTON ECHARD,** Respondent,	Case No.: **FC2023-052114** **MOTION FOR SANCTIONS PURSUANT TO RULE 26** (Assigned to The Honorable Julie Mata)

Respondent, **CLAYTON ECHARD**, by and through undersigned counsel and pursuant to Rule 26(b) and 26(c), *Arizona Rules of Family Law Procedure* (ARFLP), hereby filed his Motion for Sanctions against Petitioner, **LAURA OWENS**, for filing her Petition to Establish Paternity, Legal Decision-Making, Parenting Time, and Child Support, as well as all other subsequent filings by Petitioner.

Petitioner filed the underlying action for an improper purpose without medical evidence to support her claim that she was pregnant and/or that she was pregnant by Respondent. Petitioner could not have become pregnant from the limited encounter the parties had and

therefore premised this entire action on a fiction. Petitioner violated Rule 26(b)(1)-(3) in her Petition and subsequent filings.

ARGUMENT

1. This matter arises from the establishment petition filed August 1, 2023. Also pending before the Court are: Respondent's Motion for Leave to Amend Respondent's Response to Petition to Establish Paternity, Respondent's Expedited Motion to Extend Dismissal Date on Inactive Calendar and Schedule an Evidentiary Hearing, Respondent's Notice of Filing Affidavit of Non-Paternity, Petitioner's Motion to Dismiss Petition to Establish Paternity, Legal Decision-Making, Parenting Time and Child Support with Prejudice, Petitioner's Response to Expedited Motion and 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 consecutively).

2. Rule 26(b) ARFLP provides, as relevant here, that "*by signing a pleading, motion or other document, the attorney or party certifies to the best of the person's knowledge, information, and belief formed after reasonable inquiry: (1) it is not being presented for any improper purposes, such as to harass [...] (2) the claims, defenses, and other legal contentions are warranted by existing law [...] (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery [...]*".

3. Rule 26(c) provides: "*if a pleading, motion, or other document is signed in violation of this rule, the court—on motion or on its own—may impose on the person who signed it, a represented party, or both, an appropriate sanction, which may include an order*

to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the document, including a reasonable attorney fee."

4. The requirements of Rule 9(c) have been met and a good faith consultation certificate is attached hereto. *See also* Respondent's Motion for Leave to Amend Respondent's Response to Petition to Establish Paternity; Respondent's Response/Objection to Petitioner's Motion to Dismiss Petition to Establish Paternity, Legal Decision-Making, Parenting Time and Child Support with Prejudice.

A. Rule 26 sanctions are appropriate and warranted

Petitioner's behavior is the exact type of conduct that Rule 26 is intended to sanction. Petitioner was never pregnant by Respondent and filed this underlying action in bad faith and with the sole intent of coercing Respondent into having a relationship with her.

1. Petitioner's commencement of this action and original filing was made for an improper purpose under Rule 26(b)(1).

Petitioner instigated this action when she filed her Petition to Establish Paternity, Legal Decision-Making, Parenting Time and Child Support on August 1, 2023, which alleges she had sexual intercourse with Respondent, became pregnant by him, and requested this Court enter Orders for Joint Legal Decision-Making, a parenting plan, and order Respondent to pay her Child Support. Petitioner's Petition to Establish was filed for an improper purpose because Petitioner was never pregnant by Respondent and could not have become pregnant based on their one (1) encounter of oral sex on May 20, 2023.

Despite no underlying Orders, Petitioner filed a Motion to Communicate on August 8, 2023, and Motion to Compel on August 23, 2023. This Court denied both Motions. Respondent

filed a Response on August 21, 2023, denying that Petitioner could be pregnant by Respondent after one incident of oral sex on May 20, 2023. When Petitioner did not get what she wanted (including attempting to get Respondent to enter into a dating "*contract*") she went to the media (Reddit, *The Sun, People Magazine, Page Six,* Medium.com, etc), the police, Respondent's father, and even threatened self-harm. *See* Respondent's Response/Objection to Petitioner's Motion to Dismiss (filed 1/3/24). When the media turned on Petitioner and had doubts about the veracity of her pregnancy (as no verifiable medical evidence exists), Petitioner obtained an Order of Protection against Respondent based on "cyberbullying." (**Exhibit 1).**

Respondent obtained an Injunction of Harassment against Petitioner based on the receipt of 500+ harassing messages in (CV2023-05392). During the proceedings, on November 2, 2023, Petitioner wore a fake stomach ("moon bump") to appear pregnant and claimed, with no scientific support, that she was 24 weeks pregnant with Respondent's twins and due on February 14, 2024 *See* Respondent's Response/Objection to Petitioner's Motion to Dismiss (filed 1/3/24); *see also* FTR for hearing on 11/2/23. Petitioner then sought to have this Court enter Orders against Respondent despite no verifiable proof Petitioner was pregnant and no child subject to this Court's jurisdiction (with respect to entering parenting-related Orders) by filing an *Application and Affidavit for Entry of Default* on August 23, 2023.

Despite providing no verifiable medical evidence that she was pregnant or that she was pregnant by him (only positive HCG tests and fabricated sonograms), Petitioner sought to force Respondent to communicate with her and threatened to go to the media if he did not comply. Notably, in her Motion to Communicate, Petitioner requested "*that Respondent […] is ordered to communicate with Petitioner […] The Respondent was* The Bachelor *on* ABC *and the*

Petitioner knows it would be in his best interests to keep the details of this case out of the public eye." *See* Petitioner's Motion to Communicate filed August 8, 2023.

Also, in her Motion to Compel (filed August 23, 2023), Petitioner admitted she "*had requested* [Respondent agree to] *a one to two week trial relationship"* prior to filing her underlying Petition and asked this Court to hold Respondent in **contempt of Court** for not talking to her. Petitioner's own words prove that she instigated this entire action (including fabricating a pregnancy) to coerce Respondent into talking to and dating her.

2. Petitioner's Motion to Dismiss is unsupported by existing law under Rule 26(b)(2).

Jurisdiction was established at the time of Petitioner's initial filing, which Petitioner continued to avail herself of through each additional filing made in the course of this matter. Ostensibly fearing that she would be held accountable for her disturbing and unsettling behavior, Petitioner recently filed a (contested) *Motion to Dismiss* on December 28, 2023 the entire action alleging lack of subject matter jurisdiction.

As discussed more fully in the Response to that Motion, Arizona law is crystal clear that jurisdiction attaches at the time the action is filed. Subsequent events or acts by the parties cannot deprive the court of jurisdiction once attached, even if those events would have defeated jurisdiction if occurring before the action was filed (i.e., Petitioner claimed at the time of filing that she was pregnant with Respondent's children at the time of filing, so the fact that she is not currently pregnant does not deprive the court of jurisdiction). Statutory jurisdiction does not automatically divest unless the statutes expressly state whether and to what extent divestiture occurs. Title 25 contains no such provision, and the *Fry* case cited in Respondent's

January 3, 2024 *Response to the Motion to Dismiss* is highly analogous to the current circumstances.

For purposes of Rule 26(b)(2), Petitioner's claim is not warranted by existing law and does not attempt to make a non-frivolous argument for modifying the law or establishing new law. Simply put, Petitioner misstates the law of subject matter jurisdiction despite clearly contrary precedent in an opaque attempt to avoid the consequences of her improper filings. This is sanctionable.

3. Petitioner's factual contentions are not supported by evidence and did not become supported by evidence after investigation and discovery under Rule 26(b)(3).

The Petition lacks evidentiary support beyond Petitioner's assertions that she was pregnant with Respondent's children. Admittedly, any establishment petition made prior to the birth of the child is necessarily lacking evidentiary support, but Title 25 and Rule 26 permit such filings because those claims, if true, will have evidentiary support after a reasonable opportunity for further investigation or discovery. In this case, however, Petitioner's claims were never true and could not be true because the parties did not have sexual intercourse requisite to conception. In matters where pregnancy and paternity are contested, Title 25 contemplates subsequent testing—either before or after the birth of the child—to establish the necessary factual support.

Since filing, Petitioner has provided no Rule 49 disclosure (and seeks to avoid a deposition) that would support her claim that she was pregnant by Respondent (no sonogram reports, fetal anatomy scans, reports of weekly ultrasounds, etc). She has participated in fetal DNA tests, none of which have conclusively established the existence of a pregnancy or

Respondent's paternity. At least two (2) fetal DNA tests have come back with "*little to no fetal DNA*," indicating that not only was Petitioner not pregnant by Respondent, but she was not pregnant at all. Petitioner carefully alleges in her Motion to Dismiss that she is "no longer pregnant" but refuses to provide evidence of the termination or miscarriage of the pregnancy (e.g., fetal death certificates). It is critical for this Court to take evidence and investigate whether Petitioner was ever pregnant in the first instance, both for purposes of declaring non-paternity and for determining the appropriateness of Rule 26(b)(3) sanctions.

4. Rule 26(c)(1) contemplates sanctions by motion or on the court's own impetus.

Even if Respondent did not request sanctions—which he previously did and now reiterates by separate Motion to address any proffered procedural irregularity—this Court may investigate and impose sanctions on its own motion. Rule 26 requires signatures on pleadings and filings and attaches substantial meaning to those signatures: a person filing a document certifies to the Court that it is being presented for a proper purpose and is supported by law and evidence. The Rule requires parties and attorneys to conduct at least a reasonable inquiry before signing filings, and sanctions exist to ensure compliance, vindicate misuse of the Court's resources and authority, and to make responding parties whole for frivolous lawsuits. Respondent asserts that the circumstances of this case are so egregious that this Court ought to impose sanctions on its own, even if for no other reason than to deter specific and general abuse of process.

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CONCLUSION

Pursuant to the above and consistent with Rule 26(b) and (c), ARFLP, this Court should impose appropriate sanctions against Petitioner, including but not limited to awarding Respondent his reasonable attorney's fees and costs incurred.

RESPECTFULLY SUBMITTED this 3rd day of January, 2024.

WOODNICK LAW, PLLC

Gregg R. Woodnick
Isabel Ranney
Attorneys for Respondent

ORIGINAL of the foregoing e-filed
this 3rd day of January, 2024 with:

Clerk of Court
Maricopa County Superior Court

COPY of the foregoing document
delivered/emailed this 3rd day of January, 2024, to:

The Honorable Julie Mata
Maricopa County Superior Court

Alexis Lindvall
MODERN LAW
1744 S. Val Vista Drive, Suite 205
Mesa, Arizona 85204
Alexis.lindvall@mymodernlaw.com
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 *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 3, 2024 16:05 MST)

CLAYTON ECHARD

01/03/2024

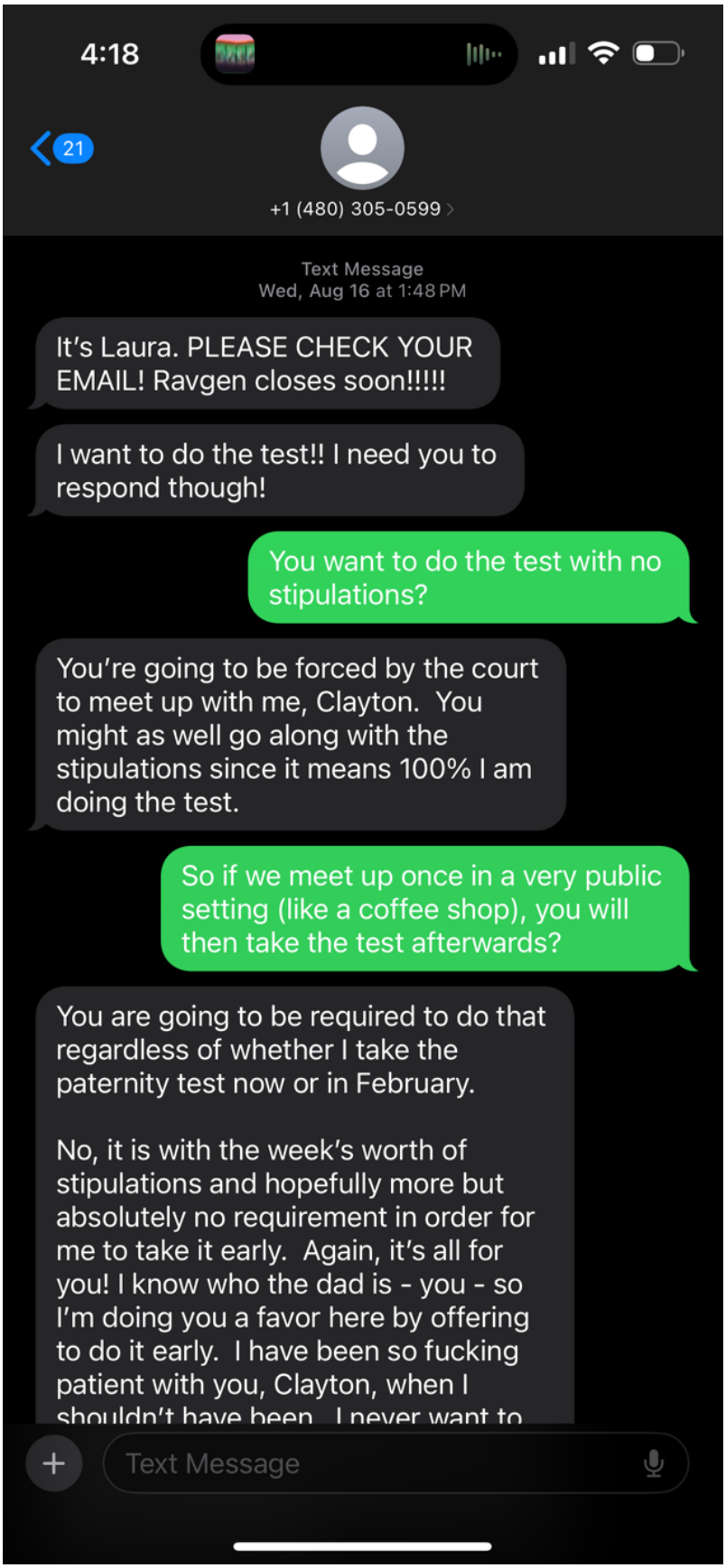
Date

GOOD FAITH CONSULTATION CERTIFICATE

In conformance with Rule 9(C), *Arizona Rules of Family Law Procedure*, counsel undersigned hereby certifies that Respondent, Clayton Echard, satisfied his Rule 9(c) obligation when he attempted to meet and confer with Petitioner, Laura Owens, on August 16, 2023 at 1:48 p.m. and 2:50 p.m. (text messages below) as well as in all of his subsequent filings and communications to Petitioner that indicated he could not be the father of her alleged twin fetuses (including but not limited to in Respondent's Injunction Against Harassment proceedings (CV2023-052952) against Petitioner on October 24, 2023 and November 2, 2023). *See also* Respondent's Motion for Leave to Amend Respondent's Response to Petition to Establish Paternity; Respondent's Response/Objection to Petitioner's Motion to Dismiss Petition to Establish Paternity, Legal Decision-Making, Parenting Time and Child Support with Prejudice. Additionally, undersigned met and conferred with Petitioner's counsel, Alexis Lindvall (who already has filed to withdraw from representing the Petitioner), over the phone on December 27, 2023.

WOODNICK LAW, PLLC

Gregg R. Woodnick
Attorneys for Respondent


4:18
21
+1 (480) 305-0599
Text Message
Wed, Aug 16 at 1:48 PM
It's Laura. PLEASE CHECK YOUR EMAIL! Ravgen closes soon!!!!!
I want to do the test!! I need you to respond though!
You want to do the test with no stipulations?
You're going to be forced by the court to meet up with me, Clayton. You might as well go along with the stipulations since it means 100% I am doing the test.
So if we meet up once in a very public setting (like a coffee shop), you will then take the test afterwards?
You are going to be required to do that regardless of whether I take the paternity test now or in February.
No, it is with the week's worth of stipulations and hopefully more but absolutely no requirement in order for me to take it early. Again, it's all for you! I know who the dad is - you - so I'm doing you a favor here by offering to do it early. I have been so fucking patient with you, Clayton, when I
Text Message

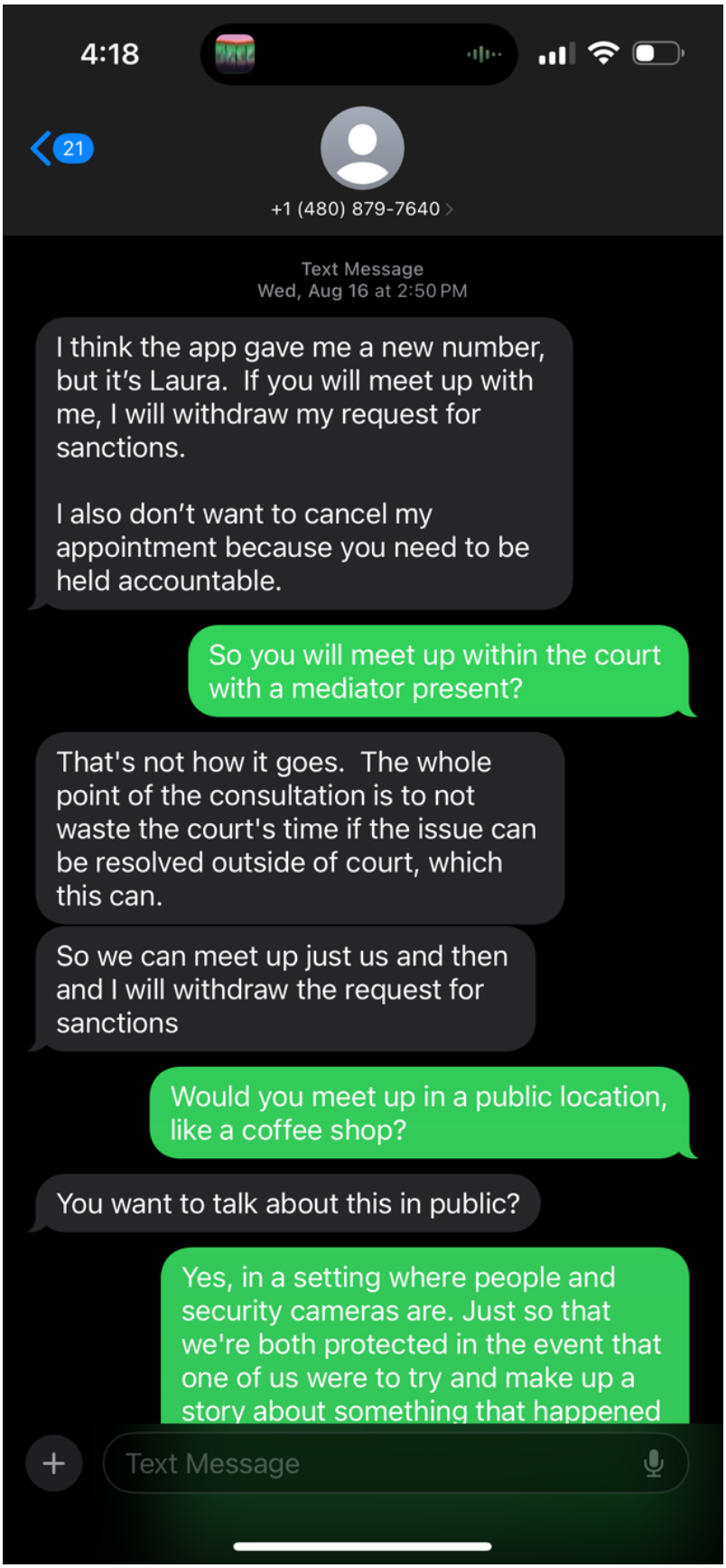

4:18
21
+1 (480) 879-7640
Text Message
Wed, Aug 16 at 2:50 PM
I think the app gave me a new number, but it's Laura. If you will meet up with me, I will withdraw my request for sanctions.
I also don't want to cancel my appointment because you need to be held accountable.
So you will meet up within the court with a mediator present?
That's not how it goes. The whole point of the consultation is to not waste the court's time if the issue can be resolved outside of court, which this can.
So we can meet up just us and then and I will withdraw the request for sanctions
Would you meet up in a public location, like a coffee shop?
You want to talk about this in public?
Yes, in a setting where people and security cameras are. Just so that we're both protected in the event that one of us were to try and make up a story about something that happened
Text Message

EXHIBIT “1”

CLERK OF THE SUPERIOR COURT
FILED
10/6/2023 @ 10:43AM
, Deputy

Superior Court of Arizona/AZ007035J/0700 18380 N. 40th St Phoenix, AZ 85032
602-506-7353 Monday - Friday 8am - 5pm

Plaintiff ☐ Employer-Plaintiff if Workplace Injunction Laura Owens	**Defendant** Clayton Ray Echard	**Case No.** FC2023-052771
☐ **On behalf of minor/person in need of protection named:**	**Defendant's address** 6855 E Camelback Road 7002 Scottsdale, AZ 85254	**PETITION for:** ☒ **Order of Protection** ☐ **Injunction Against Harassment** ☐ **Workplace Injunction**
Agent's name (if Workplace Injunction)	**Defendant's birth date** 4/29/1993	
	Defendant's phone 314-956-6975	

This is NOT a court order.
This petition contains Plaintiff's allegations and requests. To see what the court has ordered, see "Order" form.

DIRECTIONS: Please read the Plaintiff's Guide Sheet before filling out this form.

1. **Defendant/Plaintiff Relationship** *(Choose the options that best describe your relationship to the defendant. *If you are applying on behalf of another person, choose the relationship between the other person and the defendant)*

   ☐ Married (past or present)
   ☐ Live/lived together as intimate partners
   ☐ Parent of a child in common
   ☒ One party is pregnant by the other
   ☒ Romantic or sexual relationship (past or present)
   ☐ Related as parent, grandparent, child, grandchild, brother, sister (or in-law/step)
   ☐ Live/lived together but not as intimate partners
   ☐ Other (describe):

2. ☒ If checked, Defendant and I have a pending action involving maternity, paternity, annulment, legal separation, dissolution, custody, parenting time, or support in Maricopa County Superior Court, Case # FC2023-052114.

3. Name of court, if any, in which any other protective order related to this conduct has been filed.
   Court name Case #

4. Tell the judge what happened and why you need this order. PRINT both the dates and a brief description of what happened. If there is a contested hearing, a judge can consider only what you write here.
   NOTE: Defendant will receive a copy of this petition when the order is served.

Approx. Date	(Do not write on back or in the margin. Attach additional paper if necessary.)
6/1/2023	Clayton has sent threatening messages since discovering I was pregnant, such as: I legitimately hate you right now. my hatred will only grow if you decide to put me through all of this. My animosity would last for a lifetime and that's not something either of us want to subject ourselves to. One thing about me is when I make up my mind for good, especially when it's rooted in anger, I don't sway. Ever My hate is toward you and you only. if you decide to not take plan B and in the wild event that you are pregnant, I would hate you even more.
9/21/2023	Clayton Echard was The Bachelor and has many diehard loyal fans. He and I are involved in a very public paternity case that is being covered by every major media outlet. Clayton posted to a story to his 270k followers to look me up, which they have, and I have been sent threatening and harassing messages by his followers. I explained this to him and asked him to take down the post, which he did not. By posting personal and sensitive information about me publicly (and without my consent), he has made me feel humiliated and embarrassed.

9/21/2023	Scottsdale PD Officer Vince Johnson called Clayton to explain that what he was doing was harassment in and of itself, coupled with the fact that he was inciting his followers to harass me as well. Despite this call, Clayton still did not take down the post.
10/5/2023	Between 9/22 and 10/5, Clayton has posed as several users on Reddit, including "sillygoosetits", "GossipGooseTits", "Sandbetweenhertoes", and others. He has posted private and confidential information, including facts about my medical history, that is known only to him because of our paternity case. This is why it is 100% traceable back to him. He has also been writing defamatory and very hurtful things about me, including comments about how I have gained weight (I am pregnant), how I am not attractive, how my photos are so poorly edited that it is laughable, how I am bad at my job (a self-help podcaster), and how my prior abusive relationship, which inspired a TEDx talk, never happened, despite mountains of evidence. He is doing everything in his power to ruin and hurt my reputation. As a result of what he has posted, I have gotten harassing messages that have told me to harm myself as a result of becoming pregnant with his twins. I am getting other threatening messages as well, and all of this attention from the general public that he has incited is very much unwanted. As a result of this public shaming, he has caused me extreme psychological harm and disrupted my peace. I have asked Clayton to stop the harassment on Reddit and social media so many times, but he won't. I have reported his accounts and posts to Reddit, but he continues to write unacceptable, cruel things about me. He has multiple accounts now and so even if one is blocked, he can create another one. As a result of him spreading false and damaging information under pseudonyms, I feel demeaned, humiliated, and like my deepest sense of privacy has been invaded. In addition, he has been in communication with my ex, who I have an order of protection against, and who he knows is dangerous. I have asked him to stop talking to him because it will put me in danger, but he continues to communicate with him.
10/6/2023	When combined, all of this has led me to feel extreme anxiety and fear for my safety. I have not left my house since September 28th because of this.

5. The following persons should also be on this order. They should be protected because Defendant is a danger to them:

6. Defendant should be ordered to stay away from these locations at all times, even when I am not present. **NOTE:** Do not list confidential addresses here.

   ☒ Residence (confidential)
   ☒ Work/Business
   ☒ School/other

7. ☐ Defendant owns or carries a firearm or other weapons.
   ☐ Defendant should be ordered NOT to possess firearms while this order is in effect because of the risk of harm to me or other protected persons.

8. ☐ Defendant should be ordered to stay away from any animal that is owned, possessed, leased, kept or held by me, Defendant, or a minor child living in either my household or Defendant's household.

9. Other requests: No cyberharassment or cyberbullying under real name or pseudonyms.;

Under penalty of perjury, I swear or affirm the above statements are true to the best of my knowledge, and I request an Order / Injunction granting relief as allowed by law.

/s/ Laura Owens — Attest: [signature] 10/6/2023.

Plaintiff — Judicial Officer/Clerk/Notary — Date

Clerk of the Superior Court
*** Electronically Filed ***
10/26/2023 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2023-052771

10/25/2023

HONORABLE JOHN R. DOODY

CLERK OF THE COURT
T. Sachse
Deputy

IN RE THE MATTER OF
LAURA OWENS

JOSHUA A LOPEZ

AND

CLAYTON RAY ECHARD

CLAYTON RAY ECHARD
6855 E CAMELBACK RD # 7002
SCOTTSDALE AZ 85254

COMM. DOODY

MINUTE ENTRY

There is a *LATER* at the end of this minute entry.

Prior to the commencement of today's proceedings, Plaintiff's Exhibits 1 through 18 and Defendant's Exhibits 19 through 51 are marked for identification.

Courtroom 101-NER

8:32 a.m. This is the time set for Hearing on Order of Protection issued on October 6, 2023. Plaintiff, Laura Owens, is present with the above-named counsel. Defendant, Clayton Ray Echard, is present on his own behalf.

A record of the proceedings is made digitally in lieu of a court reporter.

Laura Owens and Clayton Ray Echard are sworn.

The Court addresses previous motions filed by Plaintiff.

IT IS ORDERED denying Plaintiff's Motion Requesting That the Hearing be Closed From the Public or That This Hearing Be Closed From Watching Online, filed October 25, 2023 and denying Plaintiff's Motion Requesting Laura Owens Attend Virtually or Telephonically for Hearing Scheduled October 25, 2023, filed on October 25, 2023.

Counsel for Plaintiff presents opening statements.

Laura Owens testifies.

Plaintiff's Exhibits 1 and 11 are received into evidence and Exhibit 52 is marked for identification and received into evidence.

Clayton Ray Echard testifies.

Defendant's Exhibits 34, 35, and 51 are received into evidence and Exhibit 53 is marked for identification and received into evidence.

Discussion is held.

Based on the testimony and matters presented,

THE COURT FINDS by a preponderance of the evidence that there is reasonable cause to believe that Defendant has committed an act of domestic violence within the last year.

THE COURT FURTHER FINDS that good cause exists to continue the Order of Protection in this case.

IT IS ORDERED that the Order of Protection issued at Superior Court on October 6, 2023 shall remain in full force and effect.

LET THE RECORD FURTHER REFLECT that the parties receive a copy of the aforementioned document in open court.

LET THE RECORD FURTHER REFLECT that Plaintiff's Exhibits 2 through 10, 12 through 18 and Defendant's Exhibits 19 through 33, and 36 through 50 are disposed.

Counsel for Plaintiff makes an Oral Motion to withdraw from these proceedings.

IT IS ORDERED granting Counsel's Motion to withdraw.

10:13 a.m. Hearing concludes.

FILED: Hearing Order

LATER:

LET THE RECORD REFLECT that the Court did not invoke the Brady Order due to the fact that it is still undetermined if Plaintiff is pregnant with Defendant's child.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at:
http://www.superiorcourt.maricopa.gov/SuperiorCourt/LawLibraryResourceCenter/

Exhibit E

Clerk of the Superior Court
*** Electronically Filed ***
06/18/2024 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2023-052114 06/17/2024

HONORABLE JULIE ANN MATA

CLERK OF THE COURT
L. Overton
Deputy

IN RE THE MATTER OF
LAURA OWENS

DAVID S GINGRAS

AND

CLAYTON ECHARD

GREGG R WOODNICK

DEANDRA ARENA
JUDGE MATA
MARICOPA COUNTY ATTORNEY'S OFFICE
225 W MADISON ST
PHOENIX AZ 85003

UNDER ADVISEMENT RULING

An in-person Evidentiary Hearing was held on June 10, 2024, regarding the issues of sanctions, paternity, attorney's fees, and costs.

JURISDICTIONAL FINDINGS

THE COURT FINDS at the time this action was commenced at least one of the parties was domiciled in the State of Arizona and that said domicile had been maintained for at least 90 days prior to filing the Petition. There are no minor children common to the parties.

PROCEDURAL HISTORY

- Laura Owens ("Petitioner") filed a pro per Petition to Establish Paternity, Legal Decision Making, Parenting Time and Child Support on May 20, 2023.
- Petitioner filed a pro per Motion to Communicate on August 23, 2023, a Motion to Compel on August 29, 2023, and Expedited Consideration Requested! Motion to Communicate filed September 14, 2023, and Expedited (!) Motion to Seal Court Record on September 14, 2023. All motions were denied.
- Clayton Echard ("Respondent") filed a pro per Answer on August 21, 2023. The Court granted Respondent's Motion for Leave to Amend Response filed by counsel on December 12, 2023, and Amended Response to Petition to Establish filed on January 26, 2024.
- The parties attended an Early Resolution Conference on September 28, 2023, wherein the parties entered into a Rule 69 agreement to comply with a Ravgen DNA test on October 2, 2023.
- On October 6, 2023, Petitioner filed for an ex parte Order of Protection ("OOP") in FC2023-052771. After a hearing, the OOP was affirmed. The same day the Ravgen results indicated "little to no fetal DNA."
- On October 18, 2023, Petitioner filed a Request for Pre-Decree Mediation citing Respondent's unwillingness to communicate with Petitioner and citing "he even acts as if the unborn children don't exist despite a pro ponderous of the evidence [sic]". (Dkt. No. 23, p. 2).
- On October 24, 2023, the parties appeared before Commissioner Gialketsis (retired) in CV2023-053952 in response to the Injunction Against Harassment ("IAH") filed by Respondent. On the parties' stipulation, the Court previously reviewed both days of the hearing and identified that the Petitioner, appearing virtually, frequently stood up and rubbed what appeared to be a swollen abdomen. November 2, 2023, testimony resumed, and Petitioner testified that she was "100%" and "24 weeks" pregnant with Respondent's children. She further testified that the twins were due on February 14, 2024. She further testified that due to epilepsy she was experiencing a high-risk pregnancy and was being cared for by two specialists, namely Dr. Makhoul and Dr. Higley. She testified she last saw Dr. Higley "last Friday" prior to the November 2, 2023, hearing.
- October 25, 2023, the parties appeared before Commissioner Doody to determine the validity of the contested OOP in FC2023-052771. Petitioner's abdomen again appeared swollen. During this hearing, she testified to the validity of the sonogram sent to Respondent, the media, and a Dropbox on Reddit, and further testified the parties were having a son. She later testified she believed she was having fraternal twins, one boy and one girl.

- December 6, 2023, a second Ravgen test confirmed "little to no fetal DNA."
- A third test was done; however, the test results were lost in transit.
- December 12, 2023, Respondent filed a Notice of Filing Affidavit of Non-Paternity.
- December 28, 2023, Petitioner filed a Motion to Dismiss Petition to Establish Paternity, Legal Decision Making, Parenting Time and Child Support with Prejudice in conjunction with a Notice Requiring Strict Compliance with Arizona Rules of Evidence, thereby invoking A.R.F.L.P. Rule 2(a). Petitioner cited the basis for the dismissal that she "is not now pregnant with Respondent's children." (Dkt. No. 32 at 1). The motion was denied as the issue of attorney's fees, costs, and sanctions remained.
- January 2, 2024, Petitioner filed an Expedited Motion to Quash Deposition of Petitioner. January 3, 2024, Respondent filed a Response/Objection to Petitioner's Motion to Dismiss. The Court denied Petitioner's Motion to Quash.
- Respondent withdrew his Motion for Sanctions Pursuant to Rule 26, on January 3, 2024.
- Petitioner filed a Motion for Confidentiality and Preliminary Protective Order on January 18, 2024.
- Respondent participated in a deposition on February 2, 2024.
- At a Status Conference on February 21, 2024, Petitioner was ordered by this Court to comply with Rule 49 disclosure requirements. During the hearing, Petitioner's counsel advised that the Petitioner had miscarried sometime in September or October 2023.
- Petitioner was deposed on March 1, 2024.
- On June 3, 2024, Petitioner's prior counsel, filed Ethical Rule 3.3 Notice of Candor, wherein counsel advises the Court that statements made by counsel at the February 21, 2024, Status Conference were factually incorrect. Specifically, counsel stated "Ms. Owens has not lied in this case. She has not intentionally lied to the Court." (Dkt. No. 108 at 1). While counsel believed the statements to be accurate at the time, counsel later determined those statements were not true based on the Petitioner's deposition taken March 1, 2024. (*Id.* at 2-4).
- Voluminous additional pre-trial pleadings were filed by both parties. Those motions were ruled on separately, by minute entry, and the rulings are not relevant for purposes of this hearing.

FINDINGS OF FACT

Petitioner, Laura Owens

- Petitioner contacted Respondent through Linkedin.
- Petitioner and Respondent met on May 17, 2023, to locate potential investment properties in Scottsdale.
- Petitioner has a podcast, a real estate investing company, and buys and sells horses. (Ex. B. 49, p. 13, line 24-25).
- Between May 18-20, the parties viewed some properties in Scottsdale.
- On the evening of May 20, 2023, Respondent invited Petitioner over to his home, which she accepted.
- After Petitioner arrived, Respondent told her he was "high" on cannabis "gummies" and he offered one to her, which she accepted.
- During the late evening of May 20, 2023, and early morning of May 21, both parties agree that Petitioner performed oral sex on Respondent "to completion" twice.
- Petitioner testified she did not want to have sexual intercourse, but that Respondent "stuck it in" briefly.
- Petitioner's implication that Respondent initiated sexual intercourse without consent was not alleged initially in the court filings. It was not alleged until 2024. (Ex. B. 49, p. 67).
- At trial, Petitioner testified that the parties had sexual intercourse, and that it was rape.
- Petitioner testified Respondent was too high to remember sexual intercourse, due to his voluntary intoxication.
- Petitioner believes she became pregnant on May 20, 2023. She testified that after May 20, 2023, her menstrual period stopped and did not resume until November 2023.
- Petitioner has had PCOS since the age of seventeen and does not have regular periods. (Ex. A. 11).
- Petitioner has a history of epilepsy. (*Id.*).
- Petitioner testified she has been pregnant four times. Each time, the alleged father believed she fabricated the pregnancy, and doctored medical records.
- On May 24, 2023, Petitioner asked Respondent to prepare written purchase offers for two properties Petitioner wanted to purchase in Scottsdale – one was located at 19777 North 67th Street in Scottsdale (offer amount was $425,000) and the other was located at 7609 N. Lynn Oaks Drive in Scottsdale (offer amount was $699,000).

- Petitioner asked Respondent, as her realtor, to prepare these purchase offers and to submit them to the seller or the seller's agent.
- Respondent prepared the purchase offers, which Petitioner signed on or around May 24, 2023, but Respondent never submitted them to the seller or the seller's agent.
- Petitioner later asked Respondent if he had heard anything from the seller in response to Laura's offers.
- Respondent advised he had not heard back from the seller.
- Petitioner testified that she advised the Real Estate Board and action was taken.
- On May 31, 2023, Petitioner took a home pregnancy test which showed a faint positive result.
- Petitioner testified that after multiple positive pregnancy tests, she told the Respondent she was pregnant.
- Petitioner denies using hormones, someone else's urine, or altering the test at all.
- Petitioner found Respondent's reaction to be hostile and dismissive.
- On June 1, 2023, Petitioner went to Banner Urgent Care at Greenway and 64th Street, she informed the nurse that she believed she may be pregnant, and she asked for a test to determine whether she was, in fact, pregnant. (Ex. A. 2).
- The test result from Banner Urgent Care was positive for pregnancy. (*Id.*).
- Petitioner testified that for more than six months prior to May 2023, she was not sexually active with any other men. Based on this, Petitioner testified that she believed she was pregnant, and Respondent was the only potential father.
- June 19, 2023, Petitioner went to Respondent's home at his request.
- Respondent provided a pregnancy test for Petitioner to take. Conflicting testimony makes it difficult to ascertain whether the test was taken in front of the Respondent or with the bathroom door closed due to a shy bladder. Both parties agree the test was positive.
- In the "Something to Consider" email the Court finds the language to imply Respondent was attempting to buy into the idea that rubbing or grinding their genitals together might have led to a pregnancy. (Ex. A. 2). The Court, however, does not find the email conclusive that Respondent believed her to be pregnant with his children, but rather an attempt to consider her ascertains.
- In the "Something to Consider" email Respondent maintains that the lack of sexual intercourse would preclude him from being the father of the fetuses. The email does not deny the pregnancy test was positive. (Ex. A. 2).
- In the email, Respondent suggested that the positive test was the result of Petitioner's epilepsy medication.

- Petitioner emailed Dr. Glynnis Zieman, MD from Barrow Concussion & Brain Injury Center on June 28, 2023. (Ex. A. 3). The subject of the email is "Pregnancy and Seizure Med?" (*Id.*).
- Petitioner denies sending Respondent an ultrasound video, citing instead that Greg Gillespie hacked into her email and sent the video to Respondent. (Ex. A. 5) (Ex. B. 49, p. 64).
- Petitioner testified that July 2, 2023, she anonymously sought care at a Planned Parenthood in Los Angeles. While she failed to provide records of any Planned Parenthood appointment, anonymous or under an alias, Respondent presumably sought records from all Mission Viejo Planned Parenthoods as that is where, up until today, Petitioner disclosed she sought care. (Ex. B. 49, p. 81, line 4). Petitioner testified that she had the sonogram at a Planned Parenthood in California either anonymously or under a pseudonym and changed the location to prevent Respondent from tracking down the records. The Court was not provided with those records at trial.
- Petitioner testified that on July 23, 2023, she experienced bleeding and passed two small fleshy objects smaller in size than her hand. She took pictures of the tissue and sought telehealth assistance.
- Petitioner testified that she texted a miscarriage hotline and sought telehealth assistance.
- The telehealth provider told Petitioner it was hard to tell if she miscarried and she should monitor the situation and seek further care as needed. Petitioner chose not to seek in person care that would have confirmed if she had been, still was, or had miscarried. The Court finds the "hard to tell" component of the telehealth visit was due to the nature of telehealth and the inability to provide care in the form of an exam, hCG test, blood test, ultrasound, or sonogram.
- Instead of seeking in-person care, Petitioner chose to take another hCG home pregnancy test on July 25, 2023, which was positive.
- Petitioner again took an at home test instead of seeking care on August 1, 2023.
- Petitioner testified that she made multiple appointments to see Dr. Makhoul. Three of the four appointments were rescheduled and then cancelled when the Petitioner tested positive for COVID. Dr. Makhoul's records indicate forty-four pages of records confirming making and cancelling appointments.
- The Court was not provided with evidence of the positive COVID test but maintains that the nature of her high-risk pregnancy would warrant a visit to the emergency room who would be equipped to care for a high-risk pregnancy wherein the Mother was COVID positive.

- In August 2023, the parties agreed to a DNA test through Ravgen.
- Petitioner paid $725 to Ravgen for the test, but Respondent failed to provide a sample and Petitioner canceled the test on August 18, 2023. (Ex. A. 5).
- The Court does not find the sexual contact between Petitioner and Respondent resulted in a pregnancy.
- The Court finds that if the Petitioner was pregnant, it is profoundly unlikely that conception occurred because of rubbing, grinding, or oral sex.
- During this litigation, if Petitioner had maintained consistently an allegation of sexual assault, coupled with a police report, or physical exam, the Court may find differently. Evidence and testimony, however, do not support this inconsistent contention.
- Petitioner admitted to changing an hCG test result to reflect 31,000. (Ex. B. 17). She further testified she altered the document using Adobe, but not Adobe Acrobat.
- In late September or early October, both parties submitted samples to Ravgen for DNA testing.
- October 16, 2023, the Petitioner's blood was drawn, and the results were hCG levels of 102. (Ex. A. 9). Petitioner changed the results to reflect 102,000.
- Petitioner testified that on October 18, 2023, she was aware the alleged pregnancies were not viable and filed the Request for Pre-Decree Mediation in the hopes that at mediation she could tell the Respondent that the pregnancy was no longer viable.
- Upon denial of her Request, however, she did not file a Motion to Dismiss or make other arrangements to advise Respondent of the development.
- The Court finds this testimony uncredible and a misuse of judicial resources.
- Petitioner was not treated by Dr. Makhoul, or Dr. Higley as testified to in her November 2, 2023, hearing on the IAH.
- Petitioner's alleged pregnancy was not treated by Dr. Makhoul, Dr. Higley, or any other in-person obstetrician or gynecologist.
- The Court finds failure to seek in person care for a high-risk pregnancy to be both unreasonable and uncreditable.
- The Court further finds that going to Banner for a pregnancy test, but not the passage of fetal tissue to be unreasonable and uncredible. A reasonable person, if seeking emergency room care to confirm a pregnancy, would not rely on telehealth to confirm the non-viability of the pregnancies.
- Petitioner testified that on November 14, 2023, she sought OB/GYN services from a facility, MomDoc, to determine whether she was allegedly still pregnant.

(Ex. A. 11). At that appointment, Petitioner took two pregnancy tests that were both negative.

- Petitioner testified that she currently weighs 91 pounds but weighed 133 in November 2023, during her MomDoc appointment. She experienced significant swelling in her abdomen and felt pregnant.
- The Court was presented with videos dated September 19, 2023, and October 9, 2023, Petitioner sent Respondent of her abdomen as evidence of pregnancy. (Ex. A. 6, 7). Dr. Medchill testified that while she appeared pregnant, that alone was not conclusive of pregnancy.
- Petitioner denies tampering with hCG tests but does admit to altering and fabricating ultrasounds and sonograms. She further testified that she changed the hCG numbers on two of the results. The Court finds little, if any difference, in altering the test itself for which she denies, and altering the results which she did tamper with by her own admission.
- During Petitioner's cross-examination, it became profoundly obvious that counsel for the Petitioner was attempting to coach her answers.
- Respondent's counsel, identifying the issue, moved between counsel and the Petitioner.
- From that point forward, the Petitioner began to exhibit extreme anxiety and unwillingness to answer questions.
- The Court had to remind the Petitioner twice that counsel would ask a question and she needed to answer it.
- At this time, Petitioner pushed back her chair and advised the Court she did not believe she was being treated fairly. The Court attempted to redirect Petitioner to no avail.
- At this time, Petitioner became emotional and asked for a brief recess, which the Court granted.
- The Court finds this interaction between counsel and Petitioner, diminishes the creditability and veracity of the Petitioner's responses during cross-examination.
- The Court finds it is impossible to determine the date of any alleged miscarriage, not because it is impossible, but rather because she failed to seek even a minimal level of care for her high-risk condition. Failure to demonstrate confirmation of ongoing pregnancy is a purposeful way to ensure Respondent would not be able to determine if she was pregnant and if so, for how long the pregnancy lasted.

Michael T. Medchill, MD

- Dr. Michael T. Medchill, MD, a retired OB/GYN and prior Chair at St. Joseph's Hospital, testified that pregnancy is possible without sexual intercourse. Dr. Medchill testified that he delivered 30,000 babies during his practice and saw many patients for miscarriages.
- Dr. Medchill testified that he reviewed approximately 200 pages of Petitioner's medical records from Barrow Neurological Institute in Phoenix that included summaries of Petitioner's medications. He did not, however, review primary care or historical OB/GYN records.
- Dr. Medchill testified that none of the medication records he reviewed would cause a false positive home pregnancy test.
- Dr. Medchill testified that a false positive hCG test could be the result of epilepsy medication, anxiety medication, Clozapine, horse urine, or IVF prescribed injections ("trigger shots").
- When asked by the Court, Dr. Medchill testified he did not review any Planned Parenthood records from Mission Veijo or Los Angeles facilities.
- Dr. Medchill testified that a home pregnancy can detect pregnancy eleven days after conception.
- Dr. Medchill testified that he is 99.9% sure that the Petitioner was pregnant based on the hCG tests. He did not change his perspective after Petitioner's admissions on the stand that she altered more than one test to reflect higher, viable hCG numbers.
- The Court finds Dr. Medchill's testimony that .1% chance that Petitioner received a false positive due to several medications she is in fact taking, possible trigger shot for hCG, and a prior history of ovarian cancer to dimmish his creditability. Especially given that records that the Petitioner testified existed were not presented to her own expert for review and consideration.
- Dr. Medchill testified that a blood hCG level of 102 is proof of a non-viable pregnancy. While Dr. Medchill testified that a non-viable pregnancy is still a pregnancy, the Court finds that altering the number to reflect 102,000 which would be a viable pregnancy to indicate that she intended for the Respondent to believe that she was still pregnant with viable fetuses.
- Dr. Medchill concluded that the Petitioner became pregnant on May 20, 2023, and ended with a "spontaneous abortion" late October, early November, or possibly sooner in 2023. Given the alterations of the only records to indicate pregnancy the Court does not accept this conclusion.
- Dr. Medchill testified that woman may expel tissue during a spontaneous abortion, or the pregnancy might remain in her body, ultimately being reabsorbed.

Given that the Petitioner testified under oath at a prior hearing that she was absolutely twenty-four weeks pregnant and had seen her doctor (presumably in-person) the Court does not accept that twenty-four-week-old twin fetuses would be reabsorbed into a mother's body. The Court further finds a miscarriage at that stage of pregnancy would result in emergency medical care and corresponding death certificates of the twins. If what Dr. Medchill testified to is true, and she miscarried much sooner, negating the need for the death certificates, then Petitioner perjured herself at a prior hearing.

Samantha Deans, MD, MPH

- Dr. Samantha Deans, MD, MPH, reviewed Petitioner's records and provided her analysis of the hCG results. (Ex. B. 39, 41). Additionally, she was the prior Associate Medical Director of Planned Parenthood in Florida, and Pennsylvania.
- She testified that Planned Parenthood does not accept anonymous patients. They do not accept patients using an alias. Patients are required to provide a government issued form of identification. She further testified that Planned Parenthood is not open on Sundays, when Petitioner testified, she sought care July 2, 2023.
- Dr. Deans testified that hCG does not confirm pregnancy. There must be serial hCG or an ultrasound and examination, which were never done, or never disclosed to the Court, the Respondent, Dr. Medchill or Dr. Deans.
- Dr. Deans reviewed the July 23, 2023, telehealth instructions that Petitioner "proceed to an emergency room for additional evaluation and care." (Ex. B. 41, p. CE0527). The instructions were not followed but Petitioner called the Abortion and Miscarriage Hotline which also recommended and encouraged the Petitioner to seek in-person medical care. (*Id.*).
- Dr. Deans testified that there is no data to indicate a conception date.
- After reviewing the records, Dr. Deans determined that the hCG tests were never dispositive of pregnancy and that the related miscarriage timeline, which included detailed analysis of the likely origin of hCG in Petitioner's blood and urine was not indicative of human gestational norms.
- Dr. Deans testified that heterophilic autoimmune responses due to exposure to animals could produce a positive hCG test, but the confirmation blood test would be negative.
- A prior history of cancer could also produce a positive hCG result. Petitioner has a prior history of ovarian cancer that prompted the surgical removal of her right ovary.

- Familial hCG Syndrome can also produce a false positive hCG test. Dr. Deans testified that syndrome is very rare with only ten known cases in the world.
- Horse tranquilizers can create a positive hCG result.

Respondent, Clayton Echard

- Respondent denies all allegations of sexual intercourse.
- Respondent confirms both parties were under the influence of marijuana but denies being "high" and further denies memory loss because of the marijuana ingestion.
- Respondent testified that around May 22, 2023, he realized his behavior with Petitioner was unprofessional and he intended to discontinue a sexual relationship with the Petitioner. He testified that upon hearing this, the Petitioner became very emotional.
- Respondent testified that he told Petitioner he had submitted the offers to the seller. Respondent testified he did not believe the Petitioner was really interested in the properties.
- When asked if he had received any response, Respondent told Petitioner that he had not, but he never told Petitioner the reason why no response had been received – i.e., because the offers had never been submitted.
- Respondent made knowingly false statements to Laura about the real estate purchase offers.
- Respondent testified that Petitioner sent him approximately 500 texts message using thirteen different phone numbers threatening to leak information to the media. (Ex. B. 3).
- Respondent testified that Petitioner reached out to "The Sun," called his family, co-workers, and prior girlfriends accusing him of being a deadbeat for not supporting her and the twins.
- Respondent testified that he received the video from Petitioner and continued to correspond with her over that email string which would reasonably prompt Petitioner to advise she did not send the video, but she did not advise of that at the time. (Ex. B. 11).
- Petitioner emailed Respondent "[y]ou can't say you haven't been given a voice when I have told you that I will have an abortion if we try things out for a few weeks and have a good reason for aborting the child…[t]hese words feel menacing because you know I like you and want to try things out with you." (Ex. B. 7). The email continues "[y]ou would be 'obliging' to make the decision to date exclusively before deciding whether or not we have an abortion." (*Id.*).

- Petitioner encouraged Respondent to have sexual intercourse with her, citing she was "tight" and already pregnant.
- Petitioner further emailed Respondent that he had control of the outcome of the pregnancy "if we date exclusively and care for each other." (Ex. B. 6). On June 28, 2023, she said "[i]f you think about it, having sex with me is the safest thing you can do at this point. I'm already pregnant and if we choose to go this route (and trust each other enough to have sex), then we are at the point where I would be taking abortion pills…so there's no risk." (*Id.*).
- Petitioner told Respondent the twins were a boy and a girl.
- Petitioner provided Respondent with a sonogram that was posted on YouTube seven years ago. Petitioner admitted to this during her deposition (Ex. A. 28).
- Petitioner sent a threatening letter to Respondent indicating her intention to sue him for 1.4 million dollars in collateral allegations unless he agreed to dismiss this action that she initiated. (Ex. B. 55).
- Petitioner signed a release of records for Dr. Jeffrey Blake Higley, MD at Women's Care. In a letter dated March 18, 2024, the provider advised "[w]e have no record of treatment for the date(s) of service you request." (Ex. B. 59, p. OWENS 2).

VALIDITY OF PETITIONER'S ORDER OF PROTECTION

In this case, the gravamen of Respondent's position is that Petitioner has fabricated her pregnancy, a condition which cannot have resulted from the parties' interactions, because according to Respondent they never had sexual intercourse. But he does admit that the pair engaged in oral sex. Respondent seeks to have the protective order invalidated based on the alleged fabrication, while Petitioner essentially argues that even if she was never pregnant, the sexual activity between the two, and Respondent's subsequent harassing online conduct, are sufficient to sustain the order regardless.

There is a predicate issue that should be addressed which goes to the Court's authority to reconsider the protective order at all. Put simply, extant appellate authority, namely *Vera v. Rogers*, 246 Ariz. 30 (Ct. App. 2018) and like cases, precludes reconsideration here.

In *Vera*, Mother applied for a protective order in Phoenix Municipal Court, but it was eventually transferred to the superior court after Father petitioned to establish legal decision-making authority, parenting time, and child support here. After a contested hearing, the commissioner handling the order of protection affirmed it in its entirety. Father then filed a

special action, asking the court of appeals to order the family court to amend the order of protection to align it with the temporary parenting-time orders it had made in the separate case. The court of appeals accepted the special action, finding it raised a "purely legal issue of first impression that is of statewide importance," to wit, "the interplay between the procedural rules and statutes governing protective orders and family law proceedings." (*Id*. at 33).

The court of appeals first recognized that the superior court, pursuant to ARFLP 5(A), has the authority to hold a joint hearing to concurrently consider both actions so that it may harmonize the orders. But having said that, the court noted that the superior court's "authority to modify an order of protection only exists pursuant to the statutes and rules controlling protective orders." (*Id*. at 34). And those statutes and rules prevented the relief Father sought in *Vera*, because another superior court officer had already affirmed the contested order of protection. Indeed, the court stated that "[o]nce [a contested] hearing has been held, an affirmed order of protection may be amended or dismissed only in two ways: (1) by a request of the party protected by the order, Ariz. R. Protect. Ord. P. 40(a),6 41(a); or (2) by appeal, Ariz. R. Protect. Ord. P. 42(a)(2), (b)." (*Id*. at 35). Because Mother had not requested amendment, and Father did not appeal from what amounted to a final judgment, he could not obtain relief, and the family court had no power to amend the protective order. Put another way, "a superior court judicial officer is not to engage in horizontal appellate review of another judicial officer's decision to affirm an order of protection." (*Id*. at 36; *see also Davis v. Davis*, 195 Ariz. 158, 161, ¶ 11) (App. 1999) (holding that "a superior court judge has no jurisdiction to review or change the judgment of another superior court judge when the judgment has become final").

Just like in *Vera*, absent a move by Petitioner to modify or dismiss the protective order, Respondent's "sole remedy was to appeal" the final ruling affirming it after the contested hearing. (*Id*. at 36). Although *Vera* did not involve fraud, this Court was unable to identify any cases collaterally challenging a final protective order judgment on Rule 85 grounds in a separate family court proceeding, nor any authority suggesting that *Vera*'s exclusive roadmap (which is rooted in ARPOP 40 & 41) for amending or dismissing a final order of protection judgment is subject to an exception based on Rule 85 review. This Court's power to invalidate the order is foreclosed by *Vera*.

Even if *Vera* did not foreclose this Court's review, Respondent cannot prevail here (despite what appears to be a case of serial fabrications here and elsewhere by Petitioner). Under A.R.S. § 13-3601(A)(6), the parties admittedly had a relationship that was "previously . . . romantic or sexual," however fleeting it might have been. Petitioner thus had a statutory avenue to seek a protective order, regardless of whether she fabricated her pregnancy. Moreover, Commissioner Doody did not issue the order based solely, or even primarily, on the "fact" of

Petitioner's pregnancy. Indeed, his initial order required that Respondent not contact Petitioner or "communicate or post untrue or harassing comments regarding Plaintiff online, including but not limited to social media, and shall not cause others to" do the same. (Dkt. No. 3, Case No. 2023-052771 filed October 6, 2023). Moreover, Petitioner's initial Petition referenced a myriad of communications Respondent made to her that could be deemed threatening per the statutory guidelines and appears to have prompted Commissioner Doody to confirm the order after the hearing. Thus, even if Petitioner's broader pregnancy allegations are proven untrue, one aspect of the court's order indicated that it found Respondent had engaged in harassing conduct, so even on the merits there is no cause to invalidate the final judgment.

Vera v. Rogers forecloses not only reviewing the orders in principle but also prevents tinkering at the margins as well. If the superior court cannot "engage in horizontal appellate review of another judicial officer's decision to affirm an order of protection," 246 Ariz. at 36, there is no way that the Court can otherwise review portions of those decisions piecemeal either. The parties' remedies as to both decisions were to appeal and have the appellate court review the entirety of those decisions. Both had hearings as to their respective orders, and under ARPOP 42(a)(2), "[a]n Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment that is entered, affirmed, modified, or quashed after a hearing at which both parties had an opportunity to appear" is appealable.

SANCTIONS

ARFLP 26(b) provides that "by signing a pleading, motion or other document, the attorney or party certifies to the best of the person's knowledge, information, and belief formed after reasonable inquiry: (1) it is not being presented for any improper purposes, such as to harass . . . (2) the claims, defenses, and other legal contentions are warranted by existing law . . . (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery . . . ." Meanwhile, Rule 26(c) provides that "if a pleading, motion, or other document is signed in violation of this rule, the court—on motion *or on its own*—may impose on the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the document, including a reasonable attorney fee." (emphasis added).

In this case, Respondent filed a Motion for Sanctions Pursuant to Rule 26 on January 3, 2024, arguing that "Petitioner filed the underlying action for an improper purpose without medical evidence to support her claim that she was pregnant and/or that she was pregnant by Respondent." (Dkt. No. 40 at 1). However, after significant motion practice between the parties'

attorneys, Respondent filed a Motion to Withdraw Motions for Sanctions Pursuant to Rule 26 on April 3, 2024, while retaining his other claims under A.R.S. §§ 25-324, 25-415, 25-809. (Dkt. No. 76). The question thus becomes, can the court still award Rule 26 sanctions, considering Respondent's withdrawal of his motion.

As already noted above, ARFLP 26(c) expressly provides that the court can sanction a party for a violation "on its own." The Court was unable to locate any decisions pertaining to whether the withdrawal of a party's Rule 26 sanctions motion precludes a *sua sponte* court award. But, as a matter of plain meaning and strict interpretation, it would seem not to matter whether a party ever files a motion or even whether that party does file a motion and then withdraws it—a court may still award the sanctions it deems appropriate, based on the conduct it deems to violate the rule. Indeed, if per Rule 26(c) the court can at any time award sanctions of its own accord and on its own findings, absent invitation, the withdrawal of a party's motion to do so would not seem to vitiate or in any way affect that power, as a matter of plain logic. So, for instance, if the Court were to here find that Petitioner fabricated her pregnancy to provide leverage against Respondent in order to secure a long-term relationship with him and all its attendant benefits, Rule 26(c) would appear without doubt to provide it the authority to "order [her] to pay [Respondent his] reasonable expenses . . . including a reasonable attorney fee," regardless of any prior filings by the parties. That is because that fabrication, if adjudicated as such, would have been the predicate for her initial petition and many, indeed all, of the motions that came after it.

Although there is a dearth of case law on this issue, other rules confirm that the family court has the authority to award sanctions on its own. Rule ARFLP 76.2(a)(1), for instance, provides that "[i]n a pre-judgment or post-judgment proceeding, the court upon motion *or its own initiative* may impose sanctions if a party or attorney: (1) fails to obey a scheduling or pretrial order; (2) fails to appear at a Resolution Management Conference, a scheduling conference, an evidentiary hearing, a trial, or other scheduled hearing; (3) is substantially unprepared to participate in a conference, hearing or trial; (4) fails to participate in good faith in a conference, hearing, or trial, or in preparing a resolution statement, scheduling statement, or pretrial statement." (emphasis added). And the remedies available include, in addition to substantive sanctions, ordering the party at fault "to pay reasonable expenses--including attorney fees, an assessment to the clerk, or both--caused by any noncompliance with a court order." ARFLP 76.2(c); *see also Hamby v. Hamby*, No. 1 CA-CV 19-0498 FC, 2020 WL 4717115, at *2 (Ariz. Ct. App. Aug. 13, 2020) (confirming power of court to award sanctions on its own initiative under ARFLP 76). Rule 71 provides for a similar power in the settlement and ADR context.

Additionally, as is evident from their near textual identicality, and per the *Arizona Family Law Rules Handbook*, "ARFLP 26 is based on [Arizona Rule of Civil Procedure] 11." 3 Comparison with Civil Rules, 13 Ariz. Prac., *Family Law Rules Handbook* Rule 26. And Rule 11 also expressly provides that in the event of a violation "the court—on motion or on its own—may impose on the person who signed it, a represented party, or both, an appropriate sanction." And in the Rule 11 context, the Court of Appeals has concluded that a trial court may impose sanctions even after a complaint has been dismissed for lack of prosecution. *See Britt v. Steffen*, 220 Ariz. 265 (App. Div.1 2008). This lends credence to the idea that the family court's inherent authority to award sanctions under ARFLP 26 should not be read to be limited by the course of the case or by the litigation strategy pursued by the parties. The power is there by rule and can be used by the court when necessary and appropriate.

NON-PATERNITY

A.R.S. § 25-814(A)(2) provides a man is presumed to be the father of a child if "[g]enetic testing affirms at least a ninety-five percent probability of paternity." A.R.S. § 25-814 (C) provides a man is presumed to be the father based on DNA testing, that may only be rebutted by clear and convincing evidence. Based on a lack of confirmed pregnancy and repetitive Ravgen results of "little to no fetal DNA" the Court cannot establish that Petitioner was pregnant. The Court cannot establish paternity of a nonconfirmed pregnancy lacking DNA evidence despite testing twice. Here, two test results of "little to no fetal DNA" fall woefully short of the 95% required to meet the burden of clear and convincing evidence that Respondent was the father of Petitioner's alleged pregnancy.

ATTORNEY FEES AND COSTS

Clayton Echard has requested an award of attorney fees and costs. An award of attorney fees and costs is governed by A.R.S. § 25-324. A.R.S. § 25-324 provides as follows:

> A. The court from time to time, after considering the financial resources of both parties and the reasonableness of the positions each party has taken throughout the proceedings, may order a party to pay a reasonable amount to the other party for the costs and expenses of maintaining or defending any proceedings under this chapter or chapter 4, article 1 of this title. On request of a party or another court of competent jurisdiction, the court shall make specific findings concerning the portions of any award of fees and expenses that are based on consideration of financial resources and that are based on consideration of reasonableness of positions. The court may make these findings before, during

> or after the issuance of a fee award.
> B. If the court determines that a party filed a petition under one of the following circumstances, the court shall award reasonable costs and attorney fees to the other party:
>
> 1. The petition was not filed in good faith.
> 2. The petition was not grounded in fact or based on law.
> 3. The petition was filed for an improper purpose, such as to harass the other party, to cause an unnecessary delay or to increase the cost of litigation to the other party.
>
> C. For the purpose of this section, costs and expenses may include attorney fees, deposition costs and other reasonableness expenses as the court finds necessary to the full and proper presentation of the action, including any appeal.
> D. The court may order all amounts paid directly to the attorney, who may enforce the order in the attorney's name with the same force and effect, and in the same manner, as if the order had been made on behalf of any party to the action.

THE COURT FINDS there is no substantial disparity of financial resources between the parties. Petitioner did not provide an AFI but testified she and her mother collectively earn $200,000 a year. Respondent filed an AFI on May 15, 2024, citing monthly income of $12,000, and annual income of $144,000.

THE COURT FURTHER FINDS that Petitioner acted unreasonably in the litigation. Specifically, Petitioner acted unreasonably when she initiated litigation without basis or merit. Without an authentic ultrasound, sonogram, physical examination, and in conjunction with a belief she passed tissue in July 2023, the Court finds the underlying Petition premature at best. At worst, however, fraudulent and made to incite communication, a relationship, or both, with the Respondent. The Court further finds that filing a motion seeking mediation for the purpose of telling the Respondent that the pregnancies were not viable disingenuous at best but certainly misleading to the Court. If the purpose of the motion was in fact to attend mediation, then the Petitioner perjured herself today when she said the purpose of the mediation was to tell the Respondent about the miscarriage. Either way, Respondent likely incurred costs associated with this litigation prior to retaining counsel and he is entitled to reimbursement for those costs.

THE COURT FURTHER FINDS that Petitioner repetitively failed to comply with Rule 49, even on Order of this Court. Further compounded by the fact that on the day of trial, she testified that she anonymously sought care at a Planned Parenthood in Los Angeles. While she failed to provide records of any Planned Parenthood appointment, anonymous or under an alias, Respondent presumably sought records from all Mission Viejo Planned Parenthoods as that

is where, up until today, Petitioner disclosed she sought care. This undoubtably, caused Respondent to incur substantial legal fees attempting to locate records that may, or may not exist in Los Angeles but now appear to have never existed in Mission Viejo. Additionally, Petitioner acknowledged she altered hCG test results, an ultrasound and sonogram.

THE COURT FURTHER FINDS that the provisions of A.R.S. § 25-324(B) do apply because the petition was not filed in good faith, the petition was not grounded in fact or based on law, the petition was filed for an improper purpose, such as to harass the other party, to cause an unnecessary delay or to increase the cost of litigation to the other party. Here, the Court finds Petitioner provided false testimony as to the viability of the pregnancy in all three cases addressed in the procedural history. Additionally, prior to her deposition, Petitioner sent a threatening letter to Respondent indicating her intention to sue him for 1.4 million dollars in collateral allegations unless he agreed to dismiss this action that she initiated.

THE COURT FURTHER FINDS that Laura Owens knowingly presented a false claim, knowingly violated a court order compelling disclosure or discovery such that an award of attorney fees and costs is appropriate under A.R.S. § 25-415.

IT IS THEREFORE ORDERED granting Clayton Echard's request for attorney fees and costs associated with FC2023-052114.

IT IS FURTHER ORDERED denying Clayton Echard's request for attorney fees and costs associated with the OOP and IAH hearings referencing the analysis above.

IT IS FURTHER ORDERED that Laura Owens shall pay Clayton Echard's reasonable attorney fees and costs. Not later than July 8, 2024, Respondent and counsel for Clayton Echard shall submit all necessary and appropriate documentation to support an application for an award of attorney fees and costs, including a *China Doll* Affidavit and a form of proposed order. By no later than July 29, 2024, Laura Owens shall file any written objection and a form of proposed order. If Clayton Echard's counsel fails to submit the documentation by July 8, 2024, no fees or costs will be awarded. The Court shall determine the award and enter judgment upon review of the Affidavit as well as any objections.

ADDITIONAL ORDERS

IT IS FURTHER ORDERED granting the Respondent's Petition for Non-Paternity.

IT IS FURTHER ORDERED, the Court having determined that Laura Owens has a pattern of similar, if not identical behavior, and court involvement, referring this matter to the Maricopa County Attorney's Office for review of Laura Owen's actions pursuant to A.R.S § 13-

2702 and A.R.S § 13-2809. Accordingly, the Maricopa County Attorney's Office will be endorsed on this Order.

The Court must decide the amount of attorney's fees and costs to be awarded but finds there is no just reason to delay making a final order.

IT IS THEREFORE ORDERED pursuant to Rule 78(b), Arizona Rules of Family Law Procedure, that this is a final judgment, and it shall be entered by the Clerk. The time for appeal begins upon entry of this judgment by the Clerk. For more information on appeals, see Rule 8 and other Arizona Rules of Civil Appellate Procedure.

IT IS FURTHER ORDERED denying any affirmative relief sought before the date of this Order that is not expressly granted above.

Done in open Court on: 06/17/2024

Julie Mata

HONORABLE Julie Mata

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: https://superiorcourt.maricopa.gov/llrc/fc_gn9/

Exhibit F

Clerk of the Superior Court
*** Electronically Filed ***
C. Brown, Deputy
7/8/2024 2:20:21 PM
Filing ID 18113855

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Attorney for Petitioner
Laura Owens

MARICOPA COUNTY SUPERIOR COURT

STATE OF ARIZONA

In Re Matter of:	Case No: FC2023-052114
LAURA OWENS,	**NOTICE OF CHANGE OF JUDGE FOR CAUSE; MEMORANDUM & AFFIDAVIT IN SUPPORT**
Petitioner,	
And	**(Noticed Judge – Hon. Julie A. Mata)**
CLAYTON ECHARD,	**(Presiding Judge – Hon. Ronda Fisk)**
Respondent.	

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Pursuant to Rule 6.1 Ariz. R. Fam. L.P. Petitioner Laura Owens ("Laura" or "Petitioner") submits the following Notice of Change of Judge for Cause, and memorandum and affidavit in support thereof.

As explained below, there is clear and convincing evidence demonstrating the judge currently assigned to this matter – Hon. Julie Ann Mata – is biased, prejudiced, and has engaged in conduct which violates both Laura's right to due process of law under both the United States and Arizona Constitutions, and which separately violated Rules 2.9(A) and 2.9(C) of the Arizona Rules of Judicial Conduct by, *inter alia*: 1.) performing an independent investigation into the facts of this case; 2.) considering (and relying upon) information posted on the Internet about this case; and 3.) engaging in *ex parte* communications regarding this case with her father, Harry L. Howe.

This conduct, while sufficient to warrant additional other relief (including, but not limited to, a new trial), establishes grounds to disqualify Judge Mata on the basis of bias and prejudice within the meaning of A.R.S. § 12–409(5). For these reasons, Laura respectfully requests the Family Court Presiding Judge, Hon. Ronda Fisk, review this matter and to find that grounds exist to disqualify Judge Mata, and to promptly reassign this matter to a new judge.

In the event Judge Mata disputes the allegations set forth below, Laura requests that the Family Court Presiding Judge set this matter for an evidentiary hearing pursuant to Family Law Rule 6.1(d)(2), and that upon doing so, the Court approve the issuance of subpoenas *ad testificandum* to Judge Mata and her father, Mr. Howe.

I. CASE SUMMARY/BACKGROUND

The facts of this matter are set forth in detail in the affidavit of counsel submitted herewith. In short, this case began as a simple paternity establishment action, with one uncommon wrinkle — Respondent Clayton Echard ("Clayton" or "Respondent") is a minor celebrity as a result of his appearance on the reality TV dating program called *The Bachelor*. Clayton did not merely appear as a *contestant* on *The Bachelor*, he was the star of his season, appearing on the show from January to March 2022.

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Laura claims she had a one-night sexual encounter with Clayton in Scottsdale on May 20, 2023, and she learned she was pregnant 11 days later. Laura claims she tested positive for pregnancy on **five separate occasions** before this case was filed: May 31, June 1, June 19, July 25, and August 1. The first test taken on May 31 was an at-home type pregnancy test which was positive. The next day, on June 1, Laura went to a Banner Urgent Care for a professional pregnancy test. The test at Banner was also positive.

After Laura informed Clayton of these positive tests, on June 19, 2023, Clayton invited Laura to his home to discuss the situation. Upon arrival, Clayton surprised Laura with a home pregnancy test he had purchased, and he demanded she take the test immediately in front of him (Laura claims she took the test as Clayton watched, while Clayton claims she went to the bathroom and took the test behind a closed, or partially closed door). In any event, this third test was also positive.

After the parties were unable to reach an agreement on how to deal with the situation, and after two more positive tests, Laura filed this action, on August 1, 2023. Upon filing and through the present, this matter was assigned to Hon. Julie A. Mata.

On August 21, 2023, Clayton filed a *pro se* response denying paternity. In his response, Clayton claimed "only oral sex" occurred between the parties, not sexual intercourse, and he further alleged "this entire petition is made up by [Laura]."

Laura claims that while the matter was pending, she had a blood test done on October 16, 2023 which confirmed, yet again, she was pregnant, but the test results suggested the pregnancy was not viable (i.e., it was likely to end in miscarriage). About a month later, on November 14, 2023, Laura was seen by an OB/GYN facility called MomDoc where it was confirmed she was no longer pregnant.

After learning she was no longer pregnant, Laura filed nothing further in this case, and she took no actions to prosecute the matter any further. Because Laura is not an attorney, she was not familiar with the process for seeking a voluntary dismissal. On December 4, 2023, court administration issued a notice placing this matter on the inactive calendar and scheduling the matter for dismissal on February 2, 2024.

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Shortly before the case was due to be dismissed for inactivity, Clayton retained counsel, Gregg Woodnick, who appeared in this matter for the first time on December 12, 2023. Mr. Woodnick immediately filed several pleadings including a Motion to Amend Clayton's Answer to the petition (filed on December 12, 2023), and a Motion for Rule 26 Sanctions (filed on January 2, 2023). Notably, Mr. Woodnick filed these pleadings without making any attempt to meet and confer with Laura as required by Family Law Rule 9(c), and he moved for Rule 26 sanctions without ever providing written notice to Laura of her right to amend or withdraw her petition as required by Family Law Rule 26(c)(2)(B).

Shortly thereafter, Laura retained counsel, Alexis Lindvall, who appeared on December 22, 2023 and filed a Motion to Dismiss *With Prejudice* on December 28, 2023. Days later, Ms. Lindvall withdrew from this matter, with Laura's consent, on January 2, 2024.

Confusingly, on January 25, 2024, Judge Mata issued an order *granting* Laura's Motion to Dismiss. In that ruling, the court indicated: "Petitioner advises she is no longer pregnant and has filed a Motion to Dismiss. While the Court will grant the Motion, the issue of sanctions and attorney's fees remain." Judge Mata then set an evidentiary hearing on those issues for June 10, 2024.

The undersigned was first retained to represent Laura on March 25, 2024. After appearing in this case, undersigned counsel quickly discovered that Mr. Woodnick filed the Rule 26 Motion for Sanctions (among other pleadings) without first consulting with Laura (or her counsel), and the sanctions motion was filed *without* giving the mandatory 10-day written warning required by providing written notice to Laura of her right to withdraw her petition as required by Family Law Rule 26(c)(2)(B). After counsel discussed these problems, and despite initially refusing to do so, on April 3, 2024, Mr. Woodnick filed a motion to withdraw his Rule 26 Motion for Sanctions. Unfortunately, that request was not timely ruled on by the Court, resulting in the undersigned filing a Motion for Judgment on the Pleadings as to the issue of sanctions on May 10, 2024.

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On May 29, 2029, a minute entry order was issued explaining the Court had intended to *grant* Clayton's request to withdraw his Motion for Sanctions, but "due to a clerical error, the acceptance was not remitted to the parties …" Despite the Motion for Sanctions being withdrawn, and despite no other sanctions or fees motions pending, the case proceeded to trial on June 10, 2024.

On June 17, 2024 (filed June 18, 2024), Judge Mata issued an order finding in favor of Clayton as to substantially all issues in the case, and awarding attorney's fees in an amount to be determined by later application. The post-trial order also purported to find Laura lied about being pregnant in this case, as well as two other matters, and that she may have committed perjury in this case, or elsewhere (the order is not entirely clear). Based on those findings, Judge Mata referred this matter to the Maricopa County Attorney's Office.

Since receiving the post-trial decision, Laura has discovered evidence of extremely serious misconduct by Judge Mata which is more than sufficient to remove her from this case for cause. Laura will also seek, by separate motion, a new trial and a complete reversal of *all* prior rulings issued in this case by Judge Mata due to her misconduct, in addition to other relief.

II. LEGAL STANDARD

Family Law Rule 6.1(a) provides: "**(a) Grounds**. A party seeking a change of judge for cause must establish grounds by affidavit as required by A.R.S. § 12–409." Among other reasons, A.R.S. § 12–409 permits disqualification of a judge by showing: "the party filing the affidavit has cause to believe and does believe that on account of the bias, prejudice, or interest of the judge he cannot obtain a fair and impartial trial."

It is important to note A.R.S. § 12–409 does not contain any express time limits for seeking a change of judge, but Arizona courts have read that statute as containing an implicit limit – a party cannot ask to disqualify a judge under A.R.S. § 12–409 after a trial has begun. *See Del Castillo v. Wells*, 523 P.2d 92, 94 (App.Div. 1 1974) (explaining under A.R.S. § 12–409, "if a judge is allowed to receive evidence which of necessity is to

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be used and weighed in deciding the ultimate issues, it is too late to disqualify him on the ground of bias and prejudice.")

At the same time, the *Del Castillo* court also noted requests to disqualify a judge made under *other authority*, not A.R.S. § 12–409 (such as Civil Procedure Rule 42(f)) are not subject to the same implicit restrictions as requests under § 12–409. Instead, *Del Castillo* explains if a request is made under *other* authority, the outcome is controlled by the text and substance of the specific rule invoked; "Clearly in enacting [Civil Procedure] Rule 42(f) providing for a specific procedure for a change of judge, the Supreme Court 'modified or suspended' the then existing procedure for a change of judge as a matter of right outlined in § 12-409." *Del Castillo*, 523 P.2d at 95. Thus, for example, in a civil matter, a party may waive his or her right to a change of judge as a matter of right if "the judge rules on any contested issue …." Ariz. R. Civ. P. 42.1(d)(2).

Here, Family Law Rule 6.1 does not contain the same waiver language. On the contrary, Rule 6.1 only requires that a party seek a change of judge for cause within 20 days after discovering the basis for the request, and the rule expressly provides "Case events or actions taken before that discovery do not waive a party's right to a change of judge for cause." (emphasis added). This broader rule (which permits a change of judge *after* trial) makes sense given that family law cases are, unlike civil matters, often continuing in nature. Because a family court judge may hold multiple trials and/or evidentiary hearings in the same case over a span of many years, it would make no sense to interpret Rule 6.1 as depriving a party of their right to disqualify a judge for cause simply because that judge held one or more earlier hearings before the grounds for disqualification were discovered. Rather, the text of the rule merely requires a party to raise the issue promptly, even if that occurs after a trial or hearing is completed.

As explained in the concurrently filed affidavit of counsel, the grounds upon which a change of judge are requested in this case are primarily based on misconduct committed by Judge Mata which shows her post-trial ruling (filed June 18, 2024) contained findings that were *not* based on the evidence admitted at trial. Rather, Judge

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Mata made findings based on an improper *ex parte* investigation she conducted which included reviewing information posted on the Internet about this case. Until Judge Mata's post-trial ruling was issued on June 18, 2024 (less than 20 days ago), Laura did not know and could not possibly have known of the judge's misconduct in this regard.

Although this single issue is sufficient to grant the relief requested, there is also evidence showing *other* misconduct committed by Judge Mata, including the fact she engaged in an improper *ex parte* discussion of the facts of this case with her father, Harry L. Howe, in violation of Rule 2.9(A) of the Arizona Code of Judicial Conduct. Although Laura (and undersigned counsel) heard rumors about Mr. Howe appearing at the trial on June 10th, the specific details of exactly what occurred, and proof to establish these facts, was not fully known until undersigned counsel returned from his pre-planned vacation on June 28, 2024.

For those reasons, this request is timely pursuant to Family Law Rule 6.1(c) because it has been brought within 20 days of discovering the grounds upon which the request is based.

III. DISCUSSION

a. Clear And Convincing Evidence Shows Judge Mata Conducted An Improper *Ex Parte* Investigation Into The Facts

The details of the grounds for disqualification are set forth in the affidavit of counsel submitted herewith. To summarize those grounds, this request is primarily based on the fact there is clear, irrefutable evidence that Judge Mata conducted an *ex parte* investigation into the facts of this case AND, even worse, at least one of her post-trial factual findings on a critically important issue was based *solely* on information posted on the Internet and not based on the evidence admitted at trial.

Because episodes of such brazen and blatant judicial misconduct are thankfully rare, comparable examples in Arizona are difficult to find. However, something very similar occurred in *Reprimand of Judge B. Carlton Terry, Jr*, North Carolina Judicial Standards Commission Inquiry No. 08-234 (April 1, 2009) (a copy of which is submitted

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herewith).[1] That case, like this matter, involved a family court proceeding. In *Terry*, the assigned judge posted comments about the case on Facebook, and he also "used the internet site 'Google' to find information about [a party's] photography business." The judge also visited the website of a party, and copied a poem from that party's website which he recited at trial.

Upon discovering these facts, one of the parties moved to disqualify the judge, asked to vacate the judge's post-trial orders, and to have the case reassigned. Those requests were granted in their entirety, and the North Carolina Judicial Standards Commission later publicly reprimanded the judge for this conduct, finding he committed multiple violations of the Canons of Judicial Conduct, including by "conducting [an] independent *ex parte* online research about a party presently before the Court" and by having *ex parte* discussions about the case. The Commission found the judge's actions were "prejudicial to the administration of justice that brings the judicial office into disrepute."

Exactly the same rules and standards apply here. It is axiomatic that in civil cases in the State of Arizona, juries are *never* permitted to conduct "*trial by Google*":

> Research related to the case, including internet research, is strictly forbidden. Do not do any research or conduct any type of investigation about the case, the facts, the parties, the witnesses, the attorneys, or any person or entity related to the case. Do not look for information on the internet, or from any other source, about the case or about the facts or issues related to the case. In other words, do not try to find out information from any source outside this courtroom. The reason for this is that you must base any decision only on the evidence that is produced here in the courtroom. You must base any decision only on the evidence that is produced here in the courtroom, because the fairness of the trial depends on both parties knowing exactly what evidence you are considering so that they can respond to it or address it in their arguments.

REVISED JURY INSTRUCTIONS (CIVIL), 7TH (PRELIMINARY 9 – Admonition).

[1] Available at: https://www.nccourts.gov/assets/inline-files/Public-Reprimand-08-234-Terry.pdf

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Notwithstanding all their other powers and responsibilities, judges acting as fact finders in a bench trial are subject to exactly the same rule as jurors – a judge may *never* "investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed." Ariz. Sup. Ct. Rule 81, Code of Judicial Conduct Rule 2.9(C) (and comment 6, explaining, "The prohibition against a judge independently investigating the facts in a matter extends to information available in all mediums, including electronic.")

As explained in the affidavit of counsel submitted herewith, there is no question Judge Mata violated this most basic core requirement of fairness. She did so by making a critical factual finding – that "Planned Parenthood is closed on Sunday" – and by falsely attributing that finding to a trial witness (Clayton's medical expert, Dr. Deans) who said no such thing. Rather than basing this finding of the evidence admitted at trial, the only possible source of this information was an independent investigation into the facts of this case by the judge, which included looking at social media and/or other website comments (it is irrelevant exactly which sites Judge Mata viewed or when she viewed them, because *any* such *ex parte* investigation was *per se* a violation of Laura's right to fundamental fairness).

Furthermore, although Judicial Conduct Rule 2.9(C) does allow a judge to base findings on facts which "may properly be judicially noticed", the business hours of Planned Parenthood locations in California in 2023 is *not* a fact subject to judicial notice (nor did Judge Mata claim she took judicial notice of that fact). This exact issue was discussed in ABA Formal Opinion 478 which offered the following hypothetical:

> **Hypothetical #1:** In a proceeding before the judge in a case involving overtime pay, defendant's counsel explains that the plaintiff could not have worked more than 40 hours per week because defendant's restaurant is in an "industrial area" and only open for breaks and lunch during the work-week and not on weekends. The judge is familiar with the area and skeptical of counsel's claims. The judge checks websites like Yelp and Google Maps, which list the restaurant as being open from 7 am to 10 pm,

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> seven days each week. Does this search violate Rule 2.9(C) of the Model Code of Judicial Conduct?
>
> **Analysis #1:** This search violates Rule 2.9(C) of the Model Code of Judicial Conduct because the restaurant's hours of operation are key to whether the plaintiff could prevail on a claim of unpaid overtime. The judge should ask the parties and their counsel to provide admissible evidence as to the restaurant's hours of operation.

ABA Formal Opinion 478, *Independent Factual Research by Judges Via the Internet* (Dec. 8, 2017) (emphasis added).[2]

Again, because such blatant misconduct is rare, there is no directly controlling comparable Arizona precedent on this issue (of course the Code of Judicial Conduct as adopted by the Arizona Supreme Court is controlling here). However, courts in other states have consistently agreed – this type of judicial misconduct is *per se* unlawful and it entitles the movant to automatic relief regardless of whether the error was harmless. *See*, *e.g.*, *Davis v. United States*, 567 A.2d 36, 42 (D.C.Cir. 1989) (reversing conviction and ordering new trial where judge asked a law clerk to perform independent investigation into the facts of the case, and explaining, "under our system of laws, a judge is not an investigator; the investigative function belongs to the parties and their agents. Laudable goals and lofty purposes cannot be attained when the cost is the loss, or even the appearance of loss, of judicial impartiality.") (emphasis added) (citing *Kennedy v. Great Atlantic & Pacific Tea Co*., 551 F.2d 593, 596 (5th Cir. 1977) (reversing conviction and ordering new trial where the trial judge's law clerk personally visited the scene of the slip-and-fall accident, and clerk later testified about the outcome of his investigation; "It was unacceptable that the most damaging evidence against the defendants in this case was brought about by the intervention of a court official in the accumulation of evidence. . . . It was the law clerk's duty as much as that of the trial judge to avoid any contacts outside the record that might affect the outcome of the litigation[]" and further explaining, "the law clerk's 'private view of an accident in litigation' was a prohibited *ex*

[2] Available at: https://www.abajournal.com/images/main_images/FO_478_FINAL_12_07_17.pdf

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parte communication that violated Code of Judicial Conduct); *State v. Dorsey*, 701 N.W.2d 238, 249-50 (Minn. 2005) (reversing conviction and ordering a new trial after judge independently investigated facts of case; noting such conduct constitutes a *per se* violation of due process which requires *automatic* reversal without applying harmless error analysis; "when a defendant has been deprived of an impartial judge, automatic reversal is required …. This deprivation constituted a structural error, which precludes harmless-error analysis ….") (emphasis added) (citing *Arizona v. Fulminante*, 499 U.S. 279, 309 (1991)).

Based on this authority, Judge Mata must be disqualified on the basis of bias and prejudice as reflected by her gross misconduct. There is no question one of the most critical factual findings in this case was the issue of whether "Planned Parenthood is closed on Sunday" (the specific reasons why that fact was critical are explained in greater detail in the affidavit of counsel submitted herewith). In her post trial ruling, Judge Mata made a specific finding that "Planned Parenthood is closed on Sunday", and she attributed that statement to the testimony of Clayton's medical expert, Dr. Samantha Deans. But the trial transcript leaves ZERO question – Dr. Deans never testified to this fact, nor did any other witness. Moreover, on the day of trial, this fact WAS *repeatedly* and broadly published on social media sites and by anonymous third party comments appearing on the personal website of undersigned counsel.

These facts demonstrate that Judge Mata did exactly what the rules expressly prohibit – she conducted her own independent investigation into the facts, and then used the results of that investigation to reach an adverse decision. This is a *profound* violation of Laura's rights, and of the rights of the people of Maricopa County who trust their disputes will settled by impartial jurists according to law; "To be impartial, the fact-finder must base its conclusions on the facts in evidence and must not reach conclusions based on evidence sought or obtained beyond that adduced in court. When the fact-finder violates this principle, the result is structural error requiring automatic reversal." *State v. Foote,* 2020 WL 54282, *4 (Minn.App. 2020) (cleaned up) (quoting *Dorsey*, 701 N.W.2d

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at 249-50)); *see also Tribbitt v. Tribbitt*, 963 A.2d 1128, 1131 (Del. 2008) ("we hold that … the Family Court committed reversible error when it rejected unrefuted testimony by the Husband's expert and substituted for that testimony *the results of its own internet search*.") (emphasis added)).

b. Other Evidence Supports A Finding Of Judicial Bias

The law is clear – a single instance of misconduct by a trial judge is sufficient to establish bias and require disqualification of the judge. As explained above, the evidence proves Judge Mata undertook an independent investigation into the facts, and by doing so, she manifested bias sufficient to require her disqualification.

But the evidence of bias and misconduct is not limited to just the "Planned Parenthood is closed on Sunday" issue. Rather, as explained in the affidavit of counsel submitted herewith, another separate issue also establishes Judge Mata's bias – there is evidence showing the judge shared information about this case with her father, Harry L. Howe, and that he not only appeared at the trial as a spectator, he later socialized with Clayton's cult-like supporters, telling them, comically, "*I'm here for the shit show."*

It is difficult to image a more disrespectful, disreputable, and disgraceful act for any judge to commit than inviting her father to attend a high-profile trial *in support of a party*, while also privately engaging in prohibited *ex parte* discussions about the case with her father. These actions made a mockery of these proceedings. As shown in the video clips submitted herewith, Clayton's supporters *gleefully* celebrated Judge Mata's father's participation in the case, even going so far as to laughingly ask people not to spread information about his participation because, after all, "*We don't need a mistrial here*." For once, those followers were exactly right – the conduct of Judge Mata and her father absolutely warrant a mistrial (or more accurately, a retrial, before a different, unbiased judge).

This shameful conduct not only violated Laura's rights, it raises serious questions regarding Judge Mata's fitness as a Judge of the Superior Court. Any reasonable objective observer in Laura's position would be justified in wondering, "Was my case

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fairly decided based on the evidence, or was Judge Mata simply trying to impress her father – *Look at me Daddy! I'm a real judge now! Just watch me destroy a young woman's life because the other party was on The Bachelor! Hee hee!*"

Assuming the published allegations of Judge Mata are true (as documented, on video, by Clayton's own followers), this proves Judge Mata separately violated Rule 2.9(A) of the Code of Judicial Conduct. And Judge Mata's blatant, pervasive disregard for her ethical duties and her disrespect for Laura's fundamental rights helps explain the judge's *numerous* (and otherwise heretofore inexplicable) adverse rulings during this action.

As a general rule, prejudice or bias is "a hostile feeling or spirit of ill-will, or undue friendship or favoritism, towards one of the litigants." *In re Guardianship of Styer*, 24 Ariz. App. 148, 151, 536 P.2d 717 (1975). At the same time, "To prove prejudice or bias, an appellant must point to relevant facts *other than adverse judicial rulings*." *In re Marriage of Kintopp*, 2022 WL 223743, *3 (App.Div. 2 2022) (emphasis added) (citing *Stagecoach Trails MHC v. City of Benson*, 232 Ariz. 562, ¶ 21 (App.Div. 2 2013); *Smith v. Smith*, 115 Ariz. 299, 303, 564 P.2d 1266 (App. 1977) ("bias and prejudice necessary to disqualify a judge must arise from an extra-judicial source.")

In the *vast majority* of disqualification requests when the movant argues judicial bias, they can point to no evidence to support that claim other than adverse rulings. *See Simon v. Maricopa Med. Ctr.*, 225 Ariz. 55, 63 (App.Div. 1 2010) (finding no proof of bias where movant "has alleged no facts supporting his claim the judge was biased except that the judge consistently ruled against him.")

The unique facts and circumstances described above make this case one of the exceedingly rare exceptions in which the trial judge manifested clear prejudice and/or bias *early* in the proceedings, in the form of multiple, unexplained adverse rulings (described in the affidavit of counsel submitted herewith), but unlike 99% of cases, here there is clear *extra-judicial* evidence showing the true reason for those rulings was, in fact, "a hostile feeling or spirit of ill-will, or undue friendship or favoritism, towards one

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of the litigants." The evidence of Judge Mata's misconduct via-a-vis her father, discovered only after the trial, supports a finding of bias which *does* arise from an extra-judicial source, and not merely the adverse rulings themselves, and disqualification may be separately supported on that basis.

IV. CONCLUSION

For the reasons stated above, Laura respectfully requests the Family Court Presiding Judge, Hon. Ronda Fisk, review this matter and find that grounds exist to disqualify Judge Mata, and to promptly reassign this matter to a new judge.

In addition, given the clarity of the evidence and the severity of the misconduct, and the harm caused to the judiciary as a result, Laura further requests that the Presiding Judge refer this matter to the Arizona Commission on Judicial Conduct for further investigation and action as may be appropriate.

DATED July 8, 2024.

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David S. Gingras
Attorney for Petitioner
Laura Owens

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MARICOPA COUNTY SUPERIOR COURT

STATE OF ARIZONA

In Re Matter of: **LAURA OWENS,** **Petitioner,** **And** **CLAYTON ECHARD,** **Respondent.**	Case No: FC2023-052114 **AFFIDAVIT OF DAVID S. GINGRAS IN SUPPORT OF PETITIONER'S NOTICE OF CHANGE OF JUDGE FOR CAUSE** **(Noticed Judge – Hon. Julie A. Mata)** **(Presiding Judge – Hon. Ronda Fisk)**

AFFIDAVIT OF DAVID S. GINGRAS

I, David S. Gingras hereby swear and affirm under penalty of perjury as follows:

1. My name is David S. Gingras. I am a United States citizen, a resident of the State of Arizona, am over the age of 18 years, and if called to testify in court or other proceeding I could and would give the following testimony which is based upon my own personal knowledge.

2. I am an attorney licensed to practice law in the States of Arizona (since 2004) and California (since 2002). I am an active member in good standing with the State Bars of Arizona and California and I am admitted to practice and in good standing with the United States Court of Appeals for the Sixth, Ninth and Tenth Circuits, the United States District Court for the District of Arizona and the United States District Courts for the Northern, Central, and Eastern Districts of California.

3. This affidavit is submitted pursuant to Rule 6.1(a) of the Arizona Rules of Family Law Procedure and A.R.S. § 12–409.

4. As explained below, I have cause to believe, and on these grounds I do believe, that on account of bias, prejudice, or other interests the judge currently assigned to this matter, Hon. Julie A. Mata, is unable to act fairly and impartially, and is unable to provide Petitioner Laura Owens ("Laura" or "Ms. Owens") with a fair trial, including a fair retrial which Ms. Owens is concurrently requesting.

5. For these reasons, Laura requests that the Family Court Presiding Judge, Hon. Ronda Fisk, find that Judge Mata is disqualified from all further proceedings in this action, and that the case be immediately reassigned to a new judge pursuant to Family Law Rule 6.1(d)(4).

CASE SUMMARY & PROCEDURAL BACKGROUND

6. This case began with a petition to establish paternity filed *pro se* by Laura on August 1, 2023.

7. In her petition, Laura claimed she had sexual relations with Respondent Clayton Echard ("Clayton" or "Mr. Echard") in Scottsdale on or about May 20, 2023, and that she learned she was pregnant eleven days later on or around May 31, 2023.

8. Before filing this establishment action, Laura claims she tested positive for pregnancy on **five separate occasions**: May 31, June 1, June 19, July 25, and August 1. The first test taken on May 31, 2023 was an at-home type pregnancy test which was positive. The next day, on June 1, 2023, Laura went to a Banner Urgent Care facility for a professional medical test. The test at Banner was also positive.

9. After Laura informed Clayton of these positive tests, on June 19, 2023, Clayton invited Laura to his home to discuss the situation. Upon arrival, Clayton surprised Laura with a home pregnancy test that he had purchased, and he demanded she take the test immediately in front of him (Laura claims she took the test as Clayton watched, while Clayton claims she went to the bathroom and took the test behind a closed, or partially closed door). In any event, this third test was also positive.

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10. After two more positive tests, the parties were unable to reach an agreement on how to deal with the situation, so Laura filed this action, *pro se*, on August 1, 2023.

11. On August 21, 2023, Clayton filed a *pro se* response denying paternity. In his response, Clayton claimed "only oral sex" occurred between the parties, not sexual intercourse, and he further alleged "this entire petition is made up by [Laura]."

12. Laura claims that while the matter was pending, she had a blood test done on October 16, 2023 which confirmed, yet again, she was pregnant, but the test results also suggested the pregnancy was not viable (i.e., it was likely to end in miscarriage).

13. On November 14, 2023, Laura was seen by an OB/GYN facility called MomDoc where it was confirmed she was no longer pregnant.

14. After learning she was no longer pregnant, Laura filed nothing further in this case, and she took no actions to prosecute the matter any further.

15. On December 4, 2023, court administration issued a notice placing this matter on the inactive calendar and scheduling the matter for dismissal on February 2, 2024.

16. As noted above, when the case was initially filed, neither party was represented by counsel. Both Clayton and Laura remained *pro se* throughout the proceedings until December 12, 2023, when Clayton's retained counsel, Gregg Woodnick ("Mr. Woodnick") appeared in this case. Mr. Woodnick immediately began filing pleadings including a motion to amend Clayton's Answer to the petition (filed on December 12, 2023), and a Motion for Rule 26 Sanctions (filed on January 2, 2024). Mr. Woodnick filed these pleadings without making any attempt to meet and confer with Laura as required by Family Law Rule 9(c), and he moved for Rule 26 sanctions without ever providing written notice to Laura of her right to withdraw her petition as required by Family Law Rule 26(c)(2)(B).

17. Shortly thereafter, Laura retained counsel, Alexis Lindvall, who appeared on December 22, 2023 and filed a Motion to Dismiss on December 28, 2023. Days later, Ms. Lindvall withdrew from this matter, with Laura's consent, on January 2, 2024.

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18. I was first retained to represent Laura on Monday, March 25, 2024. Prior to this, I did not know Ms. Owens and had not represented her in any other matters. I also did not know Respondent Clayton Echard, and I knew nothing about this matter or any other disputes between Ms. Owens and Mr. Echard.

SUMMARY OF MEDIA/PUBLIC ATTENTION

19. Despite being an otherwise simple and short-lived paternity matter, this case quickly gained local, national, and even international media attention and massive public scrutiny. There appear to be two main reasons for this. First, Clayton is arguably famous as a result of his recent appearance on a nationally-televised reality TV dating program called *The Bachelor*.

20. This media attention is relevant and important to understanding the basis for this Notice, because it appears the trial judge, Julie Mata, allowed the significant media hype and public attention to overwhelm her better judgment, eventually causing her to engage in conduct which violated Laura's right to due process including her right to have this matter heard by a fair and impartial jurist. Because that issue is key to understanding what happened here and the grounds for disqualification raised by Laura, this subject is discussed in some detail below.

21. For anyone who is not familiar with the show, *The Bachelor* is a long-running reality TV dating show that first aired on ABC in 2002. The show involves a single male star (the titular "Bachelor") who is presented with a number of female "contestants" (usually around 25) from which to choose a potential fiancée. In addition to *The Bachelor* (involving a single male lead), the show has several spin-off series including *The Bachelorette* (involving a single female lead), and other reality shows.

22. Over the course of a "season" (which lasts for many weeks), the Bachelor goes on various group and individual dates with the female contestants. At the end of each show, the Bachelor chooses which women to keep and which to send home in a "rose ceremony" where he selects his preferences by asking, "*Will you accept this rose*?" Ideally, a season may end with a marriage proposal to the last woman remaining.

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23. Clayton appeared as the "star" of Season 26 of *The Bachelor* which aired on ABC from January 3 to March 15, 2022.[1] As a result of his appearance on this popular show watched by millions of viewers, Clayton gained some degree of nationwide fame, and his role on the show was heavily promoted and advertised by ABC (as is true of all seasons of the show).

24. This leads to the second aspect of this case which caused it to gain far more media and public attention than normal – as the previous star of a nationally-televised TV show like *The Bachelor*, Clayton has a large and highly-devoted fan base, including many followers on social media. For example, Clayton currently has nearly 300,000 followers on Instagram, *see* https://www.instagram.com/claytonechard/, and more than 60,000 followers on TikTok: https://www.tiktok.com/@clayton.echard.

[1] *See* https://en.wikipedia.org/wiki/The_Bachelor_(American_TV_series)_season_26

25. These facts — Clayton's fame and the huge popularity of *The Bachelor* — coupled with the extremely odd allegations in this case (i.e., that Laura "faked" being pregnant with Clayton) have caused this otherwise simple case to gain a massive amount of public scrutiny and attention from local, national, and international news media.

26. In addition to being widely covered by traditional news outlets, this case has also received massive attention on social media, including sites like Reddit, Twitter, and YouTube, among others. For instance, anonymous "fans" of Clayton have created social media pages focused entirely on this case, including a Twitter account using the hubristic sobriquet "*Justice for Clayton*" or "JFC". The JFC Twitter account has posted **obsessively** about this case nearly **3,500 times**; one example of which is shown below:

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27. In addition to posts on Twitter, anonymous fans of Clayton have created websites devoted solely to this case, and to promoting their belief that Clayton is somehow a "victim" who deserves "justice". One such pro-Clayton fansite is https://justiceforclayton.com/ which contains copies of all, or substantially all, pleadings filed in this case. This site also contains a one-sided narrative which highlights *only* those facts favorable to Clayton's version of events, while carefully avoiding any discussion of facts unfavorable to Clayton's narrative.

28. In addition to social media posts from his fans, Clayton himself has been extremely personally active in publicly promoting this case, giving countless media interviews in which he tells his side of the story. Clayton's attorney, Mr. Woodnick, has also published statements regarding this case, including a press release issued on March 7, 2024 in which Mr. Woodnick accused Laura of fraud, suggesting she "has been accused of fabricating pregnancies and doctoring medical evidence as a means to extort relationships several times, dating back ten (10) years."

29. In an attempt to respond to some of this one-sided narrative, acting at Laura's request and with her written permission, I have occasionally posted comments about this case online, primarily on my personal website: https://gingraslaw.com/blog/, and on my Twitter account: https://x.com/DavidSGingras. The purpose of these comments has been, primarily if not exclusively, to *respond* to information being circulated about this case by Clayton, his lawyers, and/or his fans/supporters.

30. When I post comments on either Twitter or my personal website, members of the public can, and often do, post responses/comments/replies. This point is important, for reasons I will describe further below.

"YouTubers" - DAVE NEAL/MEGAN FOX

31. Before discussing the specific issues and conduct giving rise to Laura's request to disqualify Judge Mata, it is important to understand some of the other participants who will be mentioned further below. Two such participants are individuals named Dave Neal and Megan Fox.

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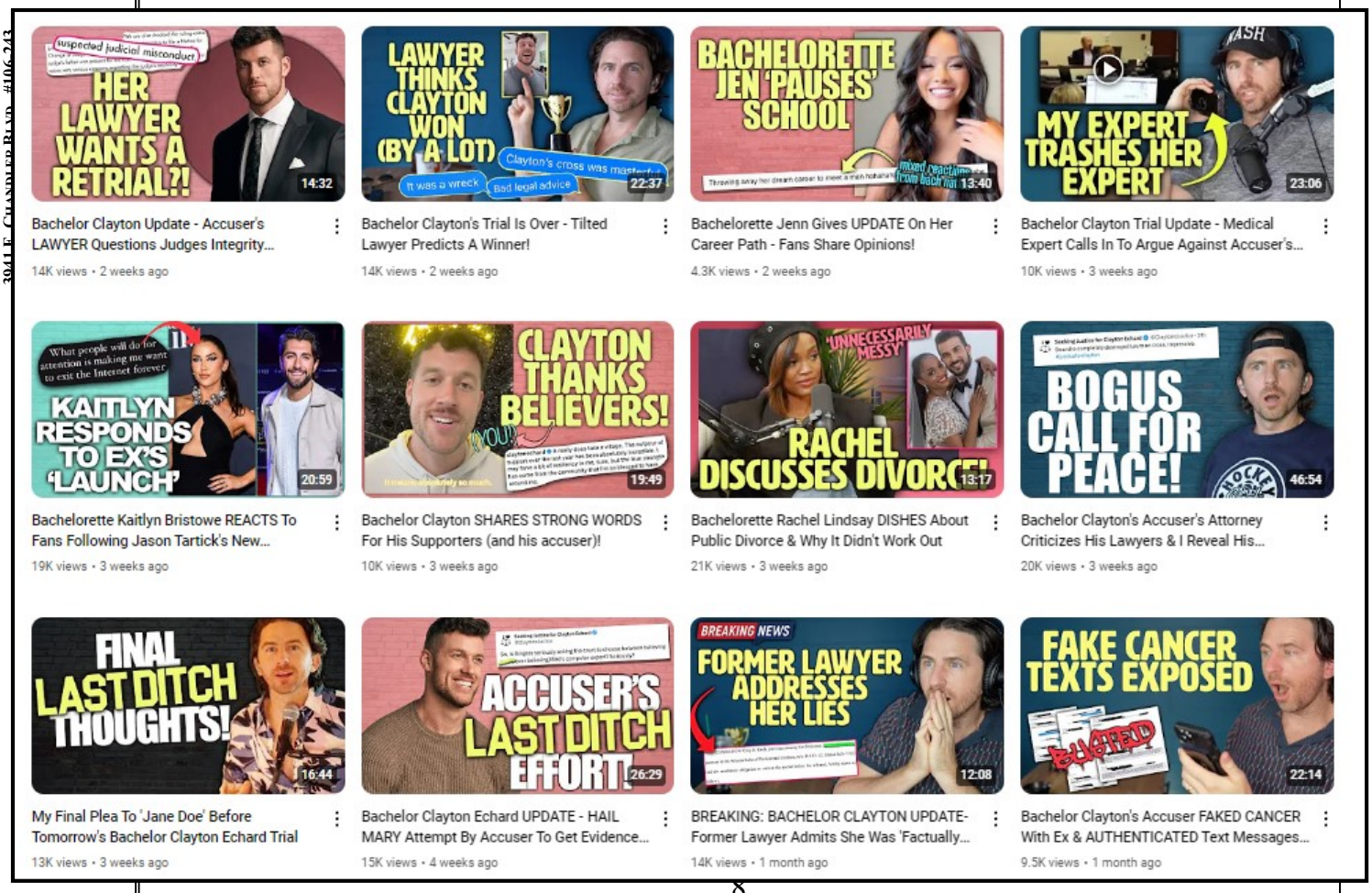
32. I do not personally know either Dave Neal or Megan Fox, but during the course of this proceeding I have become generally familiar with them. According to his YouTube channel, https://www.youtube.com/@DaveNealComedian, Dave Neal is a stand up comedian who lives in Tennessee. Dave also creates and publishes videos on YouTube (nearly every day). Dave's videos often focus on *The Bachelor* and people, like Clayton, who have appeared on that show.

33. Over the last several months, Dave Neal has obsessively published *hundreds* of hours of videos regarding this case (again, often on a daily basis), as reflected on his YouTube channel below. These videos are generally, almost universally, devoted to viciously attacking Laura (and often me), and to proclaiming that Clayton is a "victim" who deserves "justice". Notably, Clayton has personally appeared in several of Dave Neal's videos, and it is clear that Dave Neal is *not* covering this case as a neutral journalist, but rather as a passionate, obsessive, advocate for Clayton.



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34. Another "YouTuber" following this case is an individual using the name "Megan Fox" who I believe is a resident of New York state. I do not personally know Ms. Fox (I believe that name to be a pseudonym), but she has contacted me via email several times during this case, and I understand that she claims to be a "journalist" who publishes stories on an extreme far right-wing news website.

35. Like Dave Neal, Megan Fox also creates and publishes videos on her YouTube channel here: https://www.youtube.com/@MeganFoxWriter. Like Dave Neal, Megan Fox is a passionate supporter of the "JFC" cause, and her videos are overwhelmingly devoted to "exposing" and destroying Laura, while promoting the narrative that Clayton is an innocent victim who deserves "justice".

36. Dave Neal and Megan Fox are mentioned because they are relevant to the issues raised herein. This is so because they attended the trial held in this matter on June 10, 2024, and after the trial, both appeared on video claiming to have, or speaking with others who claimed to have, direct knowledge regarding certain improper conduct committed by Judge Mata during the trial, including the fact that Judge Mata allegedly engaged in improper *ex parte* discussions about this case with her father, Harry L. Howe (who also personally attended the trial and socialized with members of the JFC group). Those points are explained further below.

SUMMARY OF PRE-TRIAL JUDICIAL BIAS

37. Shortly after I became involved in this case in late March 2024, several events occurred which initially caused concern regarding Judge Mata's possible bias and lack of neutrality.

38. Specifically, immediately after Laura retained me to represent her in this matter, I attempted to obtain a copy of her file from her previous counsel.

39. Unfortunately, Laura's prior counsel did not promptly respond to this request. This made it impossible for me to respond to a Motion to Compel filed by Clayton before I was retained (the response to the Motion to Compel was due mere days after I was retained).

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40. Because I could not respond to the Motion to Compel without a complete copy of Laura's file, and because Mr. Woodnick refused to agree to an extension of time, on April 1, 2024, I filed a lengthy and well-supported motion seeking an extension of time to respond to the Motion to Compel. That motion explained the request was primarily based on the fact that I did not have a complete copy of Laura's file because her previous counsel did not promptly provide the file to me.

41. Despite the fact good cause existed for my request for an extension, and despite the fact Mr. Woodnick did not oppose the motion, just days later on April 3, 2024, Judge Mata issued a one-sentence minute entry order (file April 5, 2024) denying my extension request without any explanation.

42. As a lawyer who has practiced exclusively civil litigation for more than 20 years, it is *extremely* unusual (essentially unheard of) in my experience for a judge to deny an unopposed request for a short extension of time regarding a simple discovery matter, when good cause clearly exists for the request, when no prior extension requests had been made, and when the other party would not be prejudiced by the request. In fact, having litigated hundreds of matters in state and federal court over the course of my career, I cannot recall a single prior instance where a similar request was denied.

43. Of course, I am also well-aware that as a matter of law, adverse "[j]udicial rulings alone do not support a finding of bias or partiality without a showing of an extrajudicial source of bias or a deep-seated favoritism." *Stagecoach Trails MHC, L.L.C. v. City of Benson*, 232 Ariz. 562, 568 (App. Div. 2 2013) (citing *State v. Schackart*, 190 Ariz. 238, 257, 947 P.2d 315, 334 (1997)).

44. For that reason, I determined that although Judge Mata's unexplained and apparently baseless denial of my extension request raised concerns about possible bias, the adverse ruling, standing alone, could not support a finding of bias. As such, I took no action at that time.

45. Shortly thereafter, I discovered that in the Motion to Compel, Clayton's counsel, Mr. Woodnick, made multiple statements to the Court which appeared to be

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knowingly false. After I confronted Mr. Woodnick with these concerns, he refused to speak to me by telephone for several weeks. Given the fact I was newly retained and not familiar with the complicated history of this case, Mr. Woodnick's refusal to speak with me made it *much* more difficult to prepare this matter for trial.

46. For that reason, on April 8, 2024, I filed a motion entitled "Motion to Compel Lunch and For Alternative Relief". In that motion, I informed the Court that Mr. Woodnick was refusing to speak to me by phone, despite multiple rules of procedure and professional conduct which required counsel to meet and confer by phone. As a result, I asked the Court to order Mr. Woodnick to speak with me, in addition to other alternative relief.

47. To support that request, my motion cited an earlier ruling from Hon. Pendleton Gaines (deceased) in *Physicians Choice of Ariz., Inc. v. Miller,* Case No. cv2003–020242, in which Judge Penny Gaines granted a virtually identical request, noting, "The Court has rarely seen a motion with more merit. The motion [to compel lunch] will be granted."

48. Unfortunately, as she did with my request for an extension of time to respond to the Motion to Compel, on April 30, 2024 (filed May 1, 2024), Judge Mata issued a single-sentence minute entry order denying my Motion to Compel Lunch. The order denied my request without any analysis or explanation.

49. Later that same day (on April 30, 2024), I learned for the first time that Clayton's counsel intended to use previously undisclosed evidence and witnesses at trial. Due to the untimely and extremely late disclosure, within an hour of this discovery, I filed an *emergency* motion bringing the issue to the Court's attention, and I requested an immediate scheduling conference to discuss the issue further.

50. Despite the fact Rule 76.1 provides the Court "must" order a scheduling conference when requested, on May 22, 2024, Judge Mata issued a minute entry order denying my request for a scheduling conference, again without any explanation or analysis.

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51. Taken together, Judge Mata's single-sentence, zero-explanation denial of these three motions: 1.) the request for an extension of time to respond to the Motion to Compel; 2.) the request for an order requiring Mr. Woodnick to speak with me, and 3.) the request for a scheduling conference, caused me to have serious concerns regarding Judge Mata's possible bias and lack of neutrality. However, I continued to believe that despite the existence of what appeared to be apparent bias and hostility, Judge Mata's adverse rulings alone would not support a finding of bias sufficient to seek her disqualification because of the rule "[a] party challenging a trial judge's impartiality must overcome the presumption that trial judges are 'free of bias and prejudice[]' *Simon v. Maricopa Med. Ctr.*, 225 Ariz. 55, ¶ 29, 234 P.3d 623, 631 (App. 2010), and the corollary standard that adverse "rulings alone do not support a finding of bias or partiality without a showing of an extrajudicial source of bias or a deep-seated favoritism." *Stagecoach Trails*, 232 Ariz. at 568.

SUMMARY OF JUDICIAL MISCONDUCT & BIAS AT TRIAL

52. This matter proceeded to a bench trial before Judge Mata on June 10, 2024.

53. Prior to trial, I learned that Dave Neal and Megan Fox (among other JFC supporters) were planning to attend the trial in support of Clayton. It is my personal belief that courts are publicly-funded fora, trials and legal proceedings belong to the public, and should always remain open to the public. I further believe, as a matter of law, that members of the public have a near-absolute right to observe and report on events which take place in court, so I viewed the public interest in attending and observing the trial as a good thing.

54. However, when I arrived at court on the morning of trial, I was surprised to see dozens if not hundreds of people waiting to watch the trial. Before trial began, Judge Mata spoke to counsel in her chambers and informed us that she had created an "overflow room" for at least 50 observers to watch the trial, and the seating in the courtroom itself was packed with spectators. Judge Mata informed counsel that she had taken certain security precautions due to the large crowd of spectators.

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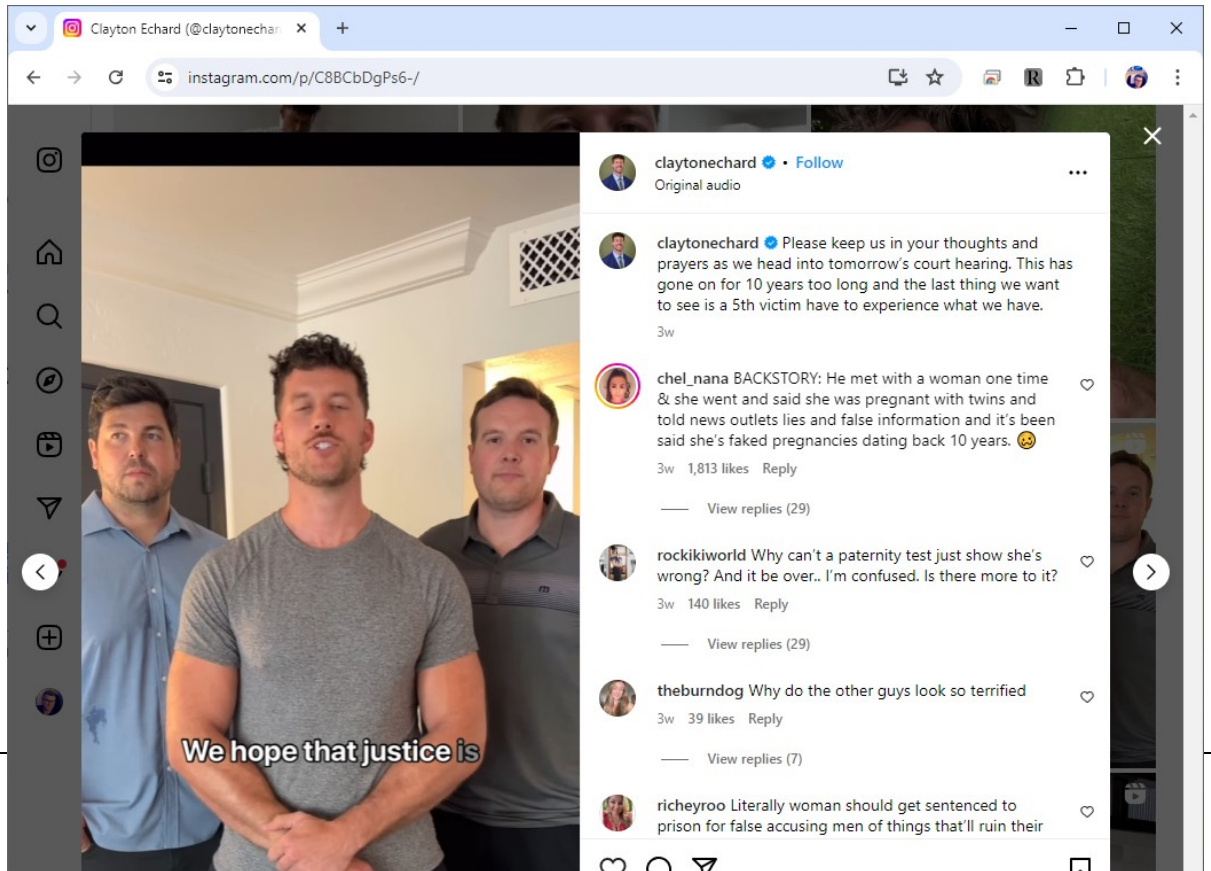
55. I found Judge Mata's comments about the crowd surprising, because prior to the morning of trial, there was nothing filed in this matter (aside from a small number of media requests for filming) that would suggest such a large crowd was likely to attend. Based on this, it appeared Judge Mata gained some personal knowledge regarding the likely crowd size that was not obtained from, nor shared with, the parties or counsel.

56. Shortly before trial began, I become aware that Mr. Woodnick intended to call a witness named Mike Marraccini. Mr. Marraccini is an ex-boyfriend of Laura's. The pair dated for approximately two years while living in San Francisco in 2016–2017.

57. During the relationship, Laura claimed Mr. Marraccini violently assaulted her, causing a traumatic brain injury that eventually resulted in Laura developing epilepsy. Based on this abuse, Laura sought and obtained a domestic violence restraining order from the San Francisco County Superior Court, a copy of which is attached hereto as **Exhibit A**. That order, later renewed, remains valid and in effect as of today.

58. On June 9, 2024, Clayton posted a video on his Instagram page standing next to Mr. Marraccini (he appears on the right as shown here). In this video (and elsewhere), Clayton suggested Mr. Marraccini intended to appear at the trial in this matter, despite the DRVO issued against him.



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59. On the morning of June 10, 2024, Laura informed me that she saw Mr. Marraccini it the courthouse with Clayton and Mr. Woodnick. Based on this, Laura told me she was too terrified to participate in the trial, and she told me she intended to leave unless the DVRO was enforced. Having no other available option, I immediately contacted court security and asked them to enforce the California court's order by removing Mr. Marraccini from the facility.

60. Superior Court Security officers informed me they did not believe they had authority to enforce the order, and they suggested the only option was to call 911 and ask Phoenix PD to enforce the order. Based on that suggestion, I called 911, explained the situation, and asked for officers to enforce the order.

61. After a few minutes, Phoenix Police responded. They reviewed the California court's order, and I explained to them that pursuant to federal law (the Violence Against Women Act, or "VAWA", 18 U.S.C. § 2265), they were required to enforce the California court's order as-written. I provided the officers with a copy of the specific provisions of VAWA which made interstate enforcement of the order *mandatory*, and I directed their attention to the specific language of the order, shown here, that required the order to be enforced in all 50 states.

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Certificate of Compliance With VAWA

This restraining (protective) order meets all "full faith and credit" requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

62. I also explained that by travelling from California to Arizona for the purpose of violating the order, Mr. Marraccini committed a federal crime pursuant to 18 U.S.C. § 2262, and that Laura desired his arrest and prosecution.

63. Despite this, Phoenix Police indicated they believed they had no choice but to defer to Judge Mata on this issue. As a result, immediately prior to the start of trial, I

asked Judge Mata on the record to enforce the California court's order by removing Mr. Marraccini from the courtroom.

64. As she had done with substantially every other request, Judge Mata denied my request without any explanation. As a result, Laura was forced to sit in court just feet away from Mr. Marraccini which caused her to nearly become overwhelmed by fear, panic, and anxiety.

65. At the conclusion of the trial, I informed Judge Mata, on the record, that I was leaving the country later that evening for a family vacation in Europe to celebrate my mother's 80th birthday. I left Arizona the evening of June 10th, and I remained in Europe until I returned home on June 28th. The majority of this time was spent on a cruise ship in the Mediterranean with my family, and during that time, my Internet access was extremely limited. The ship's WiFi connection was so slow that I was unable to view videos posted on any medium (including Twitter and YouTube) during the cruise.

66. While I was on vacation, Laura contacted me and told me about some extremely disturbing information being shared on social media by Dave Neal and Megan Fox. Specifically, Mr. Neal and Ms. Fox appeared in several live-streamed and other videos in which they claimed Judge Mata's father, Harry L. Howe, was present in the overflow room during the trial, and they claimed Mr. Howe spoke with several of Clayton's supporters during and after the trial, proclaiming, "I'm here for the shit show." Another individual claimed Judge Mata's father sat "with them" and expressed that he was "here for the circus".

67. Laura assembled excerpts of some of these videos which are available for viewing here: https://youtu.be/GKVWfxrG__o. A CD containing these videos is also lodged herewith.

68. As unusual as this may be, the mere fact Judge Mata's father attended the trial (if true) is not the primary concern. The concern is that according to comments from Dave Neal, Megan Fox, and others appearing on video with them, Mr. Howe stated Judge Mata discussed the facts of this case with him prior to trial. One such specific statement

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was made by a person named "Hava Derby" (who speaks between 0:00 and 0:40 in the above video compilation). In her remarks, Ms. Derby claims that she spoke with Judge Mata's father at, or immediately after, the trial. Ms. Derby stated that Mr. Howe was carrying papers with him (which, based on her comments, may have been Laura's Request for Findings of Fact and Conclusions of Law). Ms. Derby further claims Mr. Howe told her Judge Mata showed her father Laura's Request for Findings of Fact and Conclusions of Law, and she (Judge Mata) told him, "Julie told me just…..Dad, you have GOT to read this…and printed out a copy for him…"

69. In the course of making these remarks, Ms. Derby also made statements which appeared to imply that Judge Mata told her father that she intended to rule in favor of Clayton before the case was tried. The discussion of that point is brief and not entirely clear, but my belief is based on Ms. Derby's claim Mr. Howe "whipped out papers", that "Julie printed them for him", then she mentions Laura's Request for Findings of Fact and Conclusions of Law, finally asking "Did anyone see those were denied?" prior to trial.

70. What is also extremely disturbing is that in the video compilation, upon hearing remarks regarding Judge Mata and her father, Dave Neal laughingly commented (to paraphrase): "*Hold on...we don't need a mistrial*!" That specific comment from Mr. Neal appears between 0:40 and 1:00 in the above video compilation.

71. I understood those remarks from Dave Neal as a signal to the person speaking that they should *not* disclose further information regarding comments they claim to have received from Judge Mata's father, because her believed they would expose judicial misconduct and bias on Judge Mata's part, requiring a new trial if those facts were exposed.

72. Assuming Judge Mata did, in fact, share information about this case with her father, that conduct would appear to be a *per se* violation of Rule 2.9(A) of the Arizona Code of Judicial Conduct.

73. Despite these allegations, my personal view (based on the past several months) is that Clayton's followers are generally not honest or reliable, and I considered

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the possibility the claims made regarding Judge Mata's father may be fabricated, either in whole or in part.

74. Given how serious the issues were, I did not believe I could ethically make a formal accusation of judicial impropriety without taking some reasonable steps to verify the truth of what happened. *See*, *e.g.*, Arizona Rules of Professional Conduct, ER 8.2(a) (providing, "A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge ….") (emphasis added).

75. In an effort to ascertain the truth, while on vacation on the morning of June 17, 2024 (before I received the post-trial decision), I sent an email to Judge Mata's division in which I raised concerns regarding Judge Mata's father and the alleged statements made by Dave Neal and Megan Fox (at that time, I had not yet seen Ms. Derby's remarks). A true and correct copy of this email is attached hereto as **Exhibit B**.

76. In this email, while noting the highly unusual circumstances, I asked Judge Mata to promptly provide a response to the allegations regarding her father. I further explained that if these allegations were true, I believed they may support a change of judge for cause.

77. A few hours later, I received an email response from Judge Mata's division stating: "To the extent that either party wishes to bring a matter to the Court's attention, the Court respectfully asks that you file the appropriate motion." A true and correct copy of this email is attached hereto as **Exhibit C**. Other than this brief response, Judge Mata did not admit or deny the allegations concerning her father.

78. About 14 hours later, on the morning of June 18, 2024, I received the Court's post trial ruling on the merits, a copy of which is attached hereto as **Exhibit D**.

79. After reviewing the June 18, 2024 decision (which found in favor of Clayton as to virtually all issues), Laura and I immediately noticed something truly shocking – **the ruling contained "findings" that were NOT based on any evidence at trial**. Instead, **those findings were clearly copied from posts on social media**.

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80. Specifically, and to cite just one obvious example, on page 10 of the decision, Judge Mata made certain findings that were purportedly based on the trial testimony of Clayton's medical expert witness, Dr. Samantha Deans. Dr. Deans is an OB/GYN who previously worked for Planned Parenthood on the East Coast.

81. As shown below, Judge Mata made a specific factual finding that *according to the trial testimony of Dr. Deans*, "Planned Parenthood is not open on Sundays."

> **Samantha Deans, MD, MPH**
>
> - Dr. Samantha Deans, MD, MPH, reviewed Petitioner's records and provided her analysis of the hCG results. (Ex. B. 39, 41). Additionally, she was the prior Associate Medical Director of Planned Parenthood in Florida, and Pennsylvania.
> - She testified that Planned Parenthood does not accept anonymous patients. They do not accept patients using an alias. Patients are required to provide a government issued form of identification. She further testified that Planned Parenthood is not open on Sundays, when Petitioner testified, she sought care July 2, 2023.

82. Without belaboring the details of the entire history of that issue, the question of whether Planned Parenthood was (or was not) "open on Sundays" was relevant and extremely important. This is so because at trial, Laura testified she sought care from a Planned Parenthood location in Southern California on July 2, 2023. As it happens, July 2, 2023 was a Sunday. Therefore, if Planned Parenthood was not open on Sunday in July 2023, absent some other explanation, that would appear to disprove Laura's claim that she sought care there on that day.

83. But here's the problem – **Dr. Deans never testified about this issue at trial, or at any other time**. To prove that point, attached hereto as **Exhibit E** is a true and complete copy of the court report's official trial transcript. As the index reflects, the entirety of Dr. Deans' testimony covers a total of six (6) pages.

SAMANTHA DEANS

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84. As the transcript clearly shows, at no time during her brief testimony did Dr. Deans (or anyone else) ever address the question of whether Planned Parenthood was (or was not) "open on Sundays"; that question was never asked, nor was it answered.

85. If Dr. Deans did not testify that "Planned Parenthood is not open on Sundays", where did Judge Mata's finding on that issue come from? The answer is, once again, absolutely shocking – **Judge Mata copied that finding from posts on social media**.

86. As noted above, during the course of my involvement in this matter, I have published a small number of comments (approximately 15 posts) regarding this case on my personal website, GingrasLaw.com. This is a tiny, insignificant fraction of the commentary published by Clayton and his followers. As noted above, the JFC Twitter account has posted nearly 3,500 tweets about this case, and the number of other posts on social media is certainly in the tens or hundreds of thousands, if not millions.

87. As limited as my online involvement in this case has been, I believe Judge Mata conducted her own independent research into the facts of this case, and that this involved her reviewing comments posted on my website or other social media pages. That belief is based on the following facts.

88. First, throughout this case (and repeatedly at trial), Clayton's counsel Gregg Woodnick vociferously complained to Judge Mata about the fact that I was making public statements about this case via my website and Twitter, and Mr. Woodnick specifically provided copies of articles I wrote and posted on GingrasLaw.com about this case. I found Mr. Woodnick's complaints in this regard confusing, because the information and comments I posted about this case were not improper in any way, and because Clayton and his supporters (including Mr. Woodnick) had also posted public comments online about this case suggesting that Mr. Woodnick fully understood I had a right to inform the public of Laura's side of the story.

89. Based on what I know now, I believe that by pointing to comments on my website, Mr. Woodnick was not actually concerned about the contents of those posts.

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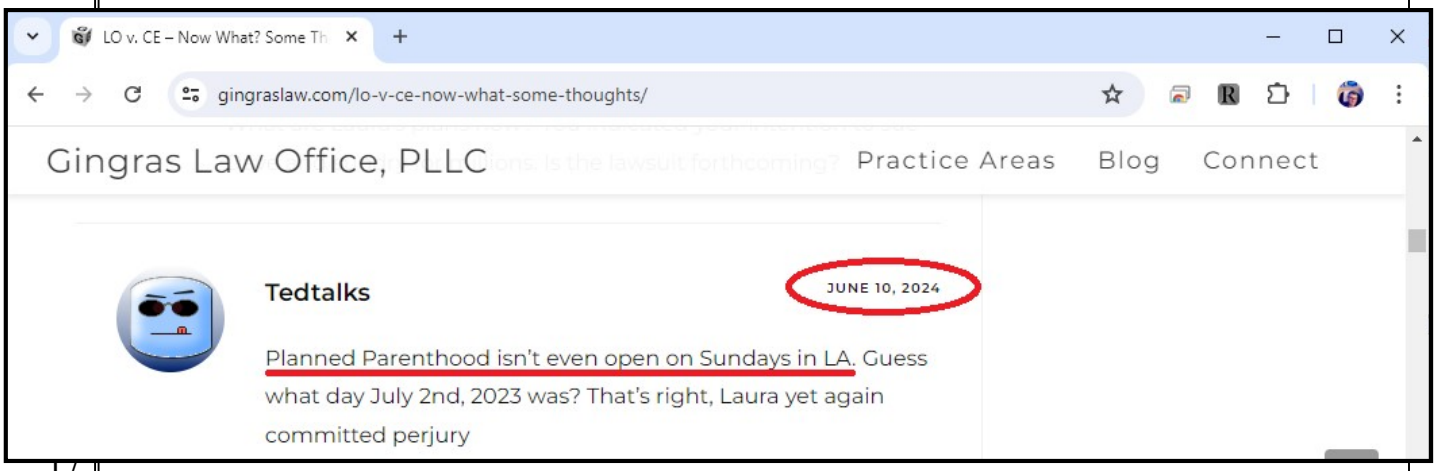
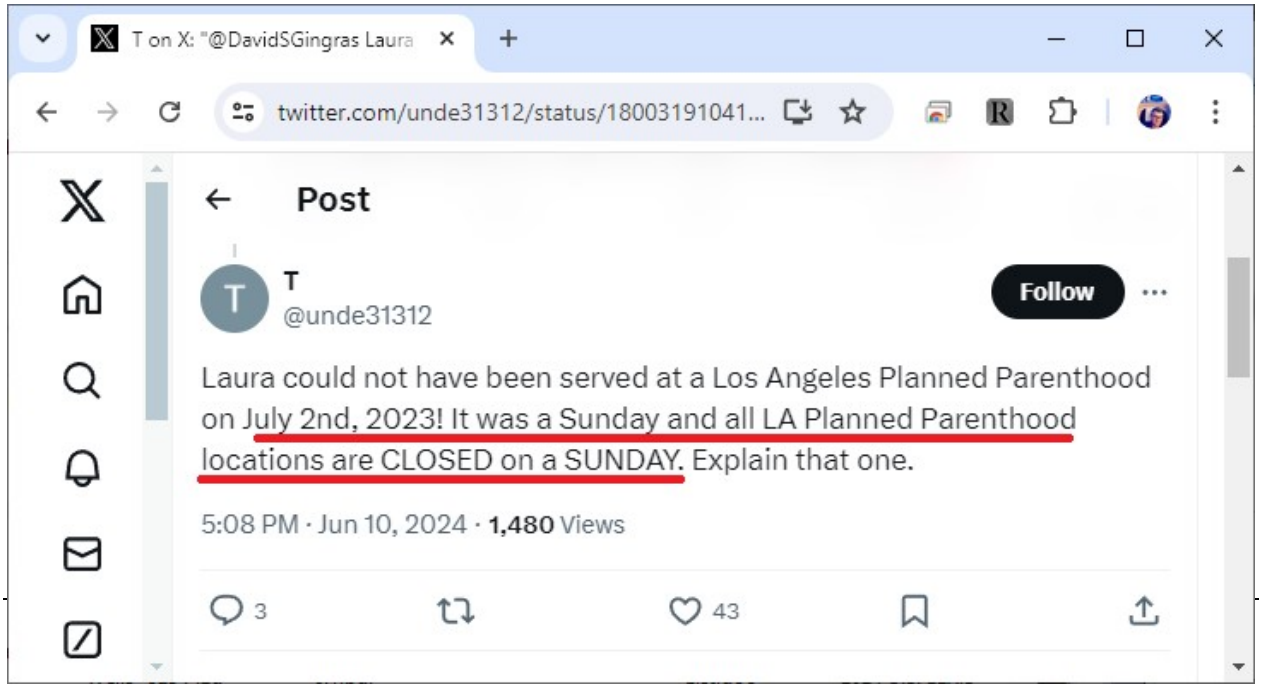
Instead, I believe he was suggesting or hinting to Judge Mata that she should go online and perform an *ex parte* review my site, and I believe that is exactly what she did.

90. That belief is based on the fact that immediately after Laura finished testifying at trial, literally later that same day, anonymous supporters of Clayton began posting comments on my website and also on social media, asserting Laura committed perjury when she claimed to have sought care from Planned Parenthood on July 2, 2023, because that day was a Sunday, and "Planned Parenthood isn't even open on Sundays …." This specific comment was posted by an anonymous user on my website on June 10, 2024, a week before Judge Mata issue her post-trial decision.



91. Similar comments were also posted by anonymous users on Twitter, one example of which is shown here: https://x.com/unde31312/status/1800319104189890581



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92. This evidence supports two conclusions. First, Judge Mata's finding that "Planned Parenthood is not open on Sundays" did not come from the trial testimony of Dr. Deans, nor did it come any other witness; indeed the word "Sunday" does not appear anywhere in the transcript. That much is beyond dispute.

93. Second, the evidence shows Judge Mata violated Rule 2.9(c) of the Arizona Code of Judicial Conduct by performing a secret, undisclosed investigation in the facts of this matter, which clearly would have resulted in her seeing comments from Clayton's supporters regarding their beliefs as to Planned Parenthood's hours of operations.

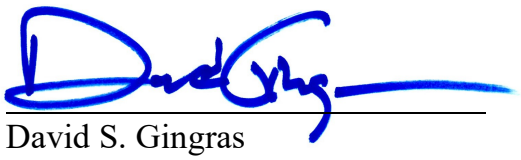
94. The fact that Judge Mata based her post-trial ruling on anything other than the admitted trial evidence demonstrates, beyond a preponderance of the evidence, that grounds exist to disqualify Judge Mata from this matter on the basis of bias and prejudice. The same is true of Judge Mata's decision to have *ex parte* discussions about this case with her father.

95. The legal arguments supporting those conclusions are set forth in a memorandum of law filed concurrently herewith pursuant to Family Law Rule 6.1(d)(2).

96. For the reasons stated above, I have grounds to believe and I do believe, that on account of bias, prejudice, or other interests the judge currently assigned to this matter, Hon. Julie A. Mata, is unable to act fairly and impartially, and she is unable to provide Petitioner Laura Owens with a fair trial, including a fair retrial which Ms. Owens is concurrently requesting.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United State of America and the State of Arizona that the foregoing is true and correct.

EXECUTED ON July 8, 2024.



David S. Gingras

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Exhibit G

Clerk of the Superior Court
*** Electronically Filed ***
08/14/2024 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2023-052114 08/13/2024

HONORABLE RONDA R. FISK

CLERK OF THE COURT
R. Stannard
Deputy

IN RE THE MATTER OF
LAURA OWENS

DAVID S GINGRAS

AND

CLAYTON ECHARD

GREGG R WOODNICK

DEANDRA ARENA
JUDGE FISK
JUDGE MATA

MINUTE ENTRY

This Court has considered Petitioner Laura Owens' ***Notice of Change of Judge for Cause: Memorandum & Affidavit of Support*** (hereafter, the "Rule 6.1 Motion") and the separate ***Affidavit of David S. Gingras In support of Petitioner's Notice of Change of Judge for Cause*** (hereafter, the "Affidavit") (both filed 07/08/2024) and Respondent Clayton Echard's ***Response to Notice of Change of Judge for Cause*** (filed 07/11/2024). Pursuant to Rule 6.1, Arizona Rules of Family Law Procedure (ARFLP), the Rule 6.1 Motion was referred to the Family Department Presiding Judge Ronda Fisk (this Court) for ruling.[1] For the reasons set forth herein, the Rule 6.1 Motion is denied.

[1] The Rule 6.1 Motion was filed after Judge Mata's 06/17/2024 Ruling (filed 06/18/2024) and days before Petitioner filed various post-trial motions. Judge Mata prematurely ruled on the post-trial motions; that ruling was withdrawn via an 07/19/2024 Minute Entry Ruling (filed 07/23/2024). Now that this Court has ruled on the Rule 6.1 motion for change of judge, Judge Mata may rule on the pending motions. *See, e.g.*, Rule 6.1(d)(5) ("If the court determines that the party who filed the affidavit is not entitled to a change of judge, the named judge may proceed with the action.")

Petitioner's Rule 6.1 Motion seeks to disqualify for cause the assigned Family Court Judge, Judge Julie Mata, "on the basis of bias and prejudice within the meaning of A.R.S. § 12-409(5) [sic]." *See* Rule 6.1 Motion at 2. Specifically, Petitioner alleges that Judge Mata purportedly did the following: (1) performed an independent investigation into the facts of the case and in so doing considered and relied upon information posted on the Internet about the case; and (2) engaged in *ex parte* communications regarding this case with her father, Harry L. Howe, who appeared at the trial as a spectator. *See* Rule 6.1 Motion at 1, 12.[2]

As a threshold matter, this Court apologizes to the parties for the delay in issuing this ruling. The Court had technical difficulties opening the compilation CD included with the Affidavit. When opened with Windows Media Player, the filed entitled produced an error message; "We can't open Judge Mata's dad compilation. It uses unsupported encoded settings." With technical assistance, the Court finally was able to open and review the compilation CD using VLC Media Player. After reviewing the CD, the Court prepared this ruling.

1. **Timeliness of the Rule 6.1 Motion**

Respondent contends that the Rule 6.1 Motion is time-barred under A.R.S. § 12-409(B)(5) on the basis that "it was filed after final trial and final judgment under Rule 78." *See* Response at 4. This Court finds that the analysis as to timeliness is more nuanced than Respondent suggests. A Rule 6.1 motion for change of judge for cause must be filed "within 20 days of discovering that grounds exist for a change of judge." Rule 6.1(c), ARFLP. This Court must at least consider the factual allegations to determine whether they are time barred.

The Rule 6.1 Motion and Affidavit allege as follows: Judge Mata held an evidentiary hearing on 06/10/2024 (hereafter, the "June 10 Hearing"). *See* Ex. E to Affidavit. Judge Mata's father, Harry Howe, attended the June 10 Hearing as a spectator and spoke to other people in attendance. *See* Affidavit ¶¶ 66-67. Individuals Dave Neal and Megan Fox, among others, live-streamed and posted on social media various interviews with people who spoke to Mr. Howe at the hearing. *See id*. and accompanying compilation CD. On or about 06/17/2024 at 10:10 AM, Petitioner's counsel emailed Judge Mata's division and Respondent's counsel that the statements

[2] The Rule 6.1 Motion alleges that these two actions "separately violated Rules 2.9(A) [initiating, permitting, or considering ex parte communications outside the presence of the parties or their lawyers] and 2.9(C) ["a judge shall not investigate facts in a matter independently"] of the Arizona Rules of Judicial Conduct. It is not for this Court to determine whether Judge Mata has violated the Arizona Rules of Judicial Conduct. Moreover, the Rule 6.1 Motion makes vague allegations of violations of Petitioner's right to due process of law under both the United States and Arizona Constitutions. See Rule 6.1 Motion at 1, 11. Again, it is not within this Court's purview to determine whether Judge Mata made errors in her findings of fact and/or conclusions of law that violated due process and/or warrant a new trial.

made on social media had "just come to [his] attention" and warranted a change of judge for cause. *See* Ex. A to Affidavit. At 11:58 AM, Judge Mata's division sent a response email instructing counsel to file an appropriate motion to bring any issue to the court's attention. *See* Ex. B to Affidavit.

On 06/18/2024 at 8:00 AM, Judge Mata's 06/17/2024 Under Advisement Ruling was filed (hereafter, the "June 17 Ruling"). *See* Ex. C. to Affidavit. The June 17 Ruling contained detailed findings of fact, including the following finding: "[Dr. Samantha Deans] further testified that Planned Parenthood is not open on Sundays, when Petitioner testified, she sought care July 2, 2023." *Id*. at 10. The trial transcript from the June 10 Hearing reflects that Dr. Deans did not testify that "Planned Parenthood is not open on Sundays." *See* Ex. E to Affidavit.

Based on the foregoing, the Court finds that the Rule 6.1 Motion—filed 07/08/2024—was timely filed. In making this finding, the Court acknowledges that "within 20 days" of 06/17/2024 is Sunday, 07/07/2024. Given the circumstances of this case (including the fact that Petitioner's counsel was on a previously disclosed vacation from 06/10-28/2024), the Court finds that the filing of the motion on the next business day, *i.e*., Monday, 07/08/2024, was timely.

The Affidavit also details various facts and rulings that Petitioner's counsel alleges constitute a "summary of pre-trial judicial bias," *see* Affidavit at 9-12, ¶¶ 37-51 and a "summary of judicial misconduct & bias at trial," *id*. at 12-15, ¶¶ 52-64; *see also* Rule 6.1 Motion at 13 (alleging Judge Mata "manifested clear prejudice and/or bias early in the proceedings, in the form of multiple, unexplained adverse rulings"). The Court finds that these events that Petitioner contends constitute "misconduct" and "bias" occurred and were known to the Petitioner more than 20 days before she filed her Rule 6.1 Motion. The Court will limit its evaluation of the Rule 6.1 Motion solely to the two allegations identified in the second paragraph of this ruling.

2. **Request for Hearing.**

Petitioner has requested that this Court hold a hearing and order subpoenas *ad testificandum* for Judge Mata and Harry Howe. A presiding judge reviewing a Rule 6.1 motion for a change of judge as a matter of right has discretion as to whether to hold an evidentiary hearing. *See* Rule 6.1(d)(2) ("The presiding judge may hold a hearing to determine the issues raised in the affidavit or may decide the issues based on any affidavits and memoranda filed by the parties.") This Court denies Petitioner's request and will decide the Rule 6.1 Motion on the Affidavit and memoranda filed by the parties, as well as those items on the docket of which this Court takes judicial notice.

3. **Analysis of Cause for Change of Judge**

A party seeking a change of judge for cause must establish grounds by affidavit. Rule 6.1(a), ARLFP. One of the grounds which may be alleged for change of judge is "that the party filing the affidavit has cause to believe and does believe that on account of the bias, prejudice, or interest of the judge he cannot obtain a fair and impartial trial." A.R.S. §12-409(B)(5). "The sufficiency of any 'cause to believe' must be determined by an objective standard, not by reference to the affiant's subjective belief." Rule 6.1(d)(5), ARFLP.

Case law instructs that "[i]n Arizona, '[a] party challenging a trial judge's impartiality must overcome the presumption that trial judges are 'free of bias and prejudice.'" *Stagecoach Trails MHC, L.L.C. v. City of Benson*, 232 Ariz. 562, 568, ¶ 21 (App. 2013) (quoting *Simon v. Maricopa Med. Ctr.*, 225 Ariz. 55, 63 ¶ 29 (App. 2010)). "Judicial rulings alone do not support a finding of bias or partiality without a showing of an extrajudicial source of bias or a deep-seated favoritism… A change of judge for cause is not warranted if based merely on speculation, suspicion, apprehension, or imagination." *Id*. (internal punctuation and citations omitted). Instead, the party seeking to notice the judge for cause "must prove bias or prejudice by a preponderance of the evidence.'" *In re Aubuchon*, 233 Ariz. 62, 66 ¶ 14 (2013) (quoting *State v. Carver*, 160 Ariz. 167, 172 (1989)); *see also* Rule 6.1(d)(4), ARFLP ("[t]he presiding judge must decide the issues by the preponderance of the evidence").

The Court will separately consider Petitioner's two claims of bias and/or prejudice.

a. Allegation of Independent Investigation by Judge Mata.

Petitioner correctly points out that Judge Mata's July 17 Ruling contains a factual error, *i.e*., the transcript from the June 10 Hearing shows that Dr. Samantha Deans did not testify "that Planned Parenthood is not open on Sundays." *See* Ex. E to Affidavit. "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *State v. Ellison*, 213 Ariz. 116, 128, ¶ 40 (2006) (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)). This factual error can be corrected through a post-trial motion or appellate proceeding; it does not, standing alone, indicate bias. *See, Stagecoach Trails MHC, L.L.C. v. City of Benson*, 232 Ariz. at 568, ¶ 22.

To demonstrate bias, Petitioner asks this Court (Rule 6.1 Motion at 7) to infer that Judge Mata's erroneous finding constitutes "irrefutable evidence" that she performed "a secret, undisclosed investigation in the facts of this matter," Affidavit ¶ 93, and "copied that finding from posts on social media." *Id*. ¶ 85. In support of this position, the Affidavit includes snips of a 06/10/2024 comment on Petitioner's counsel's website ("Planned Parenthood isn't even open on Sundays in LA") and comment posted by an anonymous Twitter user on 06/10/2024 at 5:08 PM ("It was a Sunday and all LA Planned Parenthood locations are CLOSED on a SUNDAY"). *Id*. ¶¶ 90-92.

The Court finds Petitioner relies on mere speculation and suspicion when alleging that Judge Mata engaged in a "secret, undisclosed investigation" and therefore is biased. The record evidence reflects conflicting testimony about the day, date, and location that Petitioner obtained an ultrasound—admitted as Ex. B28—which Petitioner admitted to altering. Petitioner testified that when she was in California on a "weekend" she had an ultrasound done under a "fake name" at a Planned Parenthood. *See* Ex. E 17:20-19:8. Before trial, Petitioner had provided a declaration stating that the ultrasound occurred on 07/02/2023; at trial, she changed her testimony to say it was an unspecified weekend in late June 2023. *Id*. Petitioner further testified that she had altered the ultrasound to reflect the incorrect date of 07/07/2023 and the incorrect provider (SMIL instead of Planned Parenthood). *See id*. 55:19-58:21.

Dr. Deans testified that she had reviewed the altered ultrasound and available medical records to prepare a report (admitted as Ex. B41). Dr. Deans expressed concern about the legitimacy of Petitioner's medical records. *See id*. 112:5-114:23. Dr. Deans confirmed that Planned Parenthood's national guidelines "require identification at the time of a visit to confirm the identify of a patient. The patient can't be seen anonymously." *See id*. 112:20-113:6. Dr. Deans testimony did not address which days of the week the Planned Parenthood offices were open.

Based on the foregoing, the Court finds that when "determined by an objective standard, not by reference to the affiant's subjective belief," Rule 6.1(d)(5), ARFLP, Petitioner has failed to show by a preponderance of the evidence that Judge Mata's finding that "Planned Parenthood is not open on Sundays" reflects bias or prejudice against Petitioner. Moreover—although not dispositive of the issue—the Court further finds that this singular factual finding is of little to no importance given the rest of the findings in the July 17 Ruling.

b. Allegation of Improper *Ex Parte* Communication with Harry Howe

Petitioner alleges that "Judge Mata's father, Harry L. Howe, was present in the overflow room during the trial" and "spoke with several of [Respondent's] supporters during and after the trial." *See* Affidavit ¶ 66. Petitioner's counsel admits that "the mere fact Judge Mata's father attended the trial (if true) is not the primary concern." *See id*. ¶ 68. For purposes of deciding the Rule 6.1 Motion, this Court accepts these allegations as true and finds that if they occurred, was not improper for Judge Mata's father to attend a public trial as a spectator and speak to other courtroom observers.

Petitioner asks this Court to infer that various statements made by courtroom observers about Mr. Howe confirm that Judge Mata was biased or prejudiced against Petitioner. Petitioner's counsel acknowledges that his "personal view (based on the past several months) is that Clayton's followers are generally not honest or reliable." *See id*. ¶ 73. Nevertheless, Petitioner's counsel asks this Court to find that an edited compilation of these individuals' comments about Judge Mata's father are "clear extra-judicial evidence" showing that Judge Mata had "a hostile feeling or spirit

of ill-will, or undue friendship or favoritism towards one of the litigants [*i.e.*, Respondent]." Rule 6.1 Motion at 13-14.

Applying an "objective standard, not by reference to the affiant's subjective belief," Rule 6.1(d)(5), ARFLP, the Court carefully reviewed the compilation CD and considered in context each of the comments identified in Petitioner's counsel's Affidavit. Given the seriousness of the allegations, the Court has made best efforts to provide both the context and verbatim language of the various statements, though admittedly the audio of the compilation CD is very difficult to understand at times.

1. Statements by Hava Darby.

Petitioner alleges that "Ms. Derby [who speaks between 0:00 and 0:40 in the compilation CD] also made statements which appear to imply that Judge Mata told her father that she intended to rule in favor of Clayton before the case was tried." Affidavit at ¶ 69.

The first video clip on the compilation CD depicts a virtual meeting among nine participants with screen names, including one woman with the screen name "Hava Derby." Ms. Derby holds up her phone and makes the following statement:

> I ran into Judge Mata's dad in the parking lot afterwards and I asked him like "Well, what did you think?" He was like "I gotta show you something…." [Female voice: What?] So he whips out these papers in his hand… and did anybody… I haven't been online really today… but did anybody… I saw kind of briefly that it was denied… this request for findings of fact and conclusions of law proposed findings? [Male voice: That wasn't denied.] That was not denied? OK, so anyway, did anybody get a copy of this? He was saying, "Julie told me... This is just… you… dad, you gotta read this," and printed out a copy [unintelligible].

For purposes of deciding the Rule 6.1 Motion, this Court accepts that the scenario recounted by Ms. Derby might have occurred, though Ms. Derby appears not to be clear as to exactly what she is talking about. This Court finds that the fact that a trial judge might have told a family member that she was presiding over a case and might have provided a copy of a publicly available filing—*e.g.*, the Request for Findings of Fact & Conclusions of Law and Proposed Findings (filed 06/03/2024)—neither proves by a preponderance of the evidence that the judge was biased or prejudiced, nor proves that she told her family member how she intended to rule before the case was tried.

2. Statements of Dave Neal and Individuals Speaking With Him.

Petitioner's counsel's Affidavit further alleges that an individual named Dave Neal made remarks "to signal to the person speaking that they should not disclose further information regarding the comments they claim to have received from Judge Mata's father, because her [sic] believed they would expose judicial misconduct and bias on Judge Mata's part, requiring a new trial if those facts were exposed." Affidavit ¶ 71.

The second video clip on the compilation CD depicts a group of people standing under an awning. The bottom left corner of the screen says "Dave Neal – Rush Hour Podcast." In the foreground there are two men talking, one in a red shirt and the other in a hat (identified in the Affidavit as Dave Neal). While the two men are talking, a woman in a hat approaches and joins their conversation. A woman on left in a black shirt chimes in, and a second woman on the right in a black shirt follows up:

Male in Red Shirt: Judge Mata's dad was in the court with us…

Dave Neal (Male in Hat): Judge Mata's dad. No way…

Male in Red Shirt: It's in the… in the court with… in the side room where we were. Judge Mata's Dad was sitting there.

Dave Neal: She did fantastic.

Woman in Hat (0:51) [interjecting]: I said "Harry, that's really nice you wanna be here to support your daughter." He said "Oh, no, no. I've been hearing about this. I'm here for the circus." [Group laughs as woman in hat walks away.]

Dave Neal (0:59) [chuckling]: Hold on. We don't need a mistrial. [Additional group laughter.]

Male in Red Shirt: We could get him some scones…

Dave Neal: Yes, scones…

[10 seconds of video deleted per podcast timestamp].

Woman on Left: I was [inaudible] waiting to get in.

Dave Neal: We just heard…

Woman on Left: "You don't look like the [inaudible] demographic. How did you hear about this case?" [inaudible] "My daughter."

Dave Neal: There you go. Hey, hey, that's uh…

Woman on Left: And he was reading case files…[inaudible]

Dave Neal: I'm sure… he was… I mean, he was probably a judge… I feel like it runs in the family.

Woman on Right: [inaudible] He did not tell me any information about her thoughts. [Female voice: "Yes, Judge Mata's dad…"] and I was sitting right next to him.

Dave Neal: Oh, I'm sure, yeah…

Again, for purposes of deciding the Rule 6.1 Motion, this Court accepts that certain facts recounted by these courtroom observers might have occurred, *i.e.*, Mr. Howe might have informed an observer before the hearing that he heard about the case from Judge Mata; Mr. Howe might have told an observer he considered the hearing and additional goings-on to be a "circus"; and Mr. Howe might have been reviewing paperwork related to the case. When viewed by an objective standard, Mr. Howe's alleged statements and actions do not prove by a preponderance of the evidence that ***Judge Mata*** was biased or prejudiced, or that she told her family member how she intended to rule before the case was tried.

This Court also finds that certain statements made by the courtroom observers reflected nothing more than mere conjecture, like Mr. Neal's statement that Mr. Howe "was probably a judge… I feel like it runs in the family." The Court further finds that the video reflects that Mr. Neal's remark "we don't need a mistrial" after the speaker started walking away was made in jest, as evidenced by his and the onlookers' laughter and his agreement with another bystander that they should "get him a scone."

The Court concurs with Petitioner's counsel's subjective belief that Respondent's supporters gleefully celebrated Judge Mata's father's attendance at the hearing, *see* Rule 6.1 Motion at 12, and that the supporters' actions—and perhaps even Mr. Howe's alleged actions—can be perceived to have "made a mockery of these proceedings." *Id.* This Court declines, however, to impute bias or prejudice to Judge Mata based on statements made by Respondent's supporters (whom Petitioner's counsel characterizes as "generally not honest

or reliable," Affidavit ¶ 73) about Judge Mata's father, or even statements made by Judge Mata's father himself.

IT IS ORDERED DENYING Petitioner's motion for change of judge for cause.

IT IS FURTHER ORDERED DENYING Respondent's request for leave to file a supplemental affidavit of attorney fees and costs.

IT IS FURTHER ORDERED DENYING Respondent's request for this Court to enter further orders pursuant to Rule 8.2(a) of the Arizona Rules of Professional Conduct.

IT IS FURTHER ORDERED returning this matter to Judge Mata to rule on all pending post-trial motions.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: https://superiorcourt.maricopa.gov/llrc/fc_gn9/

Exhibit H

17B A.R.S. Rules Fam.Law Proc., Rule 26
Formerly cited as AZ ST RFLP Rule 31

Rule 26. Signing Pleadings, Motions, and Other Documents; Representations to the Court; Sanctions

Currentness

(a) Signature.

(1) *Generally.* Every pleading, written motion, and other document filed with the court or served must be signed by at least one attorney of record in the attorney's name, or by a party personally if the party is self-represented. The court must strike an unsigned document unless the omission is promptly corrected after being called to the filer's attention.

(2) *Electronic Filings.* ACJA § 1-901 governs how a person may sign a document filed through that person's electronic filing service provider account. "Electronic filing service provider" has the same meaning as provided in ACJA § 1-901.

(3) *Signing for Another Party.* A person filing a document containing more than one place for a signature, such as a stipulation, may sign on behalf of another party only if the person has actual authority to do so. The person may indicate such authority either by attaching a document confirming that authority and containing the signatures of the other persons who have authority to consent for such parties, or, after obtaining a party's consent, by inserting "/s/ [the other party's or person's name] with permission" as any non-filing party's signature.

(b) Representations to the Court. By signing a pleading, motion, or other document, the attorney or party certifies that to the best of the person's knowledge, information, and belief formed after reasonable inquiry:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(c) Sanctions.

(1) *Generally.* If a pleading, motion, or other document is signed in violation of this rule, the court--on motion or on its own--may impose on the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the document, including a reasonable attorney fee.

(2) *Consultation.* Before filing a motion for sanctions under this rule, the moving party must:

(A) attempt to resolve the matter by good faith consultation as provided in Rule 9(c); and

(B) if the matter is not satisfactorily resolved by consultation, provide the opposing party with written notice of the specific conduct that allegedly violates section (b). If the opposing party does not withdraw or appropriately correct the alleged violation(s) within 10 days after the written notice is served, the moving party may file a motion under subpart (c)(3).

(3) *Motion for Sanctions.* A motion for sanctions under this rule must:

(A) be made separately from any other motion;

(B) describe the specific conduct that allegedly violates section (b);

(C) be accompanied by a Rule 9(c) good faith consultation certificate; and

(D) attach a copy of the written notice provided to the opposing party under subpart (c)(2)(B).

Credits

Added Aug. 30, 2018, effective Jan. 1, 2019. Amended Aug. 24, 2023, effective Jan. 1, 2024; amended on an emergency basis, effective Aug. 22, 2024, permanently adopted effective Dec. 3, 2024.

17B A. R. S. Rules Fam. Law Proc., Rule 26, AZ ST RFLP Rule 26
State Court Rules are current with amendments received through April 15, 2025. The Code of Judicial Administration is current with amendments received through April 15, 2025.

End of Document

Exhibit I

Rule 31. Signing of Pleadings

A. Signing of Pleadings, Motions and Other Papers; Sanctions. Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleading, motion, or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee.

B. Verification of Pleading Generally. When in a family law action a pleading is required to be verified by the affidavit of the party, or when in a family law action an affidavit is required or permitted to be filed, the pleading may be verified, or the affidavit made, by the party or a person acquainted with the facts.

COMMITTEE COMMENT

This rule is based on Rule 11, *Arizona Rules of Civil Procedure*.