David S. Gingras, #021097
Gingras Law Office, PLLC
4802 E Ray Road, #23-271
Phoenix, AZ 85044
Tel.: (480) 264-1400
Fax: (480) 248-3196
David@GingrasLaw.com

Attorney for Petitioner
[redacted]

MARICOPA COUNTY SUPERIOR COURT

STATE OF ARIZONA

In Re Matter of: [redacted] **Petitioner,** **And** **CLAYTON ECHARD,** **Respondent.**	Case No: FC2023-052114 **MOTION FOR EXTENSION OF TIME TO RESPOND TO RESPONDENT'S MOTION TO COMPEL** **(Assigned to Hon. Julie Mata)**

Pursuant to Rule 4(b)(1)(A), Ariz. R. Fam. L. P., Petitioner [redacted] ("Ms. [redacted] or "Petitioner") moves the Court for an order granting an extension of time to respond to the Motion to Compel filed in this matter by Respondent Clayton Echard ("Mr. Echard" or "Respondent") on March 11, 2024.

Good cause exists for this request for multiple reasons, as discussed in full below. In addition and for purposes of clarity, *without* an extension of time, Petitioner's response to the motion is currently due today, April 1, 2024.

For the reasons stated below, Petitioner respectfully asks the Court to extend her response date for 10 court days, meaning if this request is granted, the new response date would be Monday, April 15, 2024.

I. INTRODUCTION

On its face, this *should* be an incredibly simple and straightforward case. Ms. [redacted] claims she had sex with Mr. Echard in May 2023. She claims she had a positive pregnancy test in June 2023. After efforts to speak with Mr. Echard about his intentions were unsuccessful, Ms. [redacted] filed this statutory paternity action on August 1, 2023.

Initially, both parties were unrepresented by counsel. As sometimes occurs with *pro se* litigants, Ms. [redacted] made a handful of motions that an experienced lawyer would have advised against. Those motions were quickly denied, with no meaningful impact on Mr. Echard (who, once again, was *pro se*).

In late September 2023, the parties agreed to submit samples for genetic testing. Unfortunately, those tests were inconclusive.

Unsure of what the next steps to follow and without counsel to guide her, on October 18, 2023, Ms. [redacted] filed a 2-page form requesting mediation. Although Mr. Echard never responded to or opposed this request, on November 22, 2023, the Court issued a minute entry order denying the mediation request as premature.

At some point around this time, Ms. [redacted] claims her pregnancy ended with a miscarriage. Concurrently, there was significant collateral litigation between the parties which resulted in protective orders/harassment injunctions being entered against both, preventing Ms. [redacted] and Mr. Echard from having any direct contact.

Based on a lack of case activity (which was hardly surprising given the paternity issue was, by then, entirely moot, and both parties were unrepresented), on December 4, 2023 court administration issued a notice advising the case would be dismissed for lack of prosecution if no further action was taken. If nothing else happened, this would have resulted in the dismissal of this case with no legal fees incurred by either side.

But something else *did* happen—in mid-December, Mr. Echard retained counsel who appeared and immediately began accusing Ms. [redacted] of "fabricating" her pregnancy. Mr. Echard moved for Rule 26 sanctions, and has filed a recent fusillade of other offensive motions, including the Motion to Compel at issue here.

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As explained below, given that Ms. [redacted] is no longer pregnant and there is no other immediate exigency, good cause exists to grant a short extension of time for Ms. [redacted] (through newly-retained counsel undersigned) to respond to the Motion to Compel. Before those reasons are explained, it is important for the Court to understand the broader context of this case as it bears directly on the substance of the dispute.

This action arises under circumstances that, when viewed in full, may start to sound eerily familiar to another legal matter that also recently made headlines—the case brought against former President Trump by columnist E. Jean Carroll. Indeed, excluding only the allegedly pregnancy of Ms. [redacted] (a fact not present in *Carroll*), both cases are closely analogous.

Ms. Carroll's story is, like the instant matter, very simple. Ms. Carroll claimed in the 1990s, she was sexually assaulted by former President Trump in a department store dressing room. Ms. Carroll did not sue Mr. Trump at the time, nor did she publicly disclose her allegations against him.

Years later, Ms. Carroll published her story about Mr. Trump in various articles. Mr. Trump responded by accusing Ms. Carroll of fabricating the entire thing:

> Plaintiff [Carroll] publicly accused Defendant [Trump] of sexually assaulting her in the mid-1990s. Defendant, who was President of the United States at the time of the accusations, denied Plaintiff's claims in a series of public statements. In the first, released that same day, he claimed that "it never happened," he "never met" Plaintiff, and that "[s]he is trying to sell a new book—that should indicate her motivation." The next day, he stated that "[t]his is a woman who has also accused other men of things . . . It is a totally false accusation."

Carroll v. Trump, 88 F.4th 418, 423 (2nd Cir. 2023) (emphasis added).

After Mr. Trump accused Ms. Carroll of lying about the sexual assault, Carroll sued Trump for defamation. Notably, due to the amount of time that passed, no physical evidence existed to support Ms. Carroll's assault claims. There was no DNA, no rape kit, no medical records. In short, the only evidence Ms. Carroll had to support the alleged assault was her own testimony, corroborated by a few friends she told at the time.

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Based on that testimonial evidence, limited as it was, a jury found Mr. Trump did, in fact, sexually assault Ms. Carroll, and that he defamed her by accusing her of lying about what happened. This resulted in an award of damages to Ms. Carroll of nearly $90 million. *See Judge Approves Trump's $92 Million Bond to Cover Jury Award in E. Jean Carroll Defamation Case* (available at: https://apnews.com/article/e-jean-carroll-trump-bond-defamation-appeal-5d119a6fbfd11496ac26f60ae39fd1ad).

So what on Earth does the *Carroll v. Trump* case have to do with this matter? The answer is this—the underlying theme of both cases is functionally identical. Here, Ms. [redacted] claims she had sex with Mr. Echard, and she claims she became pregnant as a result (the only main difference from *Carroll*).

In return, just as Mr. Trump did, Mr. Echard now **furiously** claims Ms. [redacted] fabricated her entire story. Just like Mr. Trump, Mr. Echard claims Ms. [redacted] *must be lying* because of other past allegations Ms. [redacted] made against other men (a gambit also used by Mr. Trump, which the jury flatly rejected in that case).

But there is another parallel with *Carroll* this Court may not be aware of—during her recent deposition, Ms. [redacted] testified **Mr. Echard raped her**. She claimed he forced sexual intercourse with her, against her will and without her consent.

A. I told my sister that Clayton had, I guess, stuck his penis in when I told him not to.
Q. Wait a minute. You are claiming that you told your sister that you told Clayton not to put his penis inside you but he did?
A. Yes.
Q. Are you suggesting that Clayton raped you?

A. That's technically a definition.

Q. But your testimony right now today is that Clayton had penetrative sex with you against your will?
A. He stuck it in when I told him not to, yes.

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Ah ha. To save Respondent's counsel the trouble of ~~screaming~~ saying it, clearly this allegation is contested. Mr. Echard has, or presumably will, categorically deny that he raped or sexually assaulted Ms. [redacted] (Mr. Echard was deposed *before* Ms. [redacted] thus he could not and did not respond to the rape allegation in his deposition).

When viewed in this full context, the picture here becomes clearer. Mr. Echard has vociferously, angrily, and repeatedly tried to paint Ms. [redacted] as a compulsive liar; a "crazy person" who made up a fake pregnancy allegation in a sad and desperate attempt to trap him into a relationship. While these facts obviously remain strenuously disputed, according to Ms. [redacted] what is happening here is something entirely different: Mr. Echard is taking a page directly from the "*Donald Trump Handbook on How Famous Men Should Respond to Rape Claims*"—i.e., deny everything, smear the accuser as lunatic and a liar, claim they made the whole story up, and hope no one believes her.

In fairness to Mr. Echard, *obviously* someone is lying here. The question is WHO? It is possible Mr. Echard is telling the truth and that he, unlike Mr. Trump, is the victim of a totally false claim. But at the same time, it is also possible, as occurred with Ms. Carroll, that Ms. [redacted] is the one telling the truth and Mr. Echard is lying and smearing her in a disgusting attempt to cover up his misconduct. Hashtag #MeToo.

This is, of course, why courts exist—to resolve disputes and determine the truth in a fair and reasonable manner. But that process takes time, and it requires careful investigation of *all* the evidence and *all* the facts, not just half the story.

With these preliminary points in mind, good cause exists to grant Ms. [redacted] a brief extension of time to respond to Mr. Echard's Motion to Compel. Accordingly, this motion should be granted.

II. DISCUSSION

a. Good Cause Exists Due To A Change Of Counsel

Filed concurrently herewith is a declaration from undersigned counsel explaining a few key points. First, the undersigned was first retained by Ms. [redacted] on Monday, March 25, 2024—one week ago. Prior to being retained on this matter, the undersigned

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3941 E. CHANDLER BLVD., #106-243
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did not know Ms. [redacted] and had no prior knowledge about the parties or this dispute. Accordingly, the undersigned is literally starting this case from scratch.

Immediately after appearing in this action, on Monday, March 25, 2024, the undersigned contacted Respondent's counsel and requested a call to meet and confer about numerous issues, including the pending Motion to Compel. A copy of the preliminary message sent to Respondent's counsel is attached as Exhibit A to the declaration submitted herewith.

A lengthy (hour long) telephone conference between counsel occurred on the afternoon of March 26, 2024, followed by extensive email discussions about the case. After that call, Respondent's counsel graciously and promptly provided copies of numerous (but not all) case-related pleadings, documents, evidence, and other things (copies of case-related correspondence between counsel were not provided). Ms. [redacted] also provided the undersigned with some, but not all, case-related materials

In an effort to gather a complete file, on March 27, 2024, the undersigned contacted both of Ms. [redacted] former attorneys who appeared in this case. The first was Alexis Lindvall (who appeared on December 22, 2023 and moved to withdraw just days later on January 2, 2023 after taking a new job in Texas). The second was Cory Keith, who appeared in this case on January 11, 2024 and withdrew on March 12, 2024.

Unfortunately, neither Ms. Lindvall nor Mr. Keith responded to the initial request for a copy of Ms. [redacted] file. As a result, a follow-up email was sent the next day (Thursday, March 28, 2024). Later that same day, a different attorney from Ms. Lindvall's firm responded to say that she (Ms. Lindvall) left the firm to take a job in Texas. This person stated they believed Ms. Lindvall had provided Ms. [redacted] with a copy of the file before leaving, but Ms. [redacted] disputes this.

Fortunately, the undersigned was later able to reach Mr. Keith by phone on the afternoon of March 28, 2024. Mr. Keith confirmed he had not yet provided Ms. [redacted] with a copy of her file, but he promised to do so later that day (Friday, March 29, 2024). As of the filing of this motion, nothing further has been received from Mr. Keith.

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3941 E. CHANDLER BLVD., #106-243
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Standing alone, the fact that Ms. [redacted] recently had to change counsel (once through no fault of her own, as a result of her prior counsel, Ms. Lindvall, leaving the state for a new job) should provide good cause for a brief extension of time to respond to a pending discovery motion arising from matters before current counsel appeared. Without a complete copy of Ms. [redacted] file (which has beem diligently sought but has not yet obtained), it is not possible to respond to the merits of Mr. Echard's pleading. All other issues aside, this should be sufficient for the Court to grant the requested extension.

b. Good Cause Exists Because Respondent Failed To Comply With Rule 9(c)

A second and even simpler reason exists to grant the present motion—because Mr. Echard's Motion to Compel fails to show a good faith (or any) effort to resolve the issue in the manner required by Rule 9(c). The language of that rule is clear:

> When these rules require a "good faith consultation certificate," the certificate must demonstrate that a party has made a good faith attempt to resolve the issue. The consultation or attempted consultation required by this rule must be in person or by telephone, and not merely by letter or email.

Here, the certificate attached to Mr. Echard's motion makes a vague reference claiming his counsel spoke to Mr. Keith "regarding Petitioner's outstanding disclosure" on two dates: February 2, 2024 and February 21, 2024. Beyond that vague reference (which does not explain whether those conversations involved the same issues raised in the present motion), there is no explanation *whatsoever* describing *what* was discussed, *what* disclosure remained outstanding, and *how*, if at all, that information was later provided (such as in Ms. [redacted] subsequent deposition on March 1, 2024).

The certificate also refers to one email sent to Mr. Keith on March 4, 2024 (attached to Respondent's motion as Exhibit 5). That email raises some points about discovery (containing mostly argument). Of course, a single argumentative email is, *per se*, not sufficient to comply with Rule 9(c)'s requirements of a direct lawyer-to-lawyer discussion: "in person or by telephone, and not merely by letter or email."

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3941 E. CHANDLER BLVD., #106-243
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Rather than bringing a discovery motion one day prior to the withdrawal of Mr. Keith (who presumably would have told Respondent's counsel about his intent to withdraw some time earlier), Rule 9(c) required Mr. Echard's counsel to make a sincere, good faith effort to talk with Petitioner's counsel, in person or by phone, before seeking relief from the Court. That clearly did not occur here.

Obviously, the withdrawal of Mr. Keith likely suggests he was either unable or unwilling to speak to Respondent's counsel. That is an unfortunate reality of what happens when the attorney-client relationship ends.

But rather than allowing Respondent to take unfair advantage of this fact by giving short-shrift to the "good faith" requirements of the rule, the Court should, instead, require counsel (for both sides) to strictly comply with Rule 9(c)'s good faith requirements. For whatever it is worth, undersigned counsel immediately sought to meet and confer with Respondent's counsel in an effort to resolve all pending discovery disputes, and undersigned counsel is confident those efforts will be successful. Of course, that process takes time, especially in a case as complicated as this one.

Thus, good cause exists to grant an extension of time (or to summarily deny the motion) because Respondent filed the current motion without first making a good faith effort to resolve the discovery issues with opposing counsel as Rule 9 requires.

c. The Motion To Compel Appears to Contain False/Misleading Statements Which Will Require Time To Investigate And Address

A third independent reason establishes good cause to grant a short extension of time to respond to Mr. Echard's motion. That reason is as follows—again taking a page from the "*How to Smear And Defame A Female Sex Abuse Victim*" playbook, Mr. Echard's motion contains numerous specific allegations claiming Ms. [redacted] lied about the facts of this case and, even worse, that she has done so in a manner which shows not just accidental mistakes, but a calculated, intentional fraud.

Let's be specific—after starting with a gratuitously insulting rhetorical statement that "**compulsive lying is not a defense to disclosure production**" (oh, so dramatic),

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Mr. Echard makes a very specific statement that *appears* to suggest he discovered proof Ms. [redacted] lied about *every aspect* of her pregnancy and that such lies have been confirmed by third party medical providers who verified Ms. [redacted] was never treated by any of them: "Notably, of the litany (14+) provider names given through Petitioner's testimony *prior* to her deposition, multiple providers have denied providing care or ever seeing/communicating with Petitioner." Motion to Compel at 2:18–20 (underling added, italics in original).

Let's be blunt—at first blush, this allegation sounds really bad for Ms. [redacted] Mr. Echard seems to say at some point during this litigation, Ms. [redacted] was asked to provide the names of every doctor/medical provider she saw, and after giving those names, Mr. Echard's counsel contacted each one to ask if she was, in fact, a patient at that facility. Mr. Echard then states "multiple providers" (implying ALL providers) confirmed Ms. [redacted] lied about being a patient. YIKES!

To be clear: this statement is, at the very least, intentionally seriously misleading if not outright false. Here's why—immediately after appearing in this case, undersigned counsel began the process of meeting and conferring with Respondent's counsel in an effort to understand exactly what discovery disputes existed, and how those disputes could be resolved.

During those discussions, Mr. Echard's counsel made numerous representations about the current state of discovery/disclosures. Two central themes in those discussions arose: 1.) a claim by Respondent's counsel that Ms. [redacted] has "no medical records that support her fake pregnancy narrative",[1] and 2.) a claim that every single provider contacted by Respondent's counsel confirmed they have no records relating to Ms. [redacted] (which, if true, would strongly suggest Ms. [redacted] fabricated her entire story). But are those points true?

[1] This statement was made by Respondent's counsel in an email sent to the undersigned on March 27, 2024, a copy of which is attached to the declaration of undersigned counsel as **Exhibit B**.

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Naturally, such specific and serious allegations raised immediate concern. If true, this would appear to prove Ms. [redacted] lied about the facts of this case. If true, this would require the immediate withdrawal of undersigned counsel.

Despite only being involved in this matter for a handful of days, the undersigned immediately discussed these allegations with Ms. [redacted] to see what her response was. And that response was equally disturbing—it appears both statements by Mr. Echard's counsel are **materially, knowingly, and provably false**.

Regarding the claim that Ms. [redacted] has "no medical records that support her fake pregnancy narrative", this statement is **categorically, blatantly false**. Immediately upon seeing this claim, Ms. [redacted] provided undersigned counsel with the login and password for her Banner Health account (one of the medical providers which Mr. Echard's suggests has verified it has no records relating to Ms. [redacted] Using that login information, undersigned counsel personally accessed Ms. [redacted] account and located a lab test result, dated June 1, 2023, which stated "hCG QI POC – Positive" (this is a form of pregnancy test). Absent some other explanation, this conclusively refutes Mr. Echard's claim that "no medical records exist" to prove Ms. [redacted] was ever pregnant.

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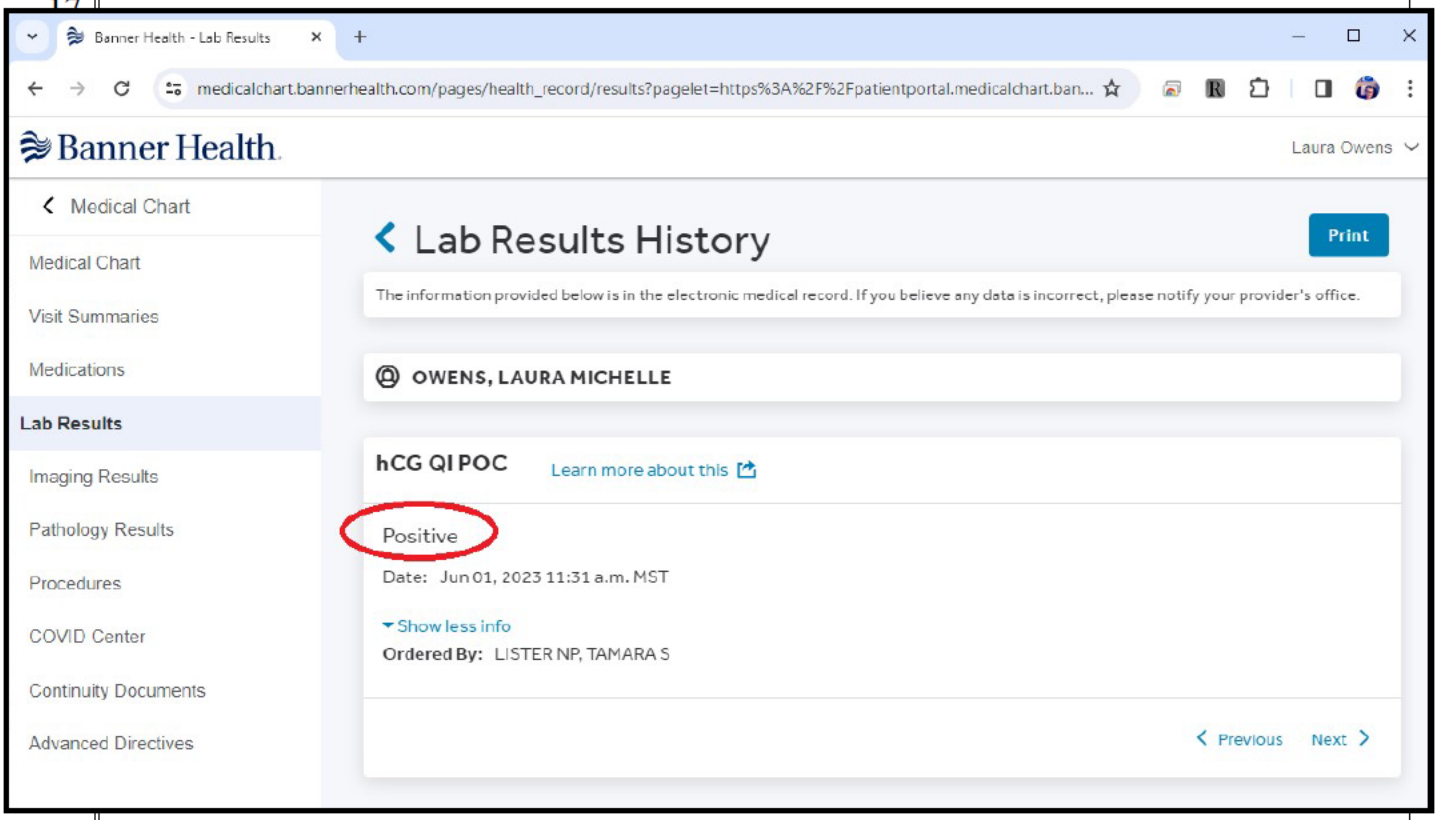
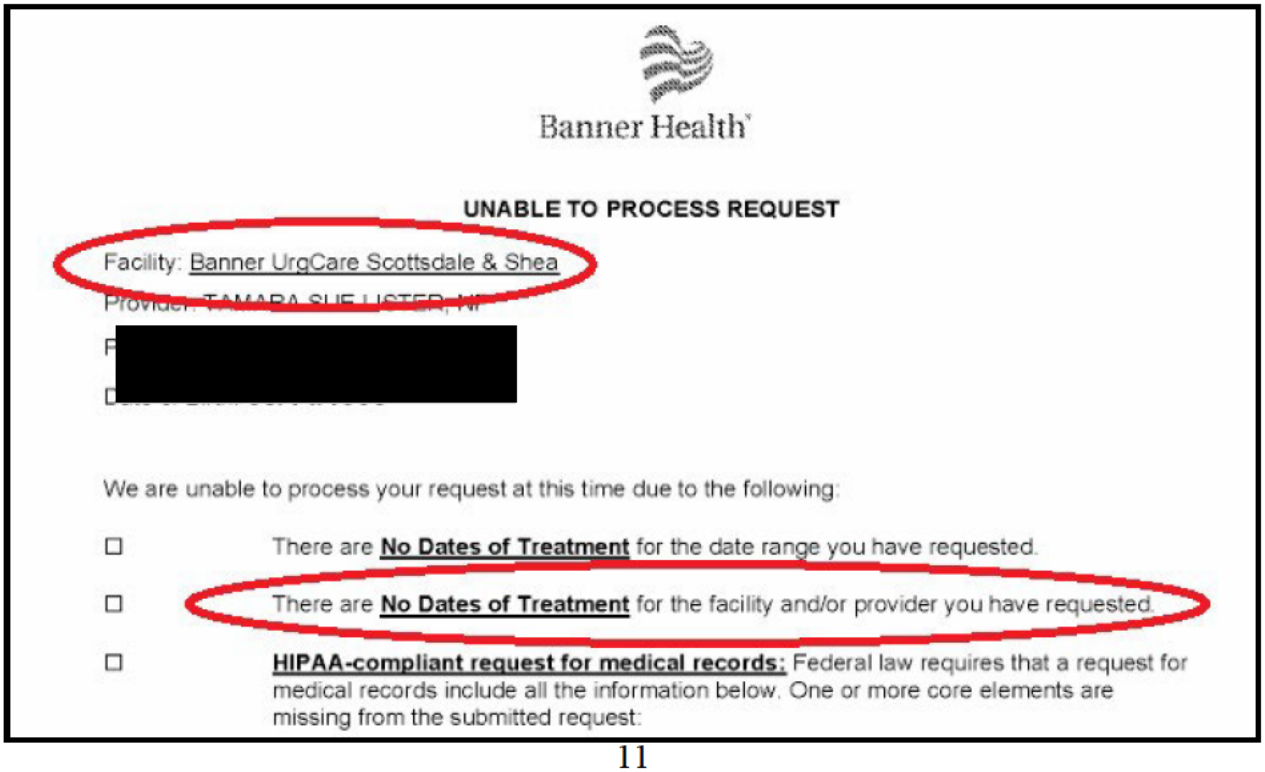


Regarding the second point—the suggestion or implication *every* medical provider mentioned by Ms. [redacted] confirmed they have no records of treating her—that point has been shown to also be seriously misleading, if not entirely false. Specifically, and to use just one example, Mr. Echard's counsel claims he sent a records request to Banner Health seeking treatment records relating to Ms. [redacted] Mr. Echard's counsel represented to the undersigned that in response to those requests, Banner confirmed that it had no such records. Again, YIKES….but it this true?

NO, it is NOT true. As before, that serious allegation was immediately discussed with Ms. [redacted] who quickly provided an explanation—*yes*, Banner did send a letter to Respondent's counsel stating that it had "no records" responsive to his request, but not because no such records existed. Rather, Banner's response was based on the fact Mr. Echard asked Banner for records from the *wrong location*.

Below is part of the response Mr. Echard received from Banner indicating it did not have any records related to Ms. [redacted] "*for the facility and/or provider you have requested*". This identified "Banner Urg[ent] Care Scottsdale & Shea" as the facility for which records were sought.



Banner Health

UNABLE TO PROCESS REQUEST

Facility: Banner UrgCare Scottsdale & Shea

Provider: TAMARA SUE LISTER, NP

[redacted]

We are unable to process your request at this time due to the following:

☐ There are **No Dates of Treatment** for the date range you have requested.

☐ There are **No Dates of Treatment** for the facility and/or provider you have requested.

☐ **HIPAA-compliant request for medical records:** Federal law requires that a request for medical records include all the information below. One or more core elements are missing from the submitted request:

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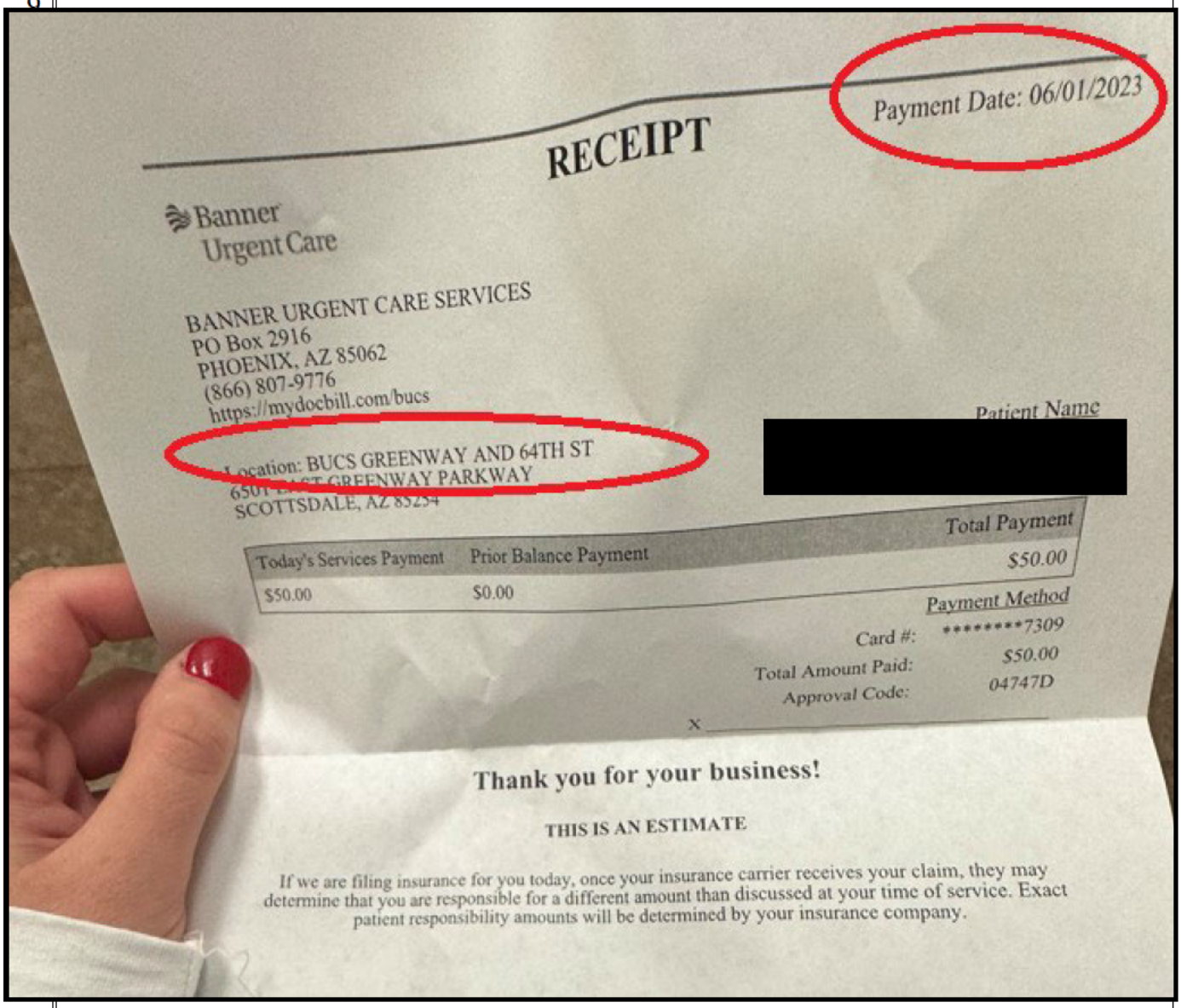
Mr. Echard exclaims—AH HA! LIAR! GOTCHA! He claims this is proof Ms. [redacted] lied about seeking pregnancy-related medical care from Banner. But if Mr. Echard's counsel had bothered to actually meet and confer in good faith *before* the instant motion was filed (as Rule 9 required), a far-less nefarious explanation would have come to light—Banner had no records of Ms. [redacted] being treated at the *Scottsdale & Shea* location <u>because that is not the location where Ms. [redacted] went for care</u>. Rather, Ms. [redacted] immediately provided a receipt showing she received care on June 1, 2023 <u>at the Banner Urgent Care on *Greenway & 64th Street*</u>.



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This shows two simple things. First, it is categorically false for Mr. Echard to claim (as he repeatedly has) that Ms. [redacted] has "no medical records that support her fake pregnancy narrative". That statement is false, and it is a point this Court should take extremely seriously, particularly since Mr. Echard claims Ms. [redacted] is the one lying.

Second, Mr. Echard does, accurately, explain he sent records requests to *some* care providers (like Banner), and he received *some* responses indicating no records exist for Ms. [redacted] In the example above, the explanation is incredibly non-controversial—Mr. Echard simply asked for records from the wrong location.

But Mr. Echard's "*no records found*" theme is also misleading for another reason (one which he conveniently fails to mention). During her recent deposition on March 1, 2024, Ms. [redacted] was asked numerous questions about the names of doctors/facilities where she sought care (some of which are the same places that later said they had no records relating to Ms. [redacted]

In her deposition, Ms. [redacted] gave a clear, cogent explanation for this discrepancy—she made appointments with several doctors, but then cancelled the appointments for utterly innocuous reasons (e.g., she had COVID). In the course of complying with her disclosure obligations, Ms. [redacted] provided the names of doctors whom she *sought* care from, but no care records exist for that doctor simply because Ms. [redacted] never actually *received* care from that person. This evidence proves nothing meaningful beyond the fact that like many people, Ms. [redacted] has anxiety and trepidation about seeking medical care, particularly for an unintended pregnancy, and due to illness she was unable to keep every medical appointment she made.

These points demonstrate a couple of important things. First and foremost, this confirms Mr. Echard *did not* make a good faith effort to meet and confer with Ms. [redacted] counsel before filing the instant motion. Second, if Mr. Echard's counsel *had* made a reasonable pre-motion effort to investigate the issues, it would quickly have become apparent that many (if not all) of the discovery disputes were based on nothing more than Mr. Echard's counsel's misunderstanding of the facts.

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Once again, because the undersigned has only been involved in this case for a handful of days, and because he has not yet received a complete copy of Ms. [redacted] file from both of her previous lawyers, it is simply impossible to respond intelligently and comprehensively to each and every other point raised in the Motion to Compel. However, to the extent the undersigned *has* tried to investigate these matters, the results have quickly shown that Mr. Echard is either intentionally misrepresenting the facts to this Court, or he has deliberately avoided any effort to understand his own investigative mistakes.

Either way, there is no good reason for the Court to rule on the merits of Mr. Echard's discovery motion without, at a minimum, allowing sufficient time for newly-retained counsel to investigate the issues so he can provide the Court with an informed response/explanation of Ms. [redacted] position. Furthermore, because Mr. Echard did not make a reasonable effort to resolve these disputes before moving to compel, assuming the Court does not summarily deny the motion on that basis, a short extension of time will allow counsel to complete the meet-and-confer process in the hopes all discovery disputes can be resolved without the Court's intervention.

d. Good Cause Exists To Allow More Time To Respond To The Motion To Compel Because Respondent Has No Right To Any Of The Disputed Discovery

The original first draft of this motion was completed on Friday, March 29th. That draft ended at the section above. However, over Easter Weekend, after the first draft of this motion was completed and while continuing to study the history of this action, another important issue was discovered which also bears on the Motion to Compel.

That issue is as follows—as the Court knows, parties may only seek discovery into matters "relevant to any party's claim or defense…." Rule 51(b)(1)(A), Ariz. R. Fam. L. P.. By definition, evidence is relevant only when it has a tendency to make a fact more or less likely and "the fact is of consequence *in determining the action*." Ariz. R. Evid. 401 (emphasis added).

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OK, so why does that matter? It matters because as explained above (and in other pleadings), Ms. [redacted] claims her pregnancy ended with a miscarriage in the fall of last year. Obviously, because there is no child, the question of paternity (and related things like custody and child support) are all now moot.

The only current remaining issue in this case is Mr. Echard's Motion for Rule 26 Sanctions, filed on January 3, 2024 which is presently set for evidentiary hearing on June 10, 2024. The pending Motion to Compel seeks evidence which is only, and could only, be relevant to the issue of sanctions (because there are no other pending issues for this Court to address). Thus, the only *fact of consequence* necessary to determine this matter is the question of whether Ms. [redacted] lied about ever being pregnant in the first place.

As will be explained in a separately filed pleading (expected to be filed in the next few days), Mr. Echard has no right to this discovery (or indeed, to any discovery) because none of the discovery is relevant to any remaining issues of consequence in the case. The reason for this is slightly technical, but *extremely* clear—Mr. Echard's Rule 26 Sanctions motion was filed without providing Ms. [redacted] the mandatory pre-filing notice and 10 day "safe harbor" period required by Rule 26(c)(2)(B). In short, Mr. Echard used exactly the "ready-*fire*-aim" approach forbidden by Rule 26: he rushed to bring a motion for sanctions without first giving Ms. [redacted] the mandatory written warning and 10-day safe harbor option to withdraw her petition.

That single fact is fully fatal to Mr. Echard's Motion for Sanctions, and because the Motion to Compel seeks only discovery in support of the request for sanctions, it too is terminally flawed. Because Mr. Echard not comply with the rule, this Court cannot, as a matter of law, award sanctions under Rule 26, even assuming Ms. [redacted] lied about ever being pregnant. Even if she fabricated her entire story (which she obviously denies), the failure of Mr. Echard's counsel to follow the "strictly enforced" safe-harbor requirements of Rule 26 is completely and fully dispositive:

> Subsection 2 of [Rule 11] the so-called safe harbor provision, is intended to give the offending party the opportunity to withdraw the offending

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> pleading and thereby escape sanctions. A party is not entitled to seek or obtain Rule 11 sanctions if it fails to comply with the "safe harbor" requirements. Failure to comply with the safe harbor provision precludes an award of Rule 11 sanctions. 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*. Moreover, the "safe harbor" provisions of Rule 11 are construed strictly.

Gallagher v. Surrano Law Offices, P.C., 2020 Ariz. Super. LEXIS 514, *5 (Nov. 20, 2020; Maricopa County Superior Court Case No. CV2019–011348) (cleaned up) (emphasis added) (citing/quoting *Barber v. Miller*, 146 F.3d 707, 710 (9th Cir. 1998); *De Freitas v. Thomas*, 2016 U.S. Dist. LEXIS 121482, 2016 WL 8674572 at * 2 (D.Ariz., May 6, 2016); *Holgate v. Baldwin*, 425 F.3d 671, 678 (9th Cir. 2005); *Radcliffe v. Rainbow Constr. Co*., 254 F.3d 772, 788 (9th Cir. 2001) (same)).

To restate the problem – Rule 26 required Mr. Echard to give Ms. [redacted] a written notice that he intended to seek sanctions. Rule 26 required that notice to inform Ms. [redacted] she had an absolute right to withdraw her petition. Finally, in addition to *notifying* Ms. [redacted] of these rights, Mr. Echard was required to *actually give her 10 days* within which to withdraw her petition, and if she invoked that option, the rule forbids the imposition of sanctions; "Subsection 2 of … the so-called safe harbor provision, is intended to give the offending party the opportunity to withdraw the offending pleading *and thereby escape sanctions*." *Gallagher*, *supra*, at *5.

Here, it is undisputed Mr. Echard simply ignored all these mandatory requirements. As the docket reflects, Mr. Woodnick first appeared in this case on December 12, 2023, and he filed Mr. Echard's Rule 26 motion on January 3, 2024—just 13 court days later (excluding weekend and holidays). Not surprisingly in light of this lightning-fast timing, the Rule 26 motion never claims the 10-day written safe harbor notice was given. That one fact resolves issue of sanctions, *even assuming Ms.* [redacted] *lied about being pregnant*; "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 (emphasis added).

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3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

Because undersigned counsel was not aware of this issue until over the Easter weekend, counsel has not yet completed the process of meeting and conferring about how to proceed (an email was sent to Mr. Echard's counsel on Saturday requesting an immediate conference, but that has not yet taken place). Absent withdrawal of Mr. Echard's Rule 26 motion, undersigned counsel anticipates either moving to strike that pleading, or seeking an adjudication on the pleadings pursuant to Rule 29(c). Mr. Echard has also been advised Ms. [redacted] will seek sanctions under Rule 26 if Mr. Echard's improper sanctions motion is not withdrawn within the next 10 days.

Again, assuming the parties are unable to resolve the matter without the Court's intervention, this issue will be raised in a separately-filed motion which will likely obviate all other matters including the Motion to Compel. For that reason, in addition to the others above, good cause exists to extend the time to respond to the Motion to Compel (which may ultimately be withdrawn by Mr. Echard after counsel has fully conferred).

III. CONCLUSION

For all the reasons stated above, Petitioner respectfully asks the Court to find good cause exists to extend the response date to Respondent's Motion to Compel from April 1, 2024 to April 15, 2024.

DATED April 1, 2024.

GINGRAS LAW OFFICE, PLLC

David S. Gingras
Attorney for Petitioner
[redacted]

GINGRAS LAW OFFICE, PLLC
3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

GOOD FAITH CONSULTATION CERTIFICATE

Pursuant to Rule 9(c) Ariz. R. Fam. L. P., the undersigned certifies that he has made a good faith attempt to resolve the issues in this motion by consulting with opposing counsel, but those efforts were not successful. Specifically, on March 25, 2024, I contacted Respondent's counsel via email to request a telephone conference. In that email, I stated, among other things, "1.) I know you have a pending Motion to Compel. Since this addresses issues that arose before I was involved, I would appreciate it if we could discuss the outstanding discovery you are seeking in the hopes that we could resolve one (or all) of the categories of things raised in the motion. I may also need to request a short extension of time to respond."

After sending this email, I personally spoke with Respondent's counsel by phone for approximately one hour on March 26, 2024. Among other things, we discussed Respondent's Motion to Compel, and I reiterated my view that an extension of time was needed to respond because, among other things, I did not have a complete copy of Ms. [redacted] file.

Respondent's counsel later sent an email indicating that he would only agree to an extension of time if Ms. [redacted] agreed to immediately (that same day) provide certain information. That offer was not acceptable because, among other things, Respondent's counsel asked for information that Ms. [redacted] believed should be covered by a protective order, but no prior protective order had been entered. For that reason, Ms. [redacted] would not agree to disclose additional private medical information solely to obtain extra time to respond to the Motion to Compel.

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 April 1, 2024.

David S. Gingras

GINGRAS LAW OFFICE, PLLC
3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

Original e-filed
and **COPIES** e-delivered April 1, 2024 to:

Gregg R. Woodnick, Esq.
Isabel Ranney, Esq.
Woodnick Law, PLLC
1747 E. Morten Avenue, Suite 505
Phoenix, AZ 85020
Attorneys for Respondent

GINGRAS LAW OFFICE, PLLC
3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

David S. Gingras, #021097
Gingras Law Office, PLLC
4802 E Ray Road, #23-271
Phoenix, AZ 85044
Tel.: (480) 264-1400
Fax: (480) 248-3196
David@GingrasLaw.com

Attorney for Petitioner
[redacted]

MARICOPA COUNTY SUPERIOR COURT

STATE OF ARIZONA

In Re Matter of: [redacted] **Petitioner,** **And** **CLAYTON ECHARD,** **Respondent.**	Case No: FC2023-052114 **DECLARATION OF DAVID S. GINGRAS IN SUPPORT OF PETITIONER [redacted] MOTION FOR EXTENSION OF TIME TO RESPOND TO RESPONDENT'S MOTION TO COMPEL** **(Assigned to Hon. Julie Mata)**

GINGRAS LAW OFFICE, PLLC
4802 E RAY ROAD, #23-271
PHOENIX, ARIZONA 85044

DECLARATION OF DAVID S. GINGRAS

I, David S. Gingras hereby declare 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. I was first retained by Respondent [redacted] to represent her in this matter on Monday, March 25, 2024. Prior to this, I did not know Ms. [redacted] 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. [redacted] and Mr. Echard.

4. I am aware Mr. Echard was previously on a TV show called "The Bachelor". I used to watch The Bachelor/Bachelorette many years ago, but I stopped watching (in protest) after the producers fired the longtime host Chris Harrison in 2021, but that's another story.

5. When she retained me one week ago, Ms. [redacted] gave me a large file containing some (but not all) case-related pleadings, documents, and other evidence. After reviewing this file, I quickly determined it was not complete. Among other things, the file did not contain copies of all pleadings filed in this case, nor did it appear to contain any correspondence between counsel for the parties (or between Ms. [redacted] and her previous counsel). The file also did not contain copies of all disclosures from Mr. Echard, and I found nothing to show any disclosures made by Ms. [redacted] previous attorneys to Mr. Echard.

6. Immediately after Ms. [redacted] retained me (later that same day), I filed a Notice of Appearance in this action. That same day, I sent an email to Respondent's counsel asking if we could schedule a phone call to discuss things. A true and correct copy of my email to Mr. Echard's counsel is attached hereto as Exhibit A.

7. I received a response from Mr. Echard's counsel, Gregg Woodnick, the next day (March 26, 2024). I then spoke with Mr. Woodnick and his co-counsel, Isabel Ranney, by phone for approximately one hour later that afternoon. During this call, in addition to talking about a wide variety of issues including discovery related matters, I told Mr. Woodnick I had not yet received a complete copy of Ms. [redacted] file, and I asked if he could provide me with various case-related documents, which Ms. Ranney later did.

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3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

8. None of the files/folders I received from either Ms. [redacted] or Mr. Echard's counsel appeared to contain copies of all pleadings filed with the court. After my Notice of Appearance was accepted, I was later able to download all of those pleadings via ECR, but I am still missing many case-related documents including, most importantly, correspondence between counsel, and many documents previously disclosed by Mr. Echard.

9. After determining that I did not have all (or any) case-related correspondence, on Wednesday, March 27, 2024, I sent an email to Ms. [redacted] prior counsel, Cory Keith and Alexis Lindvall, asking for that information.

10. I did not receive any response from either Mr. Keith or Ms. Lindvall, so on Thursday, March 28, 2024, I sent a follow-up email to both of them. In response to that message, I received a reply from another attorney at Ms. Lindvall's firm stating that she had moved to Texas for a job with a different firm. This individual stated that prior to Ms. Lindvall's departure, a copy of Ms. [redacted] file was provided to her, but Ms. [redacted] indicates she never received a complete copy of her file from Ms. Lindvall.

11. After failing to receive any response from Mr. Keith, I called him on March 28, 2024, and I was able to speak with him briefly by phone. Mr. Keith stated he had not yet provided Ms. [redacted] with a copy of her file, but he was planning to do that "by the end of the week" (meaning by Friday, March 29). As of today, April 1, 2024, I have not received any further documents or response from Mr. Keith, but I trust he will be providing the requested information soon.

12. As part of my review of this matter, I have read the Motion to Compel filed by Mr. Echard on March 11, 2024. Based on my calculations, Ms. [redacted] response to that motion is currently due today, Monday, April 1, 2024.

13. In his Motion to Compel, Mr. Echard generally complains Ms. [redacted] "has willfully and wantonly failed to disclose information pursuant to Rule 49 (without ever actually explaining what specific information she *has* disclosed, and what she has not). Much of the remainder of the motion appears to contain little more than angry rhetoric.

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3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

14. As an attorney licensed to practice law in Arizona for 20 years, I have personally litigated hundreds of cases, including family law matters. I am fully aware of the disclosure obligations under Rule 26 (in civil matters) and Rule 49 (in family law cases). Although such disclosures are often done in a formal "Disclosure Statement", the rule does not require disclosures to be made in any specific format. Rather, disclosure of information in other ways, including in a simple email form, is sufficient. *See Zimmerman v. Shakman*, 204 Ariz. 231, 237 (App. Div. 1 2003) (explaining "The disclosure of the information need not be in a formal disclosure statement.") (emphasis added) (quoting Ariz. R. Civ. P. 37(c), comment to 1996 amendment).

15. Because an email disclosing information is sufficient, it is extremely important for me to see all correspondence between Mr. Echard's counsel and Ms. [redacted] prior counsel so I can see exactly what disclosures were made. Without that information, it is simply impossible for me to respond to Mr. Echard's claim that Ms. [redacted] has somehow failed to provide information required by Rule 49.

16. Because of this, I contacted Mr. Echard's counsel to ask if they would agree to a brief extension of time to respond to the motion. Mr. Woodnick initially responded that he might agree in exchange for Ms. [redacted] producing certain information immediately (that same day), but this request was not acceptable for various reasons. Mr. Woodnick later stated that without any concessions from Ms. [redacted] he would not agree to any extension.

17. To the extent possible based on the limited file and my limited knowledge of the case, I have tried to discuss these issues with Mr. Woodnick in an attempt to understand the discovery disputes and determine if they can be resolved. During those discussions, Mr. Woodnick made a representation to me that I found *extremely* concerning – in an email sent March 27, 2024, Mr. Woodnick stated unequivocally "[redacted] knows there are no medical records that support her fake pregnancy narrative …. " (emphasis in original). A screenshot reflecting a portion of that statement is shown below, and a complete copy of Mr. Woodnick's email is attached hereto as Exhibit B.

GINGRAS LAW OFFICE, PLLC
3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

Echard/Owens

GW Gregg Woodnick <Gregg@woodnicklaw.com>

To David Gingras

Cc Maribeth Burroughs; Isabel Ranney

Reply | Reply All | Forward | ... Wed 3/27/2024 11:28 AM

You replied to this message on 3/27/2024 1:54 PM.

in court that she did not know. She stated in deposition the same. So how wonderful it will be to know by the date stamp on an image that will also be in her medical records from the telehealth doctor she sent the image to. We are eager to read the records from the doctor who told her not to worry about miscarrying 20 week twin fetuses (which would actually be a fetal death warranting a death certificate under law). She must also immediately provide the name of the telehealth provider so we can obtain the records directly from them, which should include the photo per her sworn testimony.

[redacted] knows there are no medical records that support her fake pregnancy narrative (as confirmed my the 7+ providers who have no records of ever seeing her notwithstanding her deposition and testimony in two protective order proceedings. I trust you have reviewed the records from Planned Parenthood, Dr. Makhoul's office, and Dr. Higley where they confirm that your client was never a patient there. We will issue another HIPAA records request for the Banner records, but expect them to similarly be lacking in evidentiary value.

We appreciate you have a lot to sift through and you getting a brief extension is reasonable, but we need the telemed provider and the picture that has now magically appeared (contrary to her testimony) **today.** Once we receive these, we can discuss what length of an extension is reasonable and further discuss resolution options.

Again, please do not take our instance here personally. You may withdraw or be fired before the ink dries here and we need to move this forward. If it resolves sooner, that would be wonderful and welcomed.

Gregg and Isabel

WOODNICK LAW, PLLC

1747 E. Morten Ave., Suite 205

GINGRAS LAW OFFICE
3941 E. CHANDLER BLVD.
PHOENIX, ARIZONA

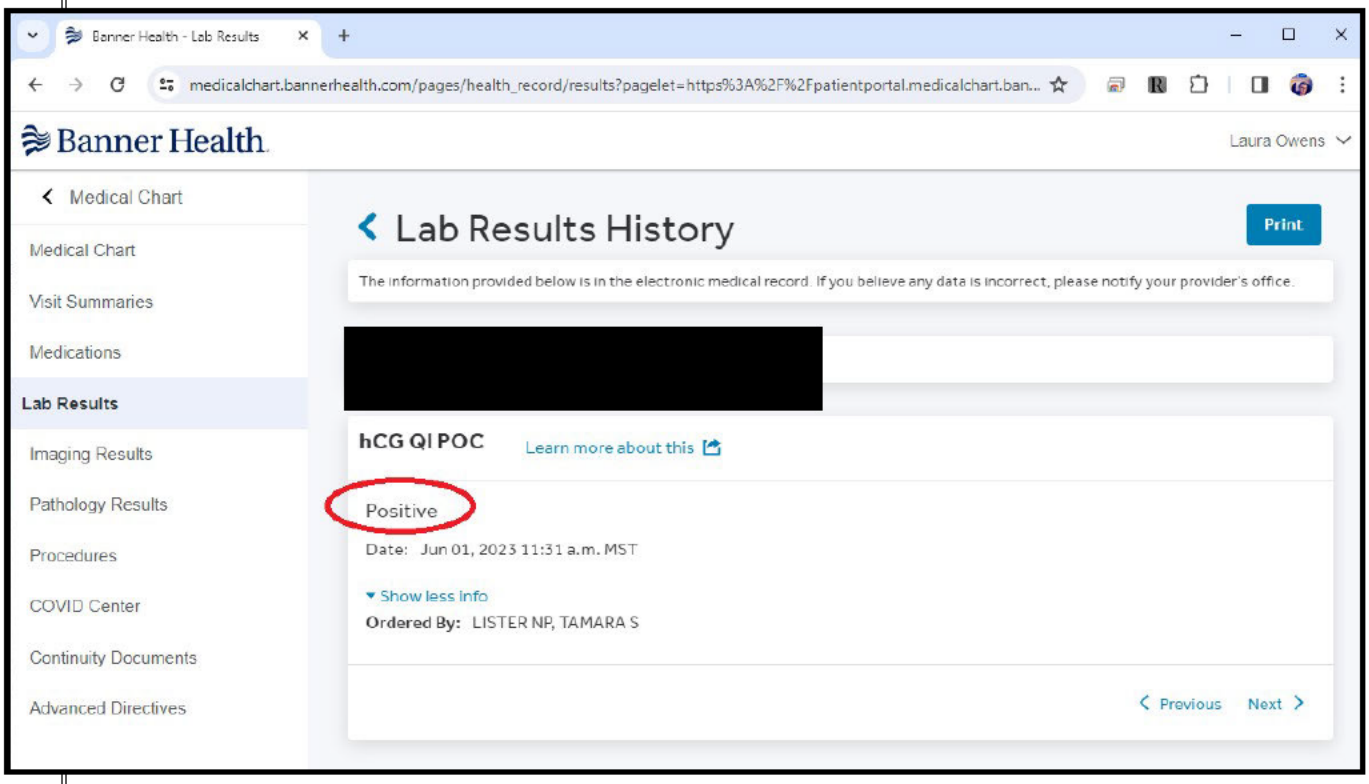
18. I found Mr. Woodnick's statement regarding medical records extremely concerning. At the time, I did not know whether Mr. Woodnick's statement was true, but obviously if it was true, that would mean Ms. [redacted] could be lying about the facts of the case. In that event, I would clearly be ethically prohibited from proceeding (assuming she asked me to make false representations to the Court, which I would refuse to do).

19. Given how important this issue was, I immediately shared Mr. Woodnick's email with Ms. [redacted] and asked for her response.

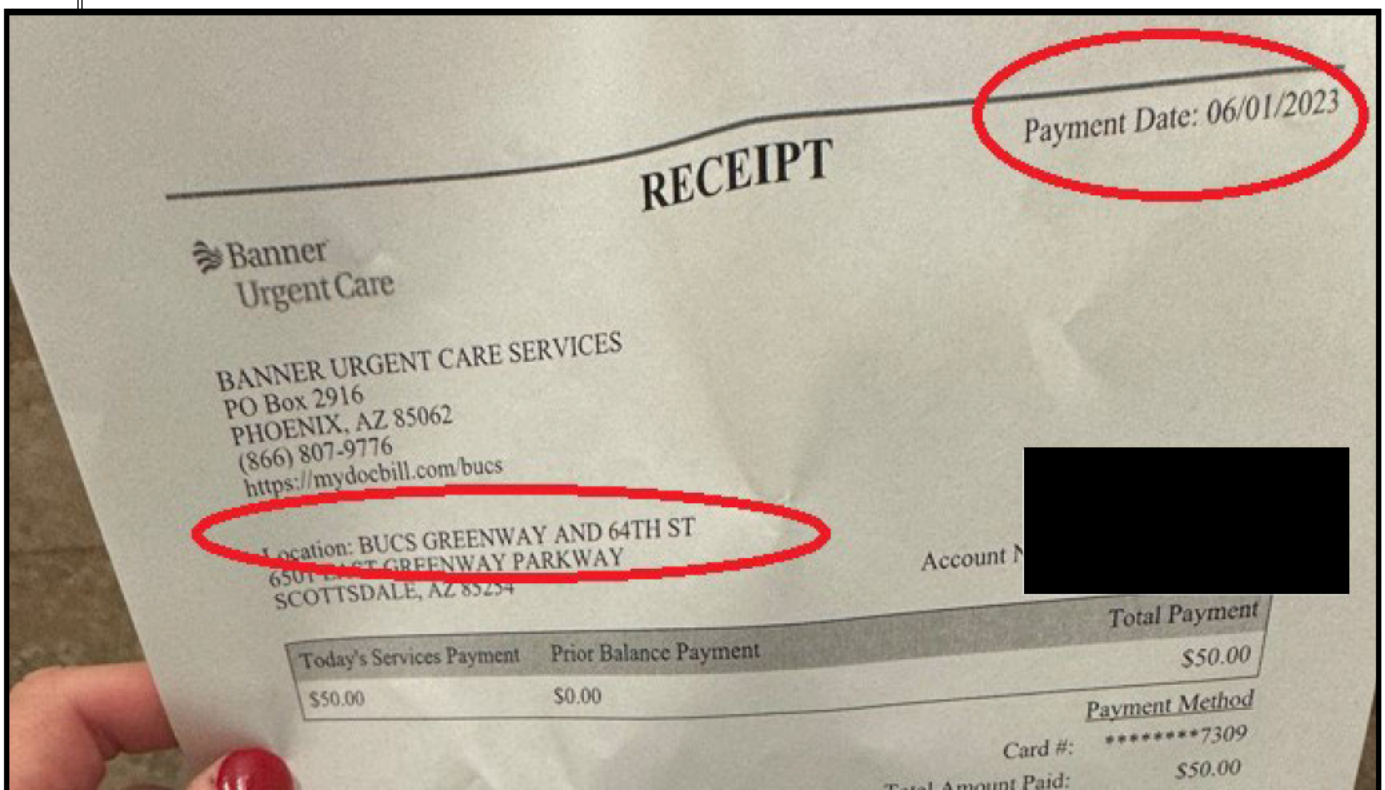
20. In response, Ms. [redacted] told me Mr. Woodnick's statement was completely false. To support this, Ms. [redacted] gave me her login/password for her Banner Health account, and she asked me to personally login to the account to verify that it contained a positive pregnancy test from June 1, 2024.

21. Following that request, I logged into Ms. [redacted] Banner Health account, and I immediately located a lab test result, as shown below.

22. This information, which I personally reviewed, appeared to reflect a positive pregnancy test taken by Ms. [redacted] on June 1, 2024.



23. As further support for this, Ms. [redacted] also provided me with a copy of a payment receipt, shown below, which confirmed the pregnancy test was taken on June 1, 2024 at the Banner Urgent Care location at Greenway & 64th Street in Scottsdale.



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24. These two records – the payment receipt and the lab test results – appeared to directly contradict Mr. Woodnick's statement that "[redacted] knows there are no medical records that support her fake pregnancy narrative …. " Of course, as a civil litigator with more than 20 years of experience handling *extremely* contentious cases, I am aware sometimes things are not always what they seem. So, I shared this information with Mr. Woodnick and asked him to explain himself.

25. Attached hereto as Exhibit C is the response I received from Mr. Woodnick about this issue. In all candor, I did not fully understand the contents of this response. In it, Mr. Woodnick appeared to ignore the fact that Ms. [redacted] does, in fact, have medical records to support her story. Instead, Mr. Woodnick claimed "an hcg test is *not* proof of a pregnancy and does not create a good faith believe [sic] given her history of positive pee tests but no sonograms/other data typical of a pregnancy in any of the prior or current matters."

26. Even assuming Mr. Woodnick is correct, and that a positive HCG test is not *conclusive* proof that a woman is pregnant (a point which I believe is true, since positive tests can be caused by other conditions), I did not understand how Mr. Woodnick could claim that "no records exist" when, in fact, records do exist…albeit in a form Mr. Woodnick feels may be unreliable or inconclusive.

27. In addition to this issue, I discovered another serious problem with an argument made in Mr. Echard's pleadings in which he seemed to suggest that every one of Ms. [redacted] medical providers had confirmed they had no records to show she was ever actually a patient. That specific argument is raised in Mr. Echard's Motion to Compel at page 4, lines 23–24 (in which Mr. Echard states: "Since the Status Conference, Respondent has received confirmation from nearly all providers that Petitioner [Ms. [redacted] was never a patient of theirs.") (emphasis in original).

28. Again, I discussed that specific issue with Ms. [redacted] at length, and she provided me with records that appear to show Mr. Echard's assertions are, at best, highly misleading if not outright knowingly false.

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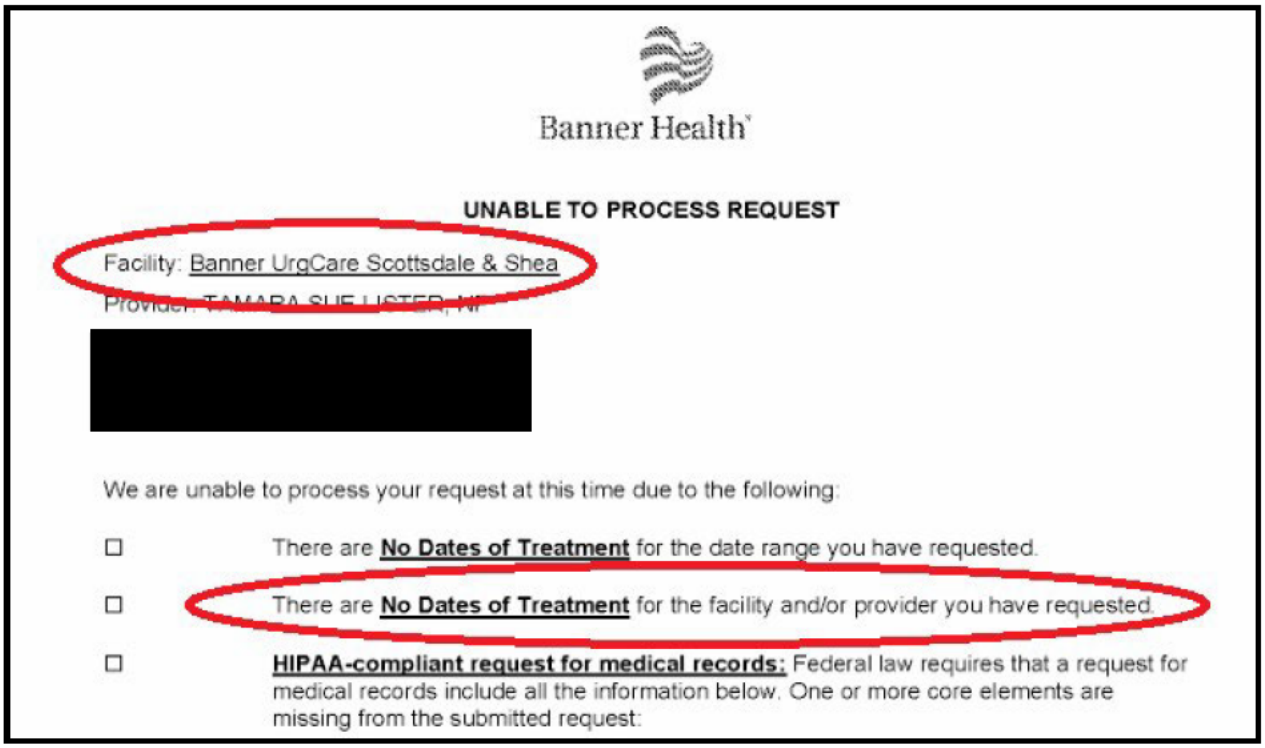
29. Specifically, Ms. [redacted] directed my attention to document previously provided by Banner Health responding to a records request from Mr. Woodnick. In that request, under the heading "UNABLE TO PROCESS REQUEST", Banner told Mr. Woodnick it had no records relating to Ms. [redacted] from its urgent care location at Scottsdale & Shea. A copy of this response is shown below.



Banner Health

UNABLE TO PROCESS REQUEST

Facility: Banner UrgCare Scottsdale & Shea

Provider: TAMARA SUE LISTER, NP

[redacted]

We are unable to process your request at this time due to the following:

☐ There are **No Dates of Treatment** for the date range you have requested.

☐ There are **No Dates of Treatment** for the facility and/or provider you have requested.

☐ **HIPAA-compliant request for medical records:** Federal law requires that a request for medical records include all the information below. One or more core elements are missing from the submitted request:

30. This document appears to be part of the basis for Mr. Echard's suggestion that "Since the Status Conference, Respondent has received confirmation from nearly all providers that Petitioner [Ms. [redacted] was never a patient of theirs."

31. After discussing this with Ms. [redacted] she immediately provided a clear and simple explanation – Banner had no records of her seeking care from the location at Scottsdale & Shea because Ms. [redacted] never sought care *at that location*. Rather, she went to a different Banner location at Greenway & 64th Street (as shown by the receipt in ¶ 23 above).

32. In addition, Ms. [redacted] also directed my attention to a second issue that directly refuted Mr. Echard's suggestion that "nearly all" medical providers had

GINGRAS LAW OFFICE, PLLC
3941 E. CHANDLER BLVD., #106-243
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confirmed that she was "never a patient of theirs". Specifically, Mr. Woodnick deposed Ms. [redacted] on March 1, 2024 (before I was involved in this case). During her deposition, Mr. Woodnick asked Ms. [redacted] to explain why some doctors indicated they had no records of Ms. [redacted] seeking care from them.

33. In her deposition, Ms. [redacted] explained she made appointments with various care providers, including a doctor named Dr. Makhoul, but then she later cancelled those appointments for a simple and understandable reason—she had COVID.

34. Indeed, and once again directly contrary to Mr. Woodnick's statement that "[redacted] knows there are no medical records that support her fake pregnancy narrative …", in response to a records request from Mr. Woodnick's office (accompanied by a signed HIPAA release from Ms. [redacted] Dr. Makhoul's office provided 44 pages of records (marked with Mr. Echard's own Bates Nos. CE0204–0247) which confirm exactly what Ms. [redacted] said in her deposition—i.e., that she made multiple appointments with Dr. Mahoul's office, which she had to cancel due to COVID. That specific point was described in an email from Ms. [redacted] to Dr. Makhoul in a document bearing Mr. Echard's Bates No. CE0221, as shown below:

AS LAW OFFICE, PLLC
HANDLER BLVD., #106-243
ENIX, ARIZONA 85048

Message #: 3
Subject: Re: Message from patient using FollowMyHealth.com.
Sent: 08/14/2023 10:31:40 AM
I'm sorry to hear this, what symptoms do you have? Coming back in depends on symptoms and vaccination status
Felisiana CMA

> [redacted]
> To: Portal, Non-urgent medical
> Sent: 8/14/2023 10:24 AM
>

Patient Message from FollowMyHealth

Message for Provider: Joshua A Makhoul, MD
Sent: 8/14/2023 5:24:50 PM GMT
Sende[redacted]
Subject: Canceling tomorrow
Body: Hi,

I'm so sorry to cancel last minute, but I think I have COVID (there was a light line on my test) and I feel awful. I don't want to bring that into the office. I hope that is okay. What is your protocol for how long after COVID I can come in?

Laura

35. To state the obvious, this document proves several things. First, it shows Mr. Woodnick's unequivocal statement that "[redacted] knows there are no medical records that support her fake pregnancy narrative …" is absolutely, categorically false. Second, it proves Mr. Woodnick appears to have intentionally tried to mislead the Court by suggesting—falsely—that every medical provider has confirmed that Ms. [redacted] was "never a patient of theirs." At best, that claim is seriously misleading because it intentionally omits the details showing: A.) Ms. [redacted] did seek prenatal care from Dr. Makhoul, and B.) she was unable to obtain care because she was sick with COVID and then lost her pregnancy unexpectedly,

36. Although the points discussed above are at least partially responsive to some of the arguments raised in Mr. Echard's Motion to Compel, they also demonstrate that this case is extremely complicated, and it appears some, if not all, of Mr. Echard's arguments in the Motion to Compel are not well-taken.

37. Because I still do not have a complete copy of Ms. [redacted] file, and because the file is extremely large and complicated, I do not believe I am in a position to fully respond to *all* arguments made in the motion. For that reason, I believe good cause exists to allow a 10-court-day extension of time for me to finish obtaining the complete file, and reviewing all of its contents so I can provide the Court with a detailed and helpful explanation of Ms. [redacted] position.

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 April 1, 2024.

David S. Gingras

GINGRAS LAW OFFICE, PLLC
3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

Exhibit A

David Gingras

From: David Gingras
Sent: Monday, March 25, 2024 5:37 PM
To: office@woodnicklaw.com
Subject: FW: eFileAZ eService Notification CASE NUMBER FC2023052114
Attachments: Notice of Appearance.pdf

Gregg & Isabel,

Per the attached notice, I have just been retained to represent [redacted] Although this notice was only filed in the paternity action, I understand there is also a separate case number involving the order of protection (FC2023-052711). I will probably also be representing Ms. [redacted] with respect to that matter, although until just a few minutes ago, I thought that case was concluded and was no longer an issue. I need to discuss that other matter with Ms. [redacted] and, of course, I'd like to speak to you about this as well so we can make sure we are all on the same page moving forward, at least as much as possible.

In any event, while I realize you guys have only been involved in this case since December, I hope you can appreciate I have a *lot* of catching up to do. For what it's worth, I have read many of the recent pleadings, and I understand there are allegations that Ms. [redacted] has lied about the material facts of the underlying case. I take those allegations seriously. At the same time, please understand that I do not currently have all the facts, but I will be working as quickly as I can to get up to speed.

In the mean time, and this should go without saying, but I will say it anyway – I take the ethical rules *extremely seriously*. Because of this, if I come to the conclusion that Ms. [redacted] has lied (or intends to offer false testimony in the future), I will either withdraw from this case and/or take appropriate action consistent with ER 3.3(a)(3) (among other rules).

Of course, I have discussed your client's allegations with Ms. [redacted] at length, and she assures me that she has been truthful about the material facts of the case. For now, my response to that (as in any case) is to take a "trust but verify" approach. This means while I will accept Ms. [redacted] statements as true, I will also be actively investigating every detail of what she has said, looking for any information that contradicts her. For now, I would greatly appreciate your patience and accommodation while I work through that process.

Having said this, I think the first step is for us to have a phone conference as soon as possible to discuss housekeeping and procedural matters. In no particular order, here are some points I'd like to discuss:

1.) I know you have a pending Motion to Compel. Since this addresses issues that arose before I was involved, I would appreciate it if we could discuss the outstanding discovery you are seeking in the hopes that we could resolve one (or all) of the categories of things raised in the motion. I may also need to request a short extension of time to respond.
2.) I have not seen any mention of settlement discussions in the file (although I do not have correspondence from Ms. [redacted] prior counsel yet). I'd like to know if there have been any discussions on that topic, and if not, is it worth talking about a resolution?
3.) I see there is a currently an evidentiary hearing set for the morning of June 10th. Although I am available that morning, I am scheduled to fly to Europe for a family vacation on the evening of June 10th, which means I would *not* be available later that afternoon. I mention this only because I think it is unlikely that 2 hours will be enough time for the hearing, in light of Mr. Echard's claims that Ms. [redacted] fabricated some or all of the allegations here. So, I think we should discuss moving the date, and possibly asking the court to give us more than 2 hours.

4.) Assuming we're not able to negotiate some sort of resolution (and right now, I'll be honest and say that seems unlikely), I want to make sure that both sides have fully complied with their disclosure obligations. I asked Ms. [redacted] if she could provide me with copies of Mr. Echard's disclosures, but she sent me a link (here) that I could not open (because apparently your firm limited access to only certain approved users).

If it would be easier, I have created a Microsoft OneDrive folder that you could use to dump documents into (no login or password required): https://onedrive.live.com/?authkey=%21AH1XmuiRxwwAs18&id=31F205ED09ACD77E%21148546&cid=31F205ED09ACD77E

I understand there have been some allegations regarding the parties inappropriately sharing/publishing case-related documents. If this is still a concern, please let me know and I will be happy to work with you to do whatever is needed to avoid that problem in the future. To that end, if the court has issued a protective order, please let me know....and if that has *not* happened for any reason, let's add that to the list of points to discuss (I would have no objection to a suitable protective order being entered).

I am sure there's a lot more to cover, but for now, please let me know when would be a good time to talk. My schedule is wide-open tomorrow and Wednesday, so just let me know what day/time works best for you.

Thanks and I look forward to speaking with you.

David Gingras, Esq.
Gingras Law Office, PLLC
David@GingrasLaw.com
https://twitter.com/DavidSGingras
http://gingraslaw.com
Tel.: (480) 264-1400
Fax: (480) 248-3196

From: noreply@courts.az.gov <noreply@courts.az.gov>
Sent: Monday, March 25, 2024 5:14 PM
Subject: eFileAZ eService Notification CASE NUMBER FC2023052114

eFileAZ eService Notification of Court Documents

A participant in this case has requested that you receive eservice notification of their filing.

To retrieve the document, you must have and be logged into an eFileAZ account. If you do not have an eFileAZ account click HERE or visit https://eFile.azcourts.gov. Once you have registered in eFileAZ, return to this email and follow retrieval instructions below:

Exhibit B

David Gingras

From: Gregg Woodnick <Gregg@woodnicklaw.com>
Sent: Wednesday, March 27, 2024 11:28 AM
To: David Gingras
Cc: Maribeth Burroughs; Isabel Ranney
Subject: Echard/[redacted]

David,

We really appreciate your willingness to take this case so far along into litigation. I also appreciate you wanting to focus on a resolution. Having spent Clatyon's legal fees having this exact conversation with a parade of prior attorneys with similar good intentions, please understand we are a bit jaded. Multiple prior lawyers unwittingly presented records to courts that were fabricated by [redacted] Those records not only were medical but also included fake letters from law firms. It is really unbelievable.

Put bluntly, [redacted] has misused court processes in multiple states to perpetuate the most bizarre of cons for relationships. She is either seriously mentally ill or diabolical. Four (4) very established men have documented her faking pregnancies, demanding relationship contracts for abortions, and fabricating medical records. You might want to call [redacted] attorney in California. While the media seems to think my office orchestrated figuring out this pattern of fraud, it was actually Laurie (Matt's attorney in California) who first dealt with [redacted] fake pregnancies and suicide threats back in 2014.

We are looking for a finding that the filing (and subsequent filings) were malignant per Rule 26 etc. We get that [redacted] may be judgment proof as prior attorneys have discussed, but of course that is not the legal standard and Clayton's ability to collect a fees judgement is not really our focus. Clayton is entitled to the court findings that Judge Mata will make in the three (3) matters now in her lap (paternity, OOP, IAH). The value of that judgment may only be on paper, but TedX [redacted] Medium [redacted] and Reddit [redacted] need to be recategorized as FICTION because she will (the minute you are out of the case or sooner as she did with Cory) start spinning more yarn, emailing the media, and sabotaging more of Claytons' professional endorsements with her nonsense. (Note, there is currently an investigation regarding [redacted] pretending to be a black Howard University reporter (who does not exist) and distributing an article in the middle of this case attempting to cancel Clayton claiming he was involved with use of the "N" word.)

Contrary to [redacted] beliefs, we do not control the media circus *she* started. But if [redacted] wants the reporters to run out of material, she needs to stop feeding it to them. She should go to whatever DBT inpatient program can help her stop living in a perpetual con. She needs to admit to the fraud, dismiss the protective orders against Clayton, Michael and Greg, and have you help her write a public apology. I am not a cast member, but she would also do herself a world of favor if she included in her apology the malignant rape allegation about both Greg Gillespie and myself that she made to Judge Bachus in her public apology.

That said, we know the Title 25 court only can do so much here and the paragraph above is *pie in the sky*. Still, Clayton is exhausted emotionally and financially but he is fully committed to this litigation until we get a judgment that he can show the world.

So….

Motion to Compel: We agree there is an obligation to avoid discovery issues. We did that long before you were on board and filing the MTC was already a last resort. Clayton is not willing to withdraw it at this time because we are 10 months in, [redacted] faked medical records, and we have a trial date. We also have our experts who need

whatever other records [redacted] claims she has (but with proper verifiable chain of custody, given her propensity to cut and paste).

We would consider a *brief* extension for a response (as a professional courtesy to you as this is not your fault) but with some contingencies. Any extension would require [redacted] to immediately provide the picture she now suddenly claims she has of the fetuses that she testified she deleted and did not have her iphone anymore and that her sister deleted them. That information should be provided today from you. It will be time/date stamped and will put an end to the great mystery of WHEN the *alleged* miscarriage happened. Remember, she stated in court that she did not know. She stated in deposition the same. So how wonderful it will be to know by the date stamp on an image that will also be in her medical records from the telehealth doctor she sent the image to. We are eager to read the records from the doctor who told her not to worry about miscarrying 20 week twin fetuses (which would actually be a fetal death warranting a death certificate under law). She must also immediately provide the name of the telehealth provider so we can obtain the records directly from them, which should include the photo per her sworn testimony.

[redacted] knows there are no medical records that support her fake pregnancy narrative (as confirmed my the 7+ providers who have no records of ever seeing her notwithstanding her deposition and testimony in two protective order proceedings. I trust you have reviewed the records from Planned Parenthood, Dr. Makhoul's office, and Dr. Higley where they confirm that your client was never a patient there. We will issue another HIPAA records request for the Banner records, but expect them to similarly be lacking in evidentiary value.

We appreciate you have a lot to sift through and you getting a brief extension is reasonable, but we need the telemed provider and the picture that has now magically appeared (contrary to her testimony) **today**. Once we receive these, we can discuss what length of an extension is reasonable and further discuss resolution options.

Again, please do not take our instance here personally. You may withdraw or be fired before the ink dries here and we need to move this forward. If it resolves sooner, that would be wonderful and welcomed.

Gregg and Isabel

WOODNICK LAW, PLLC
1747 E. Morten Ave., Suite 205
Phoenix, AZ 85020
Phone: (602) 449-7980
Fax: (602) 396-5850
www.woodnicklaw.com
Email: gregg@woodnicklaw.com

I am sure you know that you are [redacted] 4th attorney in the pending paternity matter and something like the 12th or 13th in all her related matters. I also received a closure letter from the Bar for the complaint (I think this was the 2nd) [redacted] filed against me and I understand that the complaints she filed against two (2) of her prior attorneys have also been dismissed. I am also sure that [redacted] told you she sent an *ex parte* letter to the Court on the eve of a hearing accusing me of orchestrating her rape.

[redacted] made statements in multiple court proceedings and in her deposition earlier this month that are incongruent with reality and medical science. A sampling of her behavior:

1. She testified before Judge Gialketsis wearing a fake pregnancy stomach (moon belly) and said she had been seen by multiple obstetricians who have since confirmed they never saw her.
2. She testified before Judge Doody (also wearing a fake pregnant stomach) and claimed she had an ultrasound appointment, had an ultrasound report to confirm it, and that she had only provided the sonogram to my client (all outlined in our Motion for Relief from Judgment).
3. She testified to getting a sonogram from Planned Parenthood (who has no records of ever seeing her for the same) but then said she doctored the image to falsely attribute it to a different ultrasound provider (SMIL) here in Phoenix (who also has no records of ever seeing her).
4. She claimed that the *only* person who told her she was pregnant with boy and girl twins was an abortion pill provider (still not disclosed) that she sent the doctored 6-week ultrasound to (impossible to ascertain from an ultrasound until roughly 18 weeks).
5. She recently claimed she had a miscarriage sometime in September or October (but did not know when) and that she passed two (2) hand-sized fetal sacs. She testified that a telehealth provider (who has yet to be disclosed) told her not to worry. She also claimed she took a picture of the fetal sacs and sent it to her sister and the doctor.

In short, all providers she claimed were treating her "high risk" pregnancy with "twins" have denied she was their patient.

I realize there is a lot to digest here and I am happy to chat with you more by phone as soon as later today.

Gregg

WOODNICK LAW, PLLC
1747 E. Morten Ave., Suite 205
Phoenix, AZ 85020
Phone: (602) 449-7980
Fax: (602) 396-5850
www.woodnicklaw.com
Email: gregg@woodnicklaw.com

From: David Gingras <david@gingraslaw.com>
Sent: Monday, March 25, 2024 5:37 PM
To: GRW Office <Office@woodnicklaw.com>
Subject: FW: eFileAZ eService Notification CASE NUMBER FC2023052114

Gregg & Isabel,

Per the attached notice, I have just been retained to represent [redacted] Although this notice was only filed in the paternity action, I understand there is also a separate case number involving the order of protection (FC2023-

052711). I will probably also be representing Ms. [redacted] with respect to that matter, although until just a few minutes ago, I thought that case was concluded and was no longer an issue. I need to discuss that other matter with Ms. [redacted] and, of course, I'd like to speak to you about this as well so we can make sure we are all on the same page moving forward, at least as much as possible.

In any event, while I realize you guys have only been involved in this case since December, I hope you can appreciate I have a *lot* of catching up to do. For what it's worth, I have read many of the recent pleadings, and I understand there are allegations that Ms. [redacted] has lied about the material facts of the underlying case. I take those allegations seriously. At the same time, please understand that I do not currently have all the facts, but I will be working as quickly as I can to get up to speed.

In the mean time, and this should go without saying, but I will say it anyway – I take the ethical rules *extremely seriously*. Because of this, if I come to the conclusion that Ms. [redacted] has lied (or intends to offer false testimony in the future), I will either withdraw from this case and/or take appropriate action consistent with ER 3.3(a)(3) (among other rules).

Of course, I have discussed your client's allegations with Ms. [redacted] at length, and she assures me that she has been truthful about the material facts of the case. For now, my response to that (as in any case) is to take a "trust but verify" approach. This means while I will accept Ms. [redacted] statements as true, I will also be actively investigating every detail of what she has said, looking for any information that contradicts her. For now, I would greatly appreciate your patience and accommodation while I work through that process.

Having said this, I think the first step is for us to have a phone conference as soon as possible to discuss housekeeping and procedural matters. In no particular order, here are some points I'd like to discuss:

1.) I know you have a pending Motion to Compel. Since this addresses issues that arose before I was involved, I would appreciate it if we could discuss the outstanding discovery you are seeking in the hopes that we could resolve one (or all) of the categories of things raised in the motion. I may also need to request a short extension of time to respond.
2.) I have not seen any mention of settlement discussions in the file (although I do not have correspondence from Ms. [redacted] prior counsel yet). I'd like to know if there have been any discussions on that topic, and if not, is it worth talking about a resolution?
3.) I see there is a currently an evidentiary hearing set for the morning of June 10th. Although I am available that morning, I am scheduled to fly to Europe for a family vacation on the evening of June 10th, which means I would *not* be available later that afternoon. I mention this only because I think it is unlikely that 2 hours will be enough time for the hearing, in light of Mr. Echard's claims that Ms. [redacted] fabricated some or all of the allegations here. So, I think we should discuss moving the date, and possibly asking the court to give us more than 2 hours.
4.) Assuming we're not able to negotiate some sort of resolution (and right now, I'll be honest and say that seems unlikely), I want to make sure that both sides have fully complied with their disclosure obligations. I asked Ms. [redacted] if she could provide me with copies of Mr. Echard's disclosures, but she sent me a link (here) that I could not open (because apparently your firm limited access to only certain approved users).

    ...

    I understand there have been some allegations regarding the parties inappropriately sharing/publishing case-related documents. If this is still a concern, please let me know and I will be happy to work with you to do whatever is needed to avoid that problem in the future. To that end, if the court has issued a

Exhibit C

David Gingras

From: Gregg Woodnick <Gregg@woodnicklaw.com>
Sent: Wednesday, March 27, 2024 2:43 PM
To: David Gingras
Cc: Maribeth Burroughs; Isabel Ranney
Subject: RE: Echard/[redacted]

David,

To clarify, we are well aware of your client's ability to test positive on an hcg test. She has done so in the three (3) prior fabricated pregnancy matters with the three (3) other men. As you pointed out yourself, an hcg test is *not* proof of a pregnancy and does not create a good faith believe given her history of positive pee tests but no sonograms/other data typical of a pregnancy in *any* of the prior or current matters. In short, we do not doubt that [redacted] went to Banner on June 1st (days after performing oral sex on my client) and tested positive on an hcg test. It just simply is not dipositive (legally or medically) given the extreme levels of fraud here and history of doctored medical evidence.

We appreciate your advocacy but if [redacted] four attorneys and 10 months in and after putting Bonnie Platter, Lexi Lindvall and Cory Keith in a position of using faked ultrasounds (and we have a paper trail confirming it was more than the one she confessed to), this is going nowhere fast. In the light most favorable to [redacted] she wants to believe she is pregnant and to trick other men into thinking the same so she can extort them into relationships with these bizarre contracts she drafts. She has an hcg anomaly that is perhaps created by injection or her myriad medications but that does not explain *all of her subsequent filings and statements under oath* when she clearly was not pregnant or the disappearance of 24 week twins days after we sent notice of Clayton's filing on the putative father registry.

If we are wrong, contrary to medical science and experts who have reviewed all of the records/lack thereof, we will gladly accept the verified images of +20 week fetal sacs, with the time and date stamped from an iPhone (and ultimately confirmed by Brian Neumeister as we previously offered), and the disclosure of the records from the telehealth provider she sent the photo to on the day of the alleged miscarriage per her testimony. Again, we are expecting that data today.

Gregg