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7 Kari@RamosLaw.com

8 Attorney for the Plaintiff

9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

10 IN AND FOR THE COUNTY OF MARICOPA

11
12 **LAURA OWENS,**

13 Plaintiff,

14 vs.

15 **GREGORY GILLESPIE,**

16 Defendant.

Case No.: CV2021-052893

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO
DISMISS**

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21 Plaintiff, Laura Owens, by and through her counsel, RAMOS LAW, submits the
22 following response to Defendants' *Arizona Rules of Civil Procedure*, Rule 12(b)(6) Motion to
23 Dismiss:

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25 **INTRODUCTION**

26 Defendant Gillespie, a former dating partner of Plaintiff, used multiple tactics to coerce
27 Plaintiff into terminating an unintended pregnancy between the two parties. Formerly Pro Se,
28 Plaintiff Owens brought this action alleging abortion coercion, intentional infliction of

1 emotional distress and domestic violence (later dismissed by stipulation) as a result. Here,
2 Defendant Gillespie filed a Motion to Dismiss arguing the following:

- 3 1) Plaintiff is not pregnant and thus all claims against Defendant Gillespie must fail;
- 4 2) Fraudulent emails and text messages containing information by unrelated attorneys,
5 Alison E. Cordova and Joe Cotchett of Cotchett, Pitre and McCarthy, LLP and
6 sonographic images allegedly sent by Plaintiff prove Plaintiff's complaint was
7 intended to force Defendant Gillespie into a relationship with her;
- 8 3) Plaintiff Owens has refused to take a non-invasive prenatal paternity test, including a
9 test defense counsel purportedly scheduled for her on August 27, 2021; and that
10 4) This action should be an establishment action pursuant to A.R.S. § 25-806;

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14 Defendant Gillespie then threatened to file immediate counterclaims against Plaintiff if
15 this complaint is not dismissed, to include fraud (A.R.S. § 12-543(3)), intentional infliction of
16 emotional distress (A.R.S. § 12-542(1)), a request for attorney's fees and costs (A.R.S. § 12-
17 341, 12-349 and ARCP Rule 11), and wrongful prosecution of a civil action should he prevail.

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20 However, Defendant's motion should be dismissed because Plaintiff's complaint lays out
21 sufficient facts regarding her claims, and this case is wrought with disputed issues of material
22 fact. Defendant's motion denies relief cannot be granted using arguments regarding pregnancy
23 and paternity, which are not relevant to Plaintiff's Complaint. Plaintiff would also request that
24 where claims are not sufficiently well-plead, Plaintiff should be permitted to amend the
25 Complaint. *Sun World Corp. v. Pennysaver, Inc.*, 130 Ariz. 585, 589, 637 P.2d 1088, 1092
26 (App.1981) (citing *In re Cassidy's Estate*, 77 Ariz. 288, 270 P.2d 1079 (1954)). *Acker v. CSO*
27 *Chevira*, 188 Ariz. 252, 255, 934 P.2d 816, 819 (App. 1997).
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STANDARD OF REVIEW

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3 A court should not grant a 12(b)(6) motion unless it appears certain that the plaintiff
4 would not be entitled to relief under any state of facts susceptible of proof under the claim stated.
5 *Folk v. City of Phoenix*, 27 Ariz.App. 146, 151, 551 P.2d 595, 600 (1976). In reviewing a
6 motion to dismiss, the court must accept all material facts alleged by the non-moving party as
7 true. *Lakin Cattle Co. v. Engelthaler*, 101 Ariz. 282, 284, 419 P.2d 66, 68 (1966). Before a Rule
8 12(b)(6) motion to dismiss is granted, the non-moving party should be given an opportunity to
9 amend the complaint if such an amendment will cure its defects. *Sun World Corp. v. Pennysaver,*
10 *Inc.*, 130 Ariz. 585, 589, 637 P.2d 1088, 1092 (App.1981) (citing *In re Cassidy's Estate*, 77 Ariz.
11 288, 270 P.2d 1079 (1954)). *Acker v. CSO Chevira*, 188 Ariz. 252, 255, 934 P.2d 816, 819 (App.
12 1997). Motions to dismiss for failure to state claim are not favored and should not be granted
13 unless it appears certain that plaintiff would not be entitled to relief under any state of facts
14 susceptible of proof under claim stated. *State ex rel. Corbin v. Pickrell* (1983) 136 Ariz. 589,
15 667 P.2d 1304; *Williams v. Williams* (1975) 23 Ariz.App. 191, 531 P.2d 924.

ARGUMENT

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20 This action is not and has never been a case about pregnancy or paternity. In fact, the
21 action is overtly to the contrary as one of the primary issues at hand is the coerced abortion, a
22 termination of the former pregnancy. The lack of pregnancy is also why Plaintiff has not
23 submitted herself to a prenatal paternity test. There was not a pregnancy on the date defense
24 counsel states they scheduled Plaintiff for such testing on August 27, 2021. Further, the clinic
25 provided in writing there was no appointment, pending or missed, and Plaintiff reports they
26 verified by phone they had not been contacted by Defendant or his counsel. See attached,
27 EXHIBIT 1. In any case, it simply would not make sense to present for a pregnancy test
28

1 multiple weeks, and now months, after a terminated pregnancy. Further, Defendant Gillespie
2 had knowledge there was not a pregnancy at the time he allegedly scheduled Plaintiff for a
3 prenatal paternity test, and subsequently when he filed his motion to dismiss because Plaintiff
4 consumed the abortion medication in two parts while he watched: first, the Mifepristone on
5 August 4, 2021, while Defendant watched her on video via FaceTime at his insistence and,
6 second, the Misoprostol on August 5, 2021 while in Defendant Gillespie's presence in his
7 home at [REDACTED] in Phoenix, Arizona.
8

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10 Next, Defendant Gillespie's claim that this should be paternity/maternity proceeding
11 commenced by filing a verified petition under A.R.S. § 25-806 is inaccurate as there is not a
12 child out of wedlock for which to establish maternity/paternity, further establishing the claims
13 Plaintiff made in her initial complaint.
14

15 Lastly, Plaintiff denies sending the emails and text messages containing information by
16 unrelated attorneys, Alison E. Cordova and Joe Cotchett of Cotchett, Pitre and McCarthy,
17 LLP and doctored sonographic images belonging to an individual unknown to Plaintiff
18 Owens. Rather, Plaintiff has reason to believe Defendant Gillespie accessed her computer
19 files and various online accounts after she filed her Complaint. In fact, Plaintiff detailed many
20 of these occurrences in her petition for a restraining order against Defendant Gillespie that
21 was granted on November 12, 2021. See attached, EXHIBIT 2. Regarding the documents
22 submitted by the Defendant, Plaintiff believes Defendant gained access to her computer and
23 edited an old fee agreement from attorney Joe Cotchett in an unrelated car crash he
24 represented her for in California in 2019. All filings with the Court have been consistent with
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1 her previous status as a Pro Se litigant. She has never hired anyone from Joe Cotchett of
2 Cotchett, Pitre and McCarthy, LLP, a California law firm for this matter.

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4 Additionally, Plaintiff believes Defendant Gillespie edited and generated the emails and
5 text messages from her account as he had demanded her passwords prior to the termination of
6 the pregnancy. In fact, Plaintiff asserts she had not used the iCloud account,
7 [REDACTED], in years but that Defendant Gillespie had access to the login for
8 that account. From that account, Plaintiff believes Defendant Gillespie sent a doctored
9 sonogram image to himself with a fake message that attempts to show Plaintiff telling him she
10 is pregnant with twins in order to create more doubt about her and attempt to make her appear
11 unsound in the eyes of their peers, defense counsel and the court. Plaintiff had never seen the
12 original sonogram image, the blog it was posted to or the edited version wherein her name
13 was placed onto the image before it was produced in this case. Plaintiff never believed she
14 was pregnant with twins and argues she was not pregnant long enough for an ultrasound to be
15 offered to her.

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19 A portion of Plaintiff's case rests on the fact that Defendant Gillespie continued to
20 pressure her to have the abortion before the five-week time period wherein Plaintiff was under
21 the belief Arizona law would require her to view an ultrasound of the fetus before being
22 allowed to make an informed decision to either proceed with the pregnancy or opt for an
23 abortion.

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26 Defendant has attempted to paint a picture of Plaintiff misusing the court and filing a
27 complaint intended to force Defendant Gillespie into a relationship with her. He has used a
28 statement Plaintiff sent in an email telling the Defendant to call her if he chose to rethink his

1 decisions. Plaintiff continues to argue that she was attempting to demonstrate Defendant
2 Gillespie's intention was never to be with her as he had claimed. Instead, his deceit was only
3
4 to pressure her into aborting the pregnancy at any cost, despite knowing that she was not
5 ready to make such an important decision. Defendant's decision to immediately end the
6 relationship upon Plaintiff completing the abortion that he coerced her to have, and refusing to
7 speak with her thereafter reveals his intent. Plaintiff's way of showing Gillespie had
8 knowingly misled her into having an abortion without ever intending to continue a
9 relationship, even after the suit was initiated, was communicated to counsel and relates back
10 to the coercion and intention infliction of emotional distress to be argued in this case.
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13 Defendant Gillespie's attempts to mislead the court with the above pregnancy and
14 paternity arguments and then submit accusations of fraudulent emails, text messages,
15 sonogram images and an unrelated fee agreement that Plaintiff insists she has never created,
16 edited nor shared with Defendant, only furthers her previous declarations to the court that she
17 has been subjected to incredible forms of mistreatment since filing her complaint.
18

19
20 Not even under a summary judgment standard would it be appropriate for the Court to grant
21 Defendants' motion, much less under *Arizona Rules of Civil Procedure* 12(b)(5). Since there are
22 a multitude of disputed issues of material fact as to whether Defendant intentionally inflicted
23 emotional distress, coerced Plaintiff into an abortion and, should the court grant Plaintiff leave to
24 amend the Complaint, Plaintiff must be permitted to proceed.
25

26 The practical effect of what Defendant is attempting to do here is apparent. If the claims are
27 dismissed, Plaintiff would be left without any remedy despite having no opportunity to resolve
28

1 the disputed issues of material fact. Plaintiff respectfully requests this Court deny the
2 Defendant's Motion.

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4 In the alternative, should the Court find the Complaint deficient, before a Rule 12(b)(6)
5 motion to dismiss is granted, Plaintiff requests the opportunity, as the non-moving party, to
6 amend the complaint if such an amendment will cure its defects. *Sun World Corp. v.*
7 *Pennysaver, Inc.*, 130 Ariz. 585, 589, 637 P.2d 1088, 1092 (App.1981) (citing *In re Cassidy's*
8 *Estate*, 77 Ariz. 288, 270 P.2d 1079 (1954)). *Acker v. CSO Chevira*, 188 Ariz. 252, 255, 934
9 P.2d 816, 819 (App. 1997). Please note, Plaintiff does intend to Motion this court for Leave
10 to Amend Her Complaint should the Court deny Defendant's Motion to Dismiss but sought to
11 give courtesy to opposing counsel and the Court to first allow a decision on the Motion to
12 Dismiss given the status of the case before Plaintiff's counsel entered her appearance.

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17 DATED this 8th day of April 2022.

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21 /s/ Kari A. Ramos
22 Kari A. Ramos

23 **ORIGINAL** of foregoing e-mailed
24 this 8th day of April, 2022, to:
25 Gregg R. Woodnick
26 Kaci Y. Bowman
27 Woodnick Law, PLLC
28 1747 E. Morten Avenue, Suite 205
Phoenix, AZ 85020
Office@WoodnickLaw.com
Attorneys for Defendant

By: /s/ Gail L. May

EXHIBIT 1

CLERK OF THE SUPERIOR COURT

FILED
 11/12/2021 @ 8:35am
 [Signature] Deputy

Superior Court of Arizona/AZ007035J/0700 201 W. Jefferson Phoenix, AZ 85003

Plaintiff Laura Owens	<input type="checkbox"/> Employer-Plaintiff if Workplace Injunction	Defendant Gregory Gillespie	Case No. FN2021-004799
<input type="checkbox"/> On behalf of minor/person in need of protection named:		Defendant's address [Redacted] Phoenix, AZ 85028	PETITION for: <input checked="" type="checkbox"/> Order of Protection <input type="checkbox"/> Injunction Against Harassment <input type="checkbox"/> Workplace Injunction
Agent's name (if Workplace Injunction)		Defendant's phone -	

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.

- Defendant/Plaintiff Relationship** (or relationship between Defendant and minor/person in need of protection)

<input type="checkbox"/> Married (past or present)	<input type="checkbox"/> Related as parent, grandparent, child, grandchild, brother, sister (or in-law/step)
<input type="checkbox"/> Live/lived together as intimate partners	<input type="checkbox"/> Live/lived together but not as intimate partners
<input checked="" type="checkbox"/> Romantic or sexual relationship (past or present)	<input type="checkbox"/> Dating (but not romantic or sexual)
<input type="checkbox"/> Parent of a child in common	<input type="checkbox"/> Other:
<input type="checkbox"/> One party is pregnant by the other	
- If checked, Defendant and I have a pending action involving maternity, paternity, annulment, legal separation, dissolution, custody, parenting time, or support in _____ County Superior Court, Case # _____.
- Name of court, if any, in which any other protective order related to this conduct has been filed.
 Court name _____ Case # _____

(Continue to next page)

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.)
6/30/2021	Gregory Gillespie and I were involved in a brief romantic relationship that lasted about 5 dates. From that relationship, I became pregnant. Mr. Gillespie the login information for my computer, email, and everything else I have passwords to online, when he demanded my login information to my One Medical Patient Portal to confirm my pregnancy. He has used that information to stalk and harass me.
8/11/2021	On 8/11/21, I filed a lawsuit against Mr. Gillespie in which I (pro se) sued him for DV, intentional infliction of emotional distress, and abortion coercion. This request for a PO has nothing to do with the current litigation whatsoever and is a last resort since he will not listen to law enforcement's calls to ask him to stop contacting me despite me making three police reports against him. In text messages between the two of us, Mr. Gillespie told me that he would "make [my] fucking life a living hell" if I did not take abortion pills, "take the fucking pills, Laura", and that he would call the police, "if I showed a moment's hesitation" in taking them to force me to do it.
10/26/2021	On October 26, I received an anonymous message from someone saying they were hired to hack my podcast's website and my personal number, asking me "what did you do to him?" and "what did you do to offend him?".
10/29/2021	On October 29, I was unable to login to my computer. After a three-hour support call and an in-person visit on that day, Apple determined that the computer was going to need to be cleared. The computer stored extremely important information for the civil case that I am involved in against Mr. Gillespie that has not been presented at a trial, which he, of course, knew. While Apple was unable to fix my issue, I hired a data recovery specialist to save the information that Mr. Gillespie tried to corrupt and was successful in my efforts. It was also determined that my iPhone had an app called 'Team Viewer' installed, a remote access and remote control software that allows a remote user to control iPhones and computers. Given that I am self-employed, I have never needed a software like this. I called the police to inform them of this incident on 11/1/21.
10/29/2021	Between 10/29 and 11/8, there were several instances of bizarre text messages on my devices designed to engage me, which I chose not to do. I was also logged out of my Facebook, Instagram, and Twitter accounts due to suspicious activity.
11/6/2021	On 11/6/2021 at 3:37pm, I received a text from a number I did not recognize with a photo of a man who looked to be in his twenties alongside his mother who was holding a 'Happy Mother's Day' sign. I asked who it was, and was told, "Must be a wrong number! Sorry dude!". After research online, I confirmed that the man in the photo is a Mr. Gillespie's family friend (through his cousin). This incident can be traced back to Mr. Gillespie, and combined with all of the other acts of stalking and harassment, has frightened me to no end.
11/7/2021	I spoke with the Scottsdale police department on 11/7/21 and was told that another woman has an active order against Mr. Gillespie that she filed for in September. I know this woman to be his ex-girlfriend, who he told me he had tracked on her Apple Watch in December 2020 in order to prove that she was cheating on him. When he discovered that she was, he admitted to grabbing her arm and snatching the watch off. I do not know what has happened between them since then, but there has clearly been an additional issue. Mr. Gillespie also told me about how he had been accused of harassment by a co-worker, who I met while we were out to dinner.
6/30/2021	Despite knowing that I am a DV survivor and a public speaker on the topic, Mr. Gillespie previously put his hands on my throat, and this would have undoubtedly led to something more had I not stopped him. He is 6'4", while I am 5'5", and weighs more than double what I do. I do not stand a chance against him.
11/12/2021	I am asking the Court for this injunction because I fear for my life. Mr. Gillespie is a manipulative and dangerous person and has been incessantly harassing me. I believe that he is retaliating against me for my pregnancy with his child and will not stop until he has ruined my life, my podcast, and causes serious mental and/or physical harm to me. He has shown me that he is an aggressive person, in my brief history with him, and I am fearful to be outside of my home alone. I pray that this will make him understand the consequences of him tracking me, via cyberstalking or otherwise. Knowing how much I did not want to have an abortion, he forced me to take abortion pills so that his own child would not be born, and in doing that, has shown a complete lack of care for human life or empathy for me. I am unsure if even a protective order will stop him given that he has chosen to ignore law enforcement's warnings to stop cyberstalking and harassing me. However, I am

desperate to get him to stop and understand the consequences his actions will have if he continues. Your Honor, Mr. Gillespie is an extremely dangerous man and I have no other remedy than to ask this Court to enter an Order of Protection and other relief as it deems necessary to ensure my safety.

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:

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
Plaintiff

Attest:

J.P. 11/12/2021
Judicial Officer/Clerk/Notary Date

EXHIBIT 2

From: ARCpoint Labs of Scottsdale Administration [REDACTED] <[\[REDACTED\]@arcpointlabs.com](mailto:[REDACTED]@arcpointlabs.com)>
Date: September 28, 2021 at 10:41:48 AM MST
To: Laura Owens [REDACTED]
Subject: Re: A chat was just completed

I don't see anything pending with your name on it. Sorry

Cheryl Jimson
Lab Administrator

Please excuse any typos, this phone has a mind off its own! 😊

From: Laura Owens [REDACTED]
Sent: Monday, September 27, 2021 7:03:47 PM
To: ARCpoint Labs of Scottsdale Administration [REDACTED] <[\[REDACTED\]@arcpointlabs.com](mailto:[REDACTED]@arcpointlabs.com)>
Subject: Re: A chat was just completed

Hi! I am self represented. I know the opposing attorney said that it would be under my name and they have lied about several things, so I just wanted to confirm that there were no orders. I don't believe there are and I am the plaintiff. Thanks!

Laura

Sent from my iPhone

On Sep 27, 2021, at 6:22 PM, ARCpoint Labs of Scottsdale Administration
[REDACTED] <[\[REDACTED\]@arcpointlabs.com](mailto:[REDACTED]@arcpointlabs.com)> wrote:

I'll look into it tomorrow. May I have your attorney's info so I can check with them?
Thanks

Cheryl Jimson
Lab Administrator

Please excuse any typos, this phone has a mind off its own! 😊

From: Laura Owens [REDACTED]
Sent: Monday, September 27, 2021 6:11:18 PM
To: ARCpoint Labs of Scottsdale Administration [REDACTED] <[\[REDACTED\]@arcpointlabs.com](mailto:[REDACTED]@arcpointlabs.com)>
Subject: Re: A chat was just completed

Hi! No, it would have been an attorney who ordered it. He said they had scheduled it in an email on August 27th, but the case started on August 11th. He said that you guys

had tried to contact me repeatedly, but I don't have any record of it in my email. It would have been for a prenatal paternity test. Just wanted to confirm that there hasn't been anything for me to do at your lab?

Thanks!

Laura Owens

Sent from my iPhone

On Sep 27, 2021, at 4:25 PM, ARCpoint Labs of Scottsdale Administration [REDACTED] <[\[REDACTED\]@arcpointlabs.com](mailto:[REDACTED]@arcpointlabs.com)> wrote:

I don't see anything here. Would your doctor have faxed an order to us?

My best,

Cheryl Jimson

Lab Administrator

[REDACTED] <[\[REDACTED\]@arcpointlabs.com](mailto:[REDACTED]@arcpointlabs.com)>

From: V Digital Chat <info@digitalreportingservices.com>
Sent: Monday, September 27, 2021 3:56 PM
To: ARCpoint Labs of Scottsdale Administration [REDACTED] <[\[REDACTED\]@arcpointlabs.com](mailto:[REDACTED]@arcpointlabs.com)>
Subject: A chat was just completed

Hi ARCPPoint Labs of North Scottsdale,

Please see your chat transcript below!

Also, you now have the option to update the lead status, and add lead notes to ensure all team members are on the same page.

Add Lead Notes

Welcome to ARCPPoint Labs of North Scottsdale! In 1 or 2 sentences please describe what you need done.

Do I have an order for a lab test? Or did I miss one?

I can send your message to our team! Let's continue and gather a few additional pieces of information. Who do I have the pleasure of speaking with?

Laura Owens

Laura, it's great to meet you. We just have a few follow up questions for you!

Next, I will need your phone number so we can follow up on your request.

[REDACTED]

Almost done! Could you please share your email address?

[REDACTED]

[@gmail.com](#)

[EMAIL THE CUSTOMER](#)

Thanks! We have received your information and a team member will reach out soon!

Traffic source: google

URL: <https://www.arcpointlabs.com/scottsdale-north/>

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