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K. Higuchi-Mason, Deputy
9/6/2023 7:08:05 PM
Filing ID 16555014

Fortify Legal Services
3707 E Southern Avenue Mesa, AZ 85206
Phone: (602) 529-4777 | www.FortifyLS.com
Kyle O'Dwyer (036095); Kyle@FortifyLS.com
Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Laura Owens,

Plaintiff,

vs.

Gregory Gillespie,

Defendant.

Case No: CV2021-052893

RESPONSE TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiff, through undersigned counsel, hereby files this Response to Defendant's Motion for Partial Summary Judgment. Because Plaintiff's disclosures provided that she suffered $40,000 in damages due to the trauma suffered, and because her supplemental testimony for trial, included in the affidavit attached hereto show that she suffered severe emotional distress, there are genuine issues of material fact and the Court should allow Ms. Owens' claims to move forward to the arbitration hearing.

This motion is based on the arguments herein, the attached Affidavit of Laura Owens, and the Court file in whole.

I. FACTS

Ms. Owens is a popular self-help podcaster and victim's advocate who speaks regularly on the topic of coerced abortions. Plaintiff's Statement of Additional Facts ("PSOAF"), ¶ 1. Ms. Owens was ready to have a child when she got pregnant with Mr.

Gillespie's child. *Id.*, ¶ 2. However, she felt a connection with Mr. Gillespie and because he promised to follow through with a relationship with her if she had an abortion, she went through the process. *Id.*, ¶ 3.

Ms. Owens knew that it was possible that her credibility as a victim's rights advocate could be tarnished but believed she could have a successful long-term relationship with Mr. Gillespie. *Id.*, ¶ 4. Ms. Owens followed through with the abortion based on the false promises by Defendant that they would have a relationship. *Id.*, ¶ 5. However, after Ms. Owens went through with the abortion, Mr. Gillespie blocked her on all forms of social media and the phone. *Id.*, ¶ 6. Mr. Gillespie never intended to follow through with the promise of a relationship with Ms. Owens. *Id.*, ¶ 7. Mr. Gillespie then threatened to withhold child support for Ms. Owens if she went through with the pregnancy, demanded she "take the fucking pills," and threatened to call the police on her. *Id.*, ¶ 8.

Mr. Gillespie also claimed that Ms. Owens was holding him hostage "for a bastard." *Id.*, ¶ 9. Plaintiff suffered severe anxiety from the emotional distress intentionally caused by Defendant. *Id.*, ¶ 10. Ms. Owens had physical symptoms of skin rashes and heartburn due to the trauma she suffered. *Id.*, ¶ 11. There is not a day that goes by that Ms. Owens does not regret the decision that was coerced by Mr. Gillespie. *Id.*, ¶ 12. Ms. Owens has trouble focusing at work due to Mr. Gillespie's actions. *Id.*, ¶ 13. Ms. Owens has cried due to guilt and embarrassment, lost sleep, and suffers from significant mood swings. *Id.*, ¶ 14. Ms. Owens is in fear for her safety and has obtained multiple orders for protection against Mr. Gillespie. *Id.*, ¶ 15. Ms. Owens now splits time in Arizona and California. *Id.*, ¶ 16.

Plaintiff served two documents entitled Initial Disclosure Statements , one on November 23, 2022 and another on April 17, 2023. *Id.*, ¶ 17. Plaintiff's disclosure statements included exhibits attached to them and included by reference documents

disclosed by other parties and documents filed in and with pleadings. *Id.*, ¶ 17. Defendant never disclosed the defense that Ms. Owens had to prove physical symptoms of severe emotional distress. *Id.*, ¶ 18.

II. LEGAL ANALYSIS

A. Summary Judgment Standard

On a motion for summary judgment, the moving party bears the burden of proving that there are no genuine issues of material fact. Ariz. R. Civ. P. 56. In determining whether there are genuine issues of material fact, the Court must view the facts and reasonable inferences from them in the light most favorable to the non-moving party. *Andrews v. Blake*, 205 Ariz. 236, 240, 69 P.3d 7, 11 (Ariz. 2003). Summary judgment is only appropriate if "'the facts produced in support of the [non-moving] party's claim or defense have so little probative value… that reasonable people could not agree with the conclusion advanced by the proponent.'" *Id.* (quoting *Orme School v. Reeves*, 166 Ariz. 301, 309, 802 P.2d 1000, 1008 (Ariz. 1990)).

B. Defendant is not entitled to judgment as a matter of law because Plaintiff has disclosed sufficient damages.

Defendant claims that Plaintiff's disclosure statements only provided a calculation of damages based on attorneys' fees and costs and therefore Defendant is entitled to judgment as a matter of law. The purpose of disclosure statements is to give notice of claims and damages at issue so both sides can meaningfully prepare for trial. *See Englert v. Carondelet Health Network*, 199 Ariz. 21, 25 13 P.3d 763, 767 (App. 2000). The damages explanation may have been unartfully phrased but gave sufficient notice to Defendant that Plaintiff would seek damages for the cost of defense and $40,000 for emotional distress damages due to the trauma from which she suffered. Emotional distress damages are difficult to accurately calculate and may be based exclusively on the

testimony of the Plaintiff. *Larson v. Nanos*, 2016 WL 4592184, at *7 (D. Ariz. 2016).[1] They need not be supplemented by expert testimony.

The Court should further keep in mind that this is a case in the mandatory arbitration system. It does not involve claims of hundreds of thousands of dollars but a claim for $40,000. Ms. Owens is seeking redress for the severe emotional distress that she endured, due to the flagrant misrepresentations and actions taken by Mr. Gillespie, in order to cause her severe emotional distress.

C. <u>Plaintiff has suffered from severe emotional distress</u>

Defendant claims that there are no genuine issues of material fact as to whether Defendant suffered from severe emotional distress. It can be difficult to discern where the line is on emotional distress cases as to what constitutes severe emotional distress and what does not. Obviously, as indicated above, all reasonable inferences in this Motion must be resolved in favor of Plaintiff. As the *Midas* court held, crying and difficulty sleeping is not enough. *Midas Muffler Shop v. Ellison*, 133 Ariz. 194, 199, 650 P.2d 496, 501 (App. 1982). However, in *Vicente v. Barnett*, 415 Fed.Appx. 767, 769 (9th Cir. 2011), the court stated "Arizona courts have since made clear that bodily injury is not required." *Id.* (citing *Pankratz v. Willis*, 155 Ariz. 8, 12, 17, 744 P.2d 1182, 1186, 1191 (App. 1987)). Defendant cites to an unpublished case for the claim that intentional infliction of emotional distress cases must be predicated on emotional distress that resulted in physical symptoms. That unpublished decision is inapposite to the published decision in *Pakratz*, wherein the court stated that a showing of depression was sufficient. *Pankratz*, 155 Ariz. at 19, 744 P.2d at 1193.

In her disclosure statements, Plaintiff alleged that she suffered from "severe anxiety, depression, shock, and utter guilt" due to Defendant's false promises made

[1] A copy of this decision is attached as Exhibit 1 to this Response.

specifically to cause Ms. Owens to get an abortion. As indicated in her affidavit attached to the Additional Statement of Facts, the anxiety resulted in Ms. Owens having skin rashes and heartburn.

Apart from the fact that Plaintiff suffered from sufficiently severe emotional distress, the Court should also consider that because Defendant failed to sufficiently disclose this defense, he is precluded from taking the position and therefore summary judgment should be denied on this basis. A party is required to timely disclose its legal defenses and the factual basis for them. If a party fails to do so, it is not permitted to use that information at trial. *Englert v. Carondelet Health Network*, 199 Ariz. 21, 25 13 P.3d 763, 767 (App. 2000). In this case, Defendant never indicated its factual or legal defenses to any of Plaintiff's claims, other than to refer to certain pleadings in their disclosure statements. However, upon scouring the filings referenced, none of the defenses include the defenses indicated in his motion- that Plaintiff has suffered no damages and that Plaintiff's emotional distress was not severe. The closest you could come by legal gymnastics to doing so is the denials in his answer.

However, the purpose of disclosure statements is to give each party adequate notice of what arguments will be made and what evidence will be presented at trial so that there is no trial by ambush. Here, for the first time in this case, Defendant is asserting that the failure to disclose physical symptoms resolves the claim. Were this to have been made clear by Defendant, as Plaintiff made clear in her disclosure statements, the information provided by Plaintiff in response would have been provided earlier. However, the Court should not preclude Plaintiff from presenting this information now in response to the Motion. Either the contention that failure to meet this additional defense must be precluded or my client must be able to provide evidence in response to it now.

III. CONCLUSION

For the foregoing reasons, the Court should deny the motion for summary

judgment. Plaintiff sufficiently disclosed the damages she was seeking when she specifically stated that she was seeking $40,000 for the trauma she suffered and the allegations, when taken in conjunction with those in her affidavit, are sufficient to create genuine issues of material fact.

RESPECTFULLY SUBMITTED this 6th day of September, 2023.

FORTIFY LEGAL SERVICES

/s/ Kyle O'Dwyer
Kyle O'Dwyer
3707 E Southern Avenue
Mesa, AZ 85206
(602) 529-4777
Attorney for Plaintiff

Filed this 6th day of September 2023
with Maricopa County Clerk of Court and
served this 6th_day of September 2023
by TurboCourt on the following:

Fabian Zazueta
Garret Respondek
Zazueta Law Firm, PLLC
2633 East Indian School Road, Suite 370
Phoenix, Arizona 85016
fabian@zazuetalawfirm.com
garrett@zazuetalawfirm.com

With COPY to the following by email:

Devina Jackson
Court-Appointed Arbitrator
Djackson1211@yahoo.com

By: Kyle O'Dwyer

EXHIBIT 1

2016 WL 4592184
Only the Westlaw citation is currently available.
United States District Court, D. Arizona.

Jill LARSON, et al., Plaintiffs,
v.
Chris NANOS, Pima County Sheriff,
in his official capacity, Defendant.

No. CV-14-01592-TUC-DCB
|
Signed 06/17/2016
|
Filed 06/21/2016

Attorneys and Law Firms

Michael Garth Moore, Law Offices of Mike Moore, Tucson, AZ, for Plaintiffs.

Stacey A. Roseberry, Dennis Carlton Bastron - Inactive, Tucson, AZ, for Defendant.

ORDER

David C. Bury, United States District Judge

***1** On April 22, 2016, a jury entered a verdict for Plaintiff's and against Defendant in the amount of $750,000 for Jill Larson and in the amount of $500,000 for Rob Larson. (Verdicts (Docs. 127, 128); Judgment (Doc. 132)). The jury found Defendant, Sheriff Christopher Nanos, [1] violated the Plaintiffs' constitutional rights under the Fourth and Fourteenth Amendment to be free from unreasonable searches and seizures by an expressly adopted policy or a longstanding practice or custom. (Jury Instruction 9.4 (Doc. 126) at 8.)

On May 20, 2016, Defendant renewed his trial motion for a judgment as a matter of law, pursuant to Fed. R. Civ. P. 50(b) and correspondingly seeks a new trial, pursuant to Rule 59. In the circumstances where the Court denied a motion for judgment as a matter of law made at trial under Rule 50(a), the Court is considered to have submitted the action to the jury subject to the Court's later decision on the legal questions raised by the motion. The motion for judgment as a matter of law may be renewed within 28 days of the verdict, and likewise may include an alternative motion for a new trial under Rule 59. Fed. R. Civ. P. 50(b). The Court may allow the judgment on the verdict, order a new trial, or direct the entry of judgment as a matter of law. *Id.* A new trial may be granted under Rule 59 "after a jury trial, for any reason for which a new trial has heretofore been granted in an action at law in federal court." Defendant seeks a new trial on the historic grounds that the verdicts are against the clear weight of the evidence and damages are excessive. (D's Motion (Doc. 147) at 13 (citing *Molski v. M.J. Cable Inc.*, 481 F.3d 724, 729 (9th Cir. 2007); *Tortu v. Las Vegas Metropolitan Police Dept.*, 556 F.3d 1075, 1083 (9th Cir. 2009)).)

Defendant seeks a judgment not withstanding the verdict and argues that the Plaintiff's failed to produce legally sufficient evidence for the jury to impose municipal liability or, alternatively, seeks a new trial because the jury's damage awards are against the clear weight of the evidence and are excessive. The Court denies the Defendant's motion for a judgment as a matter of law and the alternative motion for a new trial.

Motion for Judgment as a Matter of Law

On May 24, 2016, the Ninth Circuit Court of Appeals issued an opinion in *Sialoi v. City of San Diego*, ___ F.3d ____, 2016 WL 2996138 (9th Cir. 2016), which confirms the Judgment against the Defendant. As the appellate court did in *Sialoi*, in this case, the Court was guided by *Sandoval v. Las Vegas Metro. Police Dept.*, 756 F.3d 1154 (9th Cir. 2014) and *Hopkins v. Bonvicino*, 573 F.3d 752 (9th Cir. 2009). (Order (Doc. 62) at 10-12, 16, 21-22, 25-26 (*Sandoval* citations); 9-10, 17, 19-21, 24 (*Hopkins* citations).) In *Sialoi*, the court held that "once officers discovered that an item held by one of the suspects was a mere toy, rather than a handgun, the officers violated clearly established law and acted wholly unreasonably" by disrupting a peaceful birthday party for a seven-year-old girl by seizing party attendees at gun point, handcuffing them, detaining some in patrol cars, and detaining them for 17 to 30 minutes then searching the family's apartment without a warrant or consent. Here, Plaintiff's argued similarly that officers violated clearly established law and acted wholly unreasonably by seizing them at gun point, handcuffing them, detaining them for between 15 and 20 minutes, [2] and then searching their home— after officers arrived at the scene to find a quiet house, with Plaintiff's sleeping peacefully in bed.

***2** On summary judgment, this Court found that the facts as alleged by the Plaintiff's reflected an arrest. *Compare Sialoi*,

2016 WL 2996138 *4, 6 (finding seizure was likely an arrest where guns were pointed at plaintiffs, they were handcuffed, and detained in a parking area, and most certainly it was an arrest when officers placed plaintiffs in patrol cars). Where there is an arrest, there must be probable cause, which " 'exists when officers have knowledge or reasonably trustworthy information sufficient to lead a parson of reasonable caution to believe that an offense has been or is being committed by the person being arrested.' " *Sialoi*, 2016 WL 2996138 *5 (quoting *United States v. Lopez*, 482 F.3d 1067, 1072 (9th Cir. 2007)). Here, the Larsons prevailed on the less strict standard of reasonable suspicion, (Jury Instruction 9.19 (Doc. 126) at 16), which asks: whether "officers 'have specific, articulable facts which, together with objective and reasonable inferences, form the basis for suspecting that the particular person detained is engaged in criminal activity.' " *Sialoi*, 2016 WL 2996138 *7 (quoting *United States v. Lopez-Soto*, 205 F.3d 1101, 1105 (9th Cir. 2000)), *United States v. Sigmond–Ballesteros*, 285 F.3d 1117, 1121 (9th Cir. 2001), *see also* (Jury Instruction 9.19 (Doc. 126) at 17) (describing reasonable suspicion as a particularized and objective basis for suspecting the seized person of criminal activity).

As the court explained in *Sialoi*, at the time officers detained the remaining attendees at the peaceful birthday party, the officers had already determined that none of the boys possessed a weapon but instead had only a water pistol and officers had no reason to suspect the persons they detained were engaged in anything but the lawful celebration of a 7-year old girl's birthday. In discussing the seizure of the three boys, which the court found to be an arrest, the court further explained in the context of assessing probable cause that officers must consider the totality of facts available to them and " 'may not disregard facts tending to dissipate probable cause.' " *Sialoi*, 2016 WL 2996138 *7. Like the plaintiffs in *Sialoi*, the Larsons argued the Defendant failed to consider facts tending to dissipate reasonable suspicion in assessing the totality of the circumstances, such as the street being completely quiet, the Larsons fully complying with directives from officers, coming out onto their porch in their underwear and appearing to have just been awakened, and both husband and wife being present and neither appearing distressed or injured.

The Court will not further summarize the facts and law applied in *Sialoi*, but leaves it to the Defendant to read it. The Court is confident that a careful reading of *Sialoi* will affirm for the Defendant, as it did for this Court, the correctness of the jury's verdict in favor of the Plaintiff's regarding the constitutional violation of their rights to be free from unreasonable seizures of their persons and unreasonable searches of their home.

This brings the Court to Defendant's contention that, nevertheless, Plaintiffs' case fails because they failed to present sufficient evidence to establish municipal liability for the constitutional violations.

This Court must sustain the verdict unless "the evidence, construed in the light most favorable to the nonmoving party, permits only one reasonable conclusion, and that conclusion is contrary to the jury's verdict." *Pavo v. Pagay*, 307 F.3d 915, 918 (9th Cir. 2002). This Court will not re-weigh the evidence, but instead draws all reasonable inferences in favor of the non-mover, here the Plaintiffs, and disregards all evidence favorable to the movant, here the Defendant. *Harper v. City of L.A.*, 533 F.3d 1010, 1021 (9th Cir. 2008). The evidence is sufficient if it is adequate to support the jury's conclusion, even if it is also possible to draw a contrary conclusion from the same evidence. *Johnson v. Paradise Valley Unified School Dist.*, 251 F.3d 1222, 1226 (9th Cir. 2001). So, the Court would only grant Defendant's motion, if there was a complete absence of evidence supporting the verdict such that the jury's findings could only have been the result of sheer surmise and conjecture. *Advance Pharm., Inc. v. United States*, 391 F.3d 377, 390 (9th Cir. 2004).

***3** Here, pursuant to Fed. R. Civ. P. 36, the Defendant admitted that the Pima County Sheriff deputies' actions on the night of May 23, 2013, as reflected in the Incident Report (IR) 130523338, were done in compliance with PCSD policy. *See* Trial Exhibits 39 and 17. Defendant did not seek to withdraw the admission, Fed. R. Civ. P. 36(b), or to qualify it, Rule 36(a)(4). The Defendant did not object to the introduction of the admission. Then and now, Defendant argues the admission is insufficient to support municipal liability because the Sheriff did not admit that he had a policy or practice that was itself, by its own terms, unconstitutional. " '[I]t is not enough,' though, 'for a § 1983 plaintiff merely to identify conduct properly attributable to the municipality.' ... 'To ensure that municipal liability does not collapse into *respondeat superior*, a plaintiff, after identifying an official municipal policy, 'must also demonstrate that, through its *deliberate* conduct, the municipality was the 'moving force' behind the injury alleged.' " (Motion (Doc. 147) at 3 (quoting *Bd. of Commnr.s of Bryan Cntty. v. Brown*, 520 U.S. 397, 404 (1997) (emphasis

in motion) (discussing *Monell v. Depart. Of Social Services of New York*, 436 U.S. 658, 694 (1978))).)

But Defendant is wrong, Plaintiff's presented evidence beyond the party admission, and the party admission was not as generalized as Defendant suggests. The IR fleshed out the details of what happened that night at the Larsons' home, including many of the facts upon which liability hinge: 1) officers arrived on the scene based on a 911 call that reflected a domestic violence scenario between a man and a woman, with possible shots fired; 2) officers entered a fenced and gated yard, with drawn weapons (handguns and rifles); 3) officers surrounded the trailer and called the residents out by banging on the side of the trailer and pointing guns at them; 4) the Larsons were at all times compliant, and 5) the Larsons appeared on the porch looking as if they had just been awakened, clad in their underwear, and were not in distress nor injured—then 6) officers handcuffed them, detained them and searched their home. Additionally, the IR reflects that when officers discovered nothing at the Larsons' home, and the reportee said he may have heard the screaming coming from another trailer; officers proceeded to conduct the same call-out and containment procedure there. (Trial Exhibit 17.) The Court instructed the jury that the facts set out in the IR were admitted. (TR, Day 4 (Doc. 145) at 36.)

The facts in the IR clearly reflect that upon the call-out, the man and woman residing at the residence were fully cooperative and appeared before officers completely ok, calm and without any injuries, and appeared to have been sleeping. Accordingly, upon arriving at the scene, officers discovered facts that called into question the reported emergency, and the IR reflected that the deputies found no probable cause or any reasonable suspicion to believe the Larsons had committed any crime. Nevertheless, the IR reported that deputies seized the Larsons, handcuffed them, and searched their home. These facts red flagged the constitutional violation because alone they reflected a need for further investigation, (Order (Doc. 62) (denying qualified immunity for the officers), yet the Defendant admitted, pursuant to Rule 36, that the seizures and search were done in compliance with PCSD policy.

The jury found the Plaintiffs proved the existence of a widespread practice, of sufficient duration, frequency, and consistency to be the moving force that caused the Larsons' injury. (Jury Instruction 9.4 (Doc. 126) at 9.)[3] Of course, evidence of just one or two isolated or sporadic incidents is not enough because this type of liability exists for longstanding practices or customs which constitute standing operating procedures of the local entity. *Id.*, *see also Meehan v. Los Angeles County*, 856 F.2d 102, 107 (9th Cir. 1988) (applying rule that single incident is insufficient under *Monell* to case where there were two incidents). Here, Plaintiff's presented more evidence than just the two incidents which occurred on May 23, 2013. Sheriff's deputies, Sargent Kubitskey, and Deputy Chief Gwaltney all testified to the existence of a specific long-standing departmental policy: call-out and containment.

***4** For example, Deputy McMurrich testified to assuming everything is 100% correct and explaining that was the reason for their actions on May 23, 2013. (TR, Day 3 (Doc. 144) at 119.) While he admitted observations made by officers at the time of arrival are important and, here, there was evidence at the scene contrary to the 911 caller's report of an ongoing violent disturbance, *id.* at 120, but nevertheless they had to get inside the house to see if anything had happened inside, *id.* He testified that in situations like this, they need to get in there and make sure everything is safe. *Id.* at 130. He described what deputies did at the Larsons' residence as a containment and callout. *Id.* at 131.

Sargent Kubitskey, responsible for supervising and ensuring that deputies are following Department procedures and rules testified that "until we can determine who is a friend or foe, we have to put everyone in cuffs until we can alleviate that." (TR, Day 4 (Doc. 145) at 107.) He testified that the search and seizure, based solely on the 911 call to the exclusion of any other facts, was according to PCSD procedure. *Id.* at 109-112.

Operations Chief Gwaltney, responsible for field operations, support operations, and all uniformed resources, testified in respect to the May 23, 2013, scenario: "We would expect them to — make contact with people, to detain everybody that was there." (TR, Day 4 (Doc. 145) at 152.) "We would expect them to make the entry, to not take the word from someone that everything is okay, to go in ... take a look around to see if there is any evidence of a domestic violence dispute ...." *Id.* at 153. He would expect deputies to place the man and woman in handcuffs to freeze the situation. "Not knowing who the players are but knowing the nature of the crime we are responding to, if we were to not at that point exercise some control over the situation, and, again, we don't know the people involved, ... if they were to become combative and we had to then use force to reexecute the detention, the question I would ask of my deputies is: Why weren't they just detained in the first place so they never had the opportunity to create a problem to where a force scenario was going to

be necessary?" *Id.* at 158. Chief Gwaltney testified that this approach had been used more times than he could count. *Id.* at 166.

The testimony by these witnesses supports Plaintiffs' assertion that the Defendant has a policy and practice for responding to reports of violent crimes, such as those involving a gun or domestic violence, by calling-out everyone at gun point and detaining them all by handcuffing them, and then figuring out what's going on. Witnesses, including Operations Chief Gwaltney, admitted to this practice and procedure and to its long term use by the Department. The adamancy with which the Defendant asserted its constitutionality could have led a reasonable jury to conclude there would be future adherence to it. As this Court ruled when it denied Defendant summary judgment on the question of qualified immunity, " 'if police officers otherwise lack reasonable grounds to believe there is an emergency, they must take additional steps to determine whether there is an emergency in the first place.' " (Order (Doc. 62) at 20-21 (quoting *Hopkins v. Bonvicino*, 573 F.3d 752, 765 (9th Cir. 2009)); *see also Radvansky v. City of Olmsted Falls*, 395 F.3d 291, 305 (6th Cir. 2005) (police may not make hasty, unsubstantiated arrest with impunity, nor turn a blind eye to exculpatory evidence known to them). Not all 911 reports are reliable. (TR (Doc. 153) at 25 (Deputy McMurrich testifying regarding swatting– when someone fabricates a report calling for "massive law enforcement response and the victim of the swatting has no clue what is going on and nothing is going on at their house.")

***5** The Department's call-out and containment procedure provides a cookie-cutter approach in every case that fails to satisfy the constitutional requirement that there be articulable facts that would lead a reasonable police officer to conclude that an emergency actually exists before seizing citizens and searching their homes without a warrant. Without this emergency exception, police may not seize citizens or search homes, without probable cause our reasonable suspicion. The Plaintiff's presented sufficient evidence from which a reasonable jury could find that the Defendant's call-out and containment practices and procedures, as expressly described by multiple witnesses, caused the violation of the Larsons' constitutional rights.

Motion for New Trial

Alternatively Defendant argues, if the Court declines to grant judgment in its favor, the Court should grant a new trial on the question of municipal liability and the damage awards because both are against the clear weight of the evidence, and the damage awards are excessive.

Unlike the Rule 50(b) motion for judgment, where the trial judge rules as a matter of law to decide whether there is sufficient evidence to support the verdict, under Rule 59, a Court exercises discretion and may order a new trial if it believes the verdict is wrong because he committed error or if he believes the verdict is wrong, even if supported by evidence. The two motions are independent of each other and supported by different principals. The motion for judgment ends the case and is subject to de novo review. The motion for new trial is discretionary, results in a new trial, and is reviewed for abuse of discretion. *Tortu*, 556 F.3d at 1083, *Molski*, 481 F.3d at 729-30, *Marsh v. Illinois Cent R. Co.*, 175 F.2d 498, 499-500 (5th Cir. 1949).

Under Rule 59, the Court may weigh the evidence and assess the credibility of the witnesses when considering whether to order a new trial, *Experience Hendriz L.L.C. v. Hendrixlicensing.com Ltd.*, 762 F.3d 829, 842 (9th Cir. 2014), and may grant a new trial if the verdict is against the clear weight of the evidence, is based on false or perjurious evidence, or to prevent a miscarriage of justice. *Molski*, 481 F.3d at 729. To grant a new trial, the trial court must have a definite and firm conviction that a mistake has been committed by the jury. *Landes Const. Co. Inc. v. Royal Bank of Canada*, 833 F.2d 1365, 1371-72 (9th Cir. 1987). The Court may deny the motion if there was some reasonable basis for the jury's verdict, *Molski*, 481 F.3d at 729, but if there was insufficient evidence to support the damage award, it would be error to deny Defendant's motion for a new trial, *id.* at 729-30. On the other hand—"a stringent standard applies when the motion for a new trial is based on insufficiency of the evidence, then the motion will be granted only if the verdict is against the great weight of the evidence, or it is quite clear that the jury has reached a seriously erroneous result." *EEOC v. Pape Lift, Inc.*, 115 F.3d 676, 680 (9th Cir. 1997).

For the reasons discussed above in respect to the Rule 50(b) motion, the Court finds there was a reasonable basis for the jury's finding that Defendant was liable under *Monell*, and the Court denies the Motion for New Trial on the question of liability.

The Court turns to Defendant's assertion that the damage awards for the Plaintiff's are against the clear weight of the evidence.

First, Defendant argues that Jill Larson's diagnosis of PTSD by Dr. Christiansen is suspect because he was hired solely for purposes of litigation. Defendants argue that evidence presented by Rob Larson is also questionable because of his bias as Jill's spouse. Defendant argues that Jill's testimony regarding her emotional injury is not credible because she never sought treatment and she is now working.

***6** Second, Defendant argues that the damage award to Rob Larson was based entirely on his testimony, and unlike Jill, Rob Larson offered no corroborating evidence to support his claims of mental and emotional injury.

Third, the Larson's physical injuries were admittedly minimal, consisting of scratches and light bruises to their feet.

Neither the Ninth Circuit nor the Supreme Court imposes a requirement of objective evidence for emotional distress damages. *Zhang v. American Gem Seafoods, Inc.*, 339 F.3d 1020, 1040 (9th Cir. 2003). The Ninth Circuit has repeatedly held that plaintiff's testimony regarding emotional damages is sufficient evidence for a jury to award damages. *Passantino v. Johnson & Johnson Consumer Prods., Inc.*, 212 F.3d 493, 513 (9th Cir. 2000). Plaintiff's are not required to submit evidence of economic loss or mental or physical symptoms in order to be awarded compensatory damages for emotional distress. *Johnson v. Hale (Johnson II)*, 13 F.3d 1351, 1352 (9th Cir. 1994) (citing *Johnson v. Hale (Johnson I)*, 940 F.2d 1192, 1193 (9th Cir. 1991)). Once there is evidence of qualitative harm suffered by a plaintiff, awards for pain and suffering are committed to the sound discretion of the jury because of the subjective nature of emotional damages, which is not easily calculated in economic terms. *Velez v. Roche*, 335 F. Supp.2d 1022, 1038 (N.D. Cal. 2004).

The jury was instructed that to assess the credibility of witnesses, it should take into account: 1) the opportunity and ability of the witness to see or hear or know the things testified to; 2) the witness's memory; 3) the witness's manner while testifying; 4) the witness's interest in the outcome of the case, if any; 5) the witness's bias or prejudice, if any; 6) whether other evidence contradicted the witness's testimony; 7) the reasonableness of the witness's testimony in light of all the evidence; and 8) any other factors that bear on believability. (Jury Instruction 1.11 (Doc. 126) at 4.)

Defendant presented the credibility challenges to the jury that he asserts in his Motion for a New Trial, and the jury nevertheless found in favor of the Plaintiffs. The Court likewise heard the Defendant's credibility challenges at trial and was not persuaded.

Jill Larson readily admitted that she had not sought treatment after the May 23rd incident for PTSD, which was a condition she suffered from and for which she had been treated through counseling and self-help books before the incident. (TR, Day 3 (Doc. 144) at 73.) There was no evidence that Jill was malingering or testifying falsely regarding her emotional distress. She testified about her fear of law enforcement and inability to stay home alone after the events on May 23, 2015. (TR, Day 3 (Doc 144) at 58-59.) Dr. Christiansen reported that he determined Jill was truthful, and Defendant challenged that conclusion by pointing out that the MMPI test results for determining if she was reliable and valid in her reporting was inconclusive. (TR, Day 2 (Doc. 143) at 53.) Dr. Christiansen explained that he attributed that to her learning disability, and Defendant asserted that there was no corroboration for Jill's self-reported learning disability, but Dr. Christiansen testified that he did have corroborating evidence because she used words in a unique way characteristic of somebody with a language learning disability. (*Id.* at 53-55.) There was nothing unusual about Plaintiffs' offering an expert witness, who like all experts necessarily prepared his opinions in anticipation of litigation. Fed. R. Civ. P. 26. Plaintiff's corroborated each other's testimony.

***7** The Court found the witnesses to be credible. Consequently, the weight of the evidence did reflect that the Plaintiff's suffered mental and emotional damages due to the violation of their constitutional rights. Dr. Christiansen testified that he corroborated Jill's self-reporting by direct observations during the interview. (TR, Day 2 (Doc. 143) at 46.) In addition, Plaintiff's presented evidence that the May 23rd incident stirred up PTSD conditions, *id.* at 48), including symptoms of avoidance, i.e, avoiding talking about the May 23rd incident, *id.*, disturbed sleep, decreased physical activity, increased startle response which is being jumpy, *id.*, hypervigilance at night, *id.* at 49, and tearfulness, *id.* at 58. Jill testified that she was now afraid of deputies, *id.* at 58, and afraid to be home alone, *id.* at 59). Jill testified about losing her job and being forced to take a position with fewer responsibilities and less interaction with clients. *Id.* at 61.

Rob's testimony corroborated Jill's testimony, including her inability to stay home alone, (TR, Day 3 (Doc. 144) at 49), and explained she stayed at her son or daughter's house until he comes home, (TR (Doc. 143) at 154). Rob, also, testified about how it had affected him, such as limiting his ability go to the shooting range, (TR, Day 3 (Doc. 144) at 49), and that he could no longer work out of town for a couple of days as he had done previously to the May 23rd incident, (TR (Doc. 143) at 142). Rob testified about his own emotional distress experienced as a result of the incident, (TR, Day 3 (Doc. 144) at 39), such as feeling insecure in their home and having to lock their doors and gate, and getting up during the night to check the locks, *id.*, and that because he could not protect his wife, he felt humiliated as a man and husband, *id.* at 40.

As Plaintiff's note, expert testimony is not necessary for a jury to award emotional damages, *Passantino*, 212 F.3d at 513, but here Dr. Christiansen corroborated the Plaintiffs' compelling testimony about how the May 23rd incident caused them pain and suffering and mental and emotional distress. Like the jury the Court heard the trial testimony and, applying the same credibility standard, the Court finds there was a reasonable basis for the jury's damage awards in favor of Jill and Rob Larson. The jury's damage awards for the Plaintiff's were not against the clear weight of evidence.

The Defendant additionally argues that if the Court finds the damage awards are supported by the weight of the evidence, the Court should find the damage awards are excessive. The Court will not disturb the jury's award of damages unless it is grossly excessive or monstrous, the evidence clearly does not support the award, or if the award could only be based on speculation or guesswork. *McCollough v. Johnson*, 645 F. Supp.2d 917, 927 (2009). Put differently, the Court will uphold the damage awards unless they are "shocking to the conscience." *Brady v. Gebbie*, 859 F.2d 1543, 1557 (9th Cir. 1988).

The jury entered a verdict for Plaintiff's in the amount of $750,000 for Jill Larson and in the amount of $500,000 for Rob Larson. The Plaintiff's offer examples of several decisions in the Ninth Circuit that have affirmed jury verdicts in the range of the $750,000 awarded to Jill on similar or lesser evidence. (Response (Doc. 157) at 3-5 (citing *Steffens v. Regus Group, PLC*, 2013 WL 499112 (Calif. August 19, 2013) (upholding $850,000 intangible damages in wrongful termination case based on plaintiff's intense emotional distress); *Velez*, 335 F. Supp.2d at 1038) (upholding $300,000 award reduced from $505,623 award based on Title VII cap (same)); *Harper*, 533 F.3d at 1029 (affirming trial court's denial of motion for new trial by officers where plaintiffs were awarded 5-million each based on testimony by plaintiffs of emotional distress and suicidal thoughts caused by malicious prosecution); *C.B. Sonora School Dist.*, 819 F. Supp.2d 1032, 1050 (Calif. 2011) ($285,000 damage award where child was handcuffed at school and transported to uncle's place of business and became unruly after incident)). Defendants do not offer any case law to support their assertion that the damage amounts awarded Jill and Rob are "grossly excessive or monstrous," and the Court has found none.

***8** The Court finds that neither the $750,000 award to Jill, nor the lesser $500,000 award to Rob, are "grossly excessive or monstrous" and do not shock the conscience. The testimony reflects the May 23rd incident caused changes in Jill and Rob's day-to-day lives, altered their financial circumstances, and affected their marital relationship. All were damaged. Both testified to suffering serious mental and emotional distress caused by the May 23rd incident, with Jill's being especially intense because the incident triggered and aggravated her existing PTSD.

Conclusion

The Court finds that the Plaintiff's presented substantial credible evidence supporting their claims of liability and damages. The factual findings implicitly made by the jury were not "against the great weight of the evidence," nor is it "quite clear" that the jury reached a "seriously erroneous result."

Accordingly,

IT IS ORDERED that the Motion for Judgment as a Matter of Law (Doc. 147) is DENIED and the, alternative, Motion for New Trial (Doc. 147) is DENEID.

IT IS FURTHER ORDERED that the Motion to Amend/ Correct Judgment (Doc. 148) is GRANTED: the Clerk of the Court shall amend the Judgment to reflect that the total judgment amount ($1,250,000.00) shall bear post-judgment interest pursuant to 28 U.S.C. § 1961(a).

Dated this 17th day of June, 2016.

All Citations

Not Reported in Fed. Supp., 2016 WL 4592184

Footnotes

1 Sheriff Nanos is sued in his official capacity, which generally is another way of pleading an action against an entity of which an officer is an agent, here, the Pima County Sheriffs Department (PCSD). *Kentucky v. Graham*, 473 U.S. 159, 165-166 (1985).

2 There were different estimates regarding the length of the seizure, with Jill Larson testifying it was about 20 minutes. (Transcript of Record (TR), Day 3 (Doc. 144) at 60).

3 Defendant, not Plaintiff, proposed a deliberate indifference instruction patterned on the failure to train instruction for *Monell* cases. (D's Proposed Jury Instructions (Doc. 100) at 6.) Defendant's Rule 50(b) motion asserts that Plaintiff failed to present evidence of deliberate indifference, but a jury might reasonably find that a violation of clearly established rights is done deliberately. *Cf.*, (Order (Doc. 62) at 19-27 (Fourth Amendment rights are clearly established), *see also* Exhibit 6 (PCS training materials describing emergency exception as: Officer must have facts that would lead a reasonable police officer to conclude that the emergency does exist (officer smells fire; officer hears screams)—in some cases, the information received will lead to further investigation, ...)

Fortify Legal Services
3707 E Southern Avenue Mesa, AZ 85206
Phone: (602) 529-4777 | www.FortifyLS.com
Kyle O'Dwyer (036095); Kyle@FortifyLS.com
Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Laura Owens,

Plaintiff,

vs.

Gregory Gillespie,

Defendant.

Case No: CV2021-052893

PLAINTIFF'S CONTROVERTING STATEMENT IN RESPONSE TO DEFENDANT'S SEPARATE STATEMENT OF FACTS

-AND-

PLAINTIFF'S STATEMENT OF ADDITIONAL FACTS

Pursuant to Arizona Rules of Civil Procedure 56(c)(3)(B), Plaintiff, by and through undersigned counsel, submits this Opposing Statement of Facts in Opposition to Defendants' Motion for Partial Summary Judgment.

I. CONTROVERTING STATEMENT

1. Objection, no facts under Rule 56 are presented to respond to. Plaintiff does not dispute that the Motion concerns the claim brought by Plaintiff.

2. Objection, no facts under Rule 56 are presented to respond to. The Complaint and disclosure statement (Defendant's Separate Statement of Facts ("DSSOF"), Exhibit A) set forth accurately the basic facts on which Plaintiff bases her claim as well as documentation contained in those documents.

3. Objection, no facts under Rule 56 are presented to respond to and Defendant's motion does not challenge the sufficiency of the Complaint. Plaintiff does not dispute that the Motion concerns the claim brought by Plaintiff.

4. Undisputed.

5. Objection, no facts under Rule 56 are presented to respond to and Defendant's motion does not challenge the sufficiency of the Complaint, which this Court already ruled on in its December 15, 2021 Minute-Entry Order. Subject to that objection, undisputed.

6. Disputed. Plaintiff's disclosure statement incorporates by reference the pleadings and the exhibits attached to pleadings and the documents disclosed by other parties. In a Tier 1 mandatory arbitration case, re-distributing the same documents already disclosed by the opposing party is overly burdensome.

7. Undisputed.

8. Undisputed.

9. Objection, Defendant never provided any specific defense that the emotional distress did not manifest in physical symptoms in the answer, any Rule 26.1 disclosure statement, or otherwise. Ms. Owens suffered from skin rashes and heartburn as set out in her affidavit below. Ex. A, Affidavit of Laura Owens, ¶ 5 and Ex. 1 attached thereto.

10. Undisputed that Plaintiff is not seeking damages for expenses for any treatment she may have received due to Mr. Gillespie's actions.

11. Objection, Defendant never provided any specific defense that the emotional distress did not manifest in physical symptoms in the answer, disclosure statement, or otherwise. Answer; Ex. B, Defendant's Second Supplemental Disclosure Statement. Subject to that objection, Disputed. Ms. Owens suffered from skin rashes and heartburn as a result of the trauma caused by Mr. Gillespie and as set out in her affidavit

attached hereto. Ex. A, ¶ 5 and Ex. 1 attached thereto. She is seeking damages due to the trauma she suffered. DSSOF Ex. A, at 5.

12. Disputed. Plaintiff seeks an award of $40,000 due to the trauma she suffered from the intentional infliction of emotional distress caused by Mr. Gillespie. *Id.*

13. Disputed. The computation of damages is $40,000 for the trauma she suffered as well as costs. *Id.*

14. Disputed. Plaintiff incorporated into her disclosure statement the numerous disclosures made by Defendants, pleadings filed by the parties with exhibits attached thereto, etc. *Id.*, at 5-6.

15. Disputed. Plaintiff incorporated into her disclosure statement the numerous disclosures made by Defendants, pleadings filed by the parties with exhibits attached thereto, etc. *Id.*

II. PLAINTIFF'S STATEMENT OF ADDITIONAL FACTS

1. Ms. Owens is a popular self-help podcaster and victim's advocate who speaks regularly on the topic of coerced abortions. Ex. A, ¶ 2.

2. Ms. Owens was ready to have a child when she got pregnant with Mr. Gillespie's child. *Id.*

3. However, she felt a connection with Mr. Gillespie and because he promised to follow through with a relationship with her if she had an abortion, she went through the process. *Id.*

4. Ms. Owens knew that it was possible that her credibility as a victim's rights advocate could be tarnished but believed she could have a successful long-term relationship with Mr. Gillespie. *Id.*

5. Ms. Owens followed through with the abortion based on the false promises by Defendant that they would have a relationship. *Id.*, ¶ 3; Ex. C, Text Messages between the Parties.

6. However, after Ms. Owens went through with the abortion, Mr. Gillespie blocked her on all forms of social media and the phone. Ex. A, ¶ 3; Ex. D, Text Messages between the Parties; Complaint, at 17.

7. Mr. Gillespie never intended to follow through with the promise of a relationship with Ms. Owens. Ex. A., ¶ 3.

8. Mr. Gillespie then threatened to withhold child support for Ms. Owens if she went through with the pregnancy, demanded she "take the fucking pills," and threatened to call the police on her. Ex. A, ¶ 4; Exhibit E, Text Messages between the Parties.

9. Mr. Gillespie also claimed that Ms. Owens was holding him hostage "for a bastard." Ex. A, ¶ 4; Exhibit F, Text Messages between the Parties.

10. Plaintiff suffered severe anxiety from the emotional distress intentionally caused by Defendant. Ex. A, ¶ 5; Ex. G, Text Messages between the Parties.

11. Ms. Owens had physical symptoms of skin rashes and heartburn due to the trauma she suffered. Ex. A, ¶ 5 and Ex. 1 attached thereto.

12. There is not a day that goes by that Ms. Owens does not regret the decision that was coerced by Mr. Gillespie. *Id.*, ¶ 6.

13. Ms. Owens has trouble focusing at work due to Mr. Gillespie's actions. *Id.*

14. Ms. Owens has cried due to guilt and embarrassment, lost sleep, and suffers from significant mood swings. *Id.*

15. Ms. Owens is in fear for her safety and has obtained multiple orders for protection against Mr. Gillespie. *Id.*, ¶ 7.

16. Ms. Owens now splits time in Arizona and California. *Id.*

17. Plaintiff accidentally served two Initial Disclosure Statements (one dated November 23, 2022 and another dated April 17, 2023, which incorporated documents attached to them, documents disclosed by other parties, and documents filed in and with

pleadings, among other documents. DSSOF, Ex. A; Ex. H.

18. Defendant never disclosed the defense that Ms. Owens had to prove physical symptoms of severe emotional distress. Ex. B, at 2.

RESPECTFULLY SUBMITTED this 6th day of September, 2023.

FORTIFY LEGAL SERVICES

/s/ Kyle O'Dwyer
Kyle O'Dwyer
3707 E Southern Avenue
Mesa, AZ 85206
(602) 529-4777
Attorney for Plaintiff

Filed this 6th day of September 2023
with Maricopa County Clerk of Court and
served this 6th_day of September 2023
by TurboCourt on the following:

Fabian Zazueta
Garret Respondek
Zazueta Law Firm, PLLC
2633 East Indian School Road, Suite 370
Phoenix, Arizona 85016
fabian@zazuetalawfirm.com
garrett@zazuetalawfirm.com

With COPY to the following by email:

Devina Jackson
Court-Appointed Arbitrator
Djackson1211@yahoo.com

By: Kyle O'Dwyer

EXHIBIT A

Fortify Legal Services
3707 E Southern Avenue Mesa, AZ 85206
Phone: (602) 529-4777 | www.FortifyLS.com
Kyle O'Dwyer (036095); Kyle@FortifyLS.com
Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Laura Owens,

Plaintiff,

vs.

Gregory Gillespie,

Defendant.

Case No: CV2021-052893

AFFIDAVIT OF LAURA OWENS

I, Laura Owens, state the following under penalty of perjury:

1. I am over 18 years of age and make this declaration voluntarily and based on my own personal knowledge, except when it is expressly indicated that I only believe certain facts to be true and do not know from my own personal knowledge.

2. I am a popular self-help podcaster and victim's advocate who speaks regularly on the topic of coerced abortions. In late 2021, I was ready to have a child when I got pregnant with Mr. Gillespie's child. However, I felt a connection with Mr. Gillespie and because he promised to follow through with a relationship with me if I had an abortion, I went through the abortion process. I knew that it was possible that my credibility as a victim's rights advocate could be tarnished but I believed I could have a successful long-term relationship with Mr. Gillespie.

3. I followed through with the abortion based on the false promises by Mr.

Gillespie that we would have a relationship. However, after I made a first attempt to go through with the abortion, Mr. Gillespie blocked me on all forms of social media and the phone. He made it clear that he never intended to follow through with the promise of a relationship with me.

4. After I initially had an unsuccessful abortion due to administering the pills the wrong way, he then changed his tack to threatening to expose me and at one point said "If I don't get a say, then you don't get money from me." The "money" he was referring to was child support. He demanded that I "take the fucking pills" and threatened to call the police. He said I was holding him hostage "for a bastard." Mr. Gillespie's essentially alleged that I was crazy for even believing him that he would want a relationship with me. I have not been able to have a serious dating romantic relationship with any man since.

5. I suffered severe anxiety from the emotional distress intentionally caused by Mr. Gillespie. The severe anxiety I suffered from resulted in skin rashes and heartburn that came on in late 2021 or early 2022. *See* Exhibit 1, Pictures of Skin Rashes. I also suffer from depression and utter guilt to this day.

6. There is not a day that goes by that I do not regret the decision that was coerced by Mr. Gillespie, which is a major source of my depression. Still to this day, I have trouble focusing at work as my thoughts move to the child that I may have had were it not for the false promises Mr. Gillespie made. I have cried due to the guilt and embarrassment that I have felt due to his actions and lost sleep as well. I have also had significant mood swings, going from crying to anger, whenever I think about the decision Mr. Gillespie forced on me.

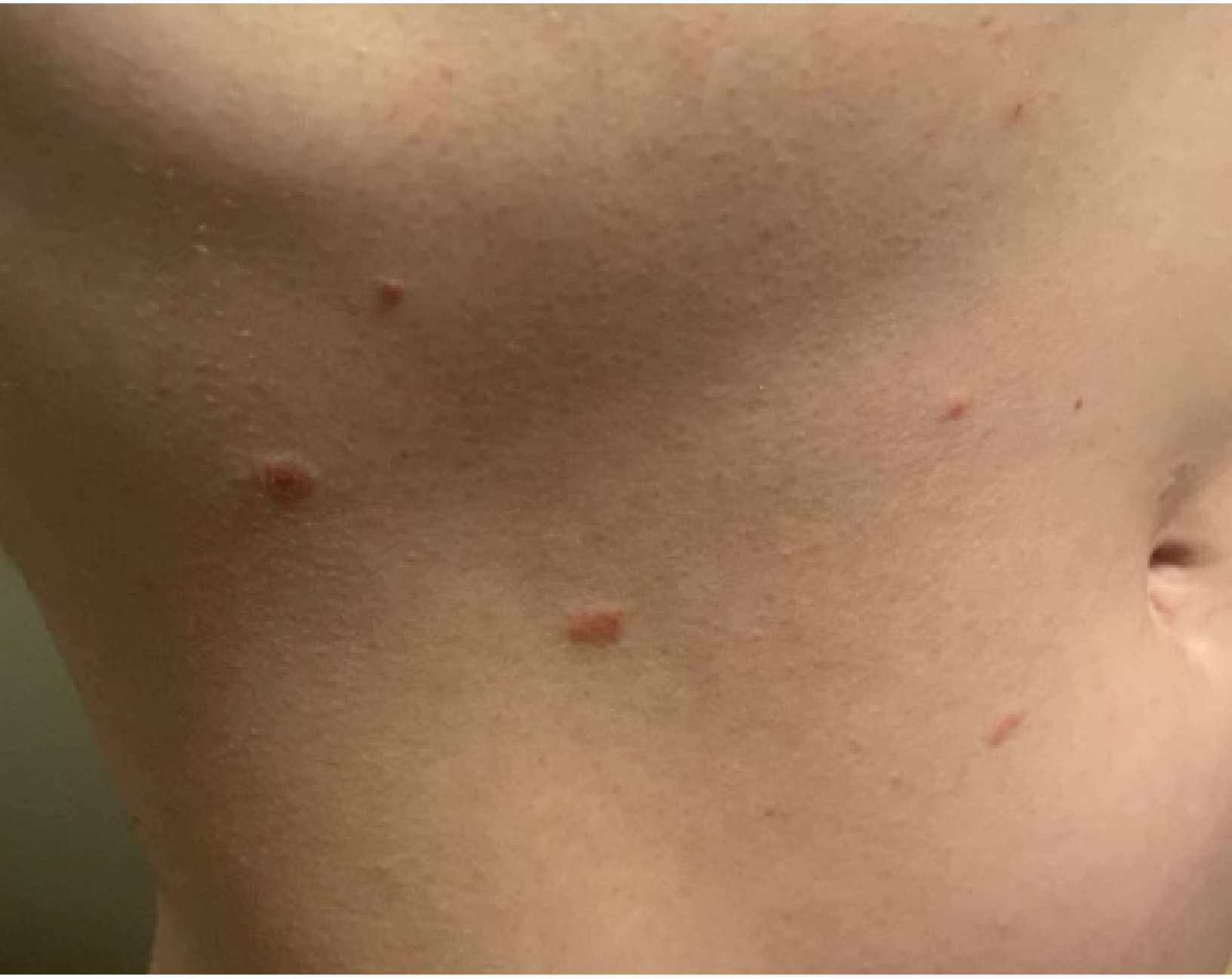
7. I also am still in fear for my safety from Mr. Gillespie as I have obtained multiple orders for protection against him that have been granted. These concerns have led to me splitting my life, living both in California and Arizona at times.

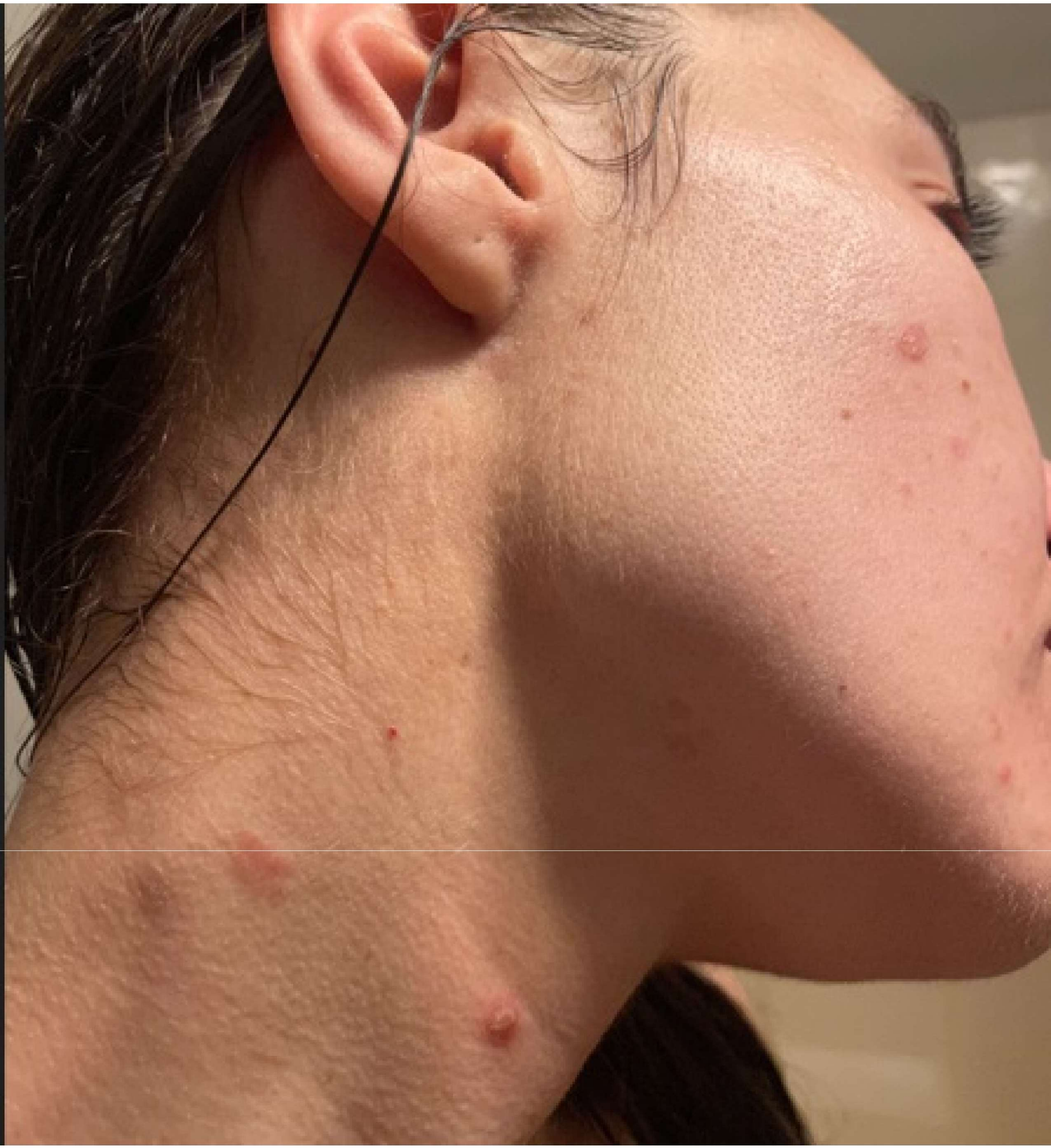
I declare under penalty of perjury that the foregoing is true and correct. Signed on 09 / 06 / 2023 in Maricopa County, Arizona.

Laura Owens

Laura Owens

EXHIBIT 1





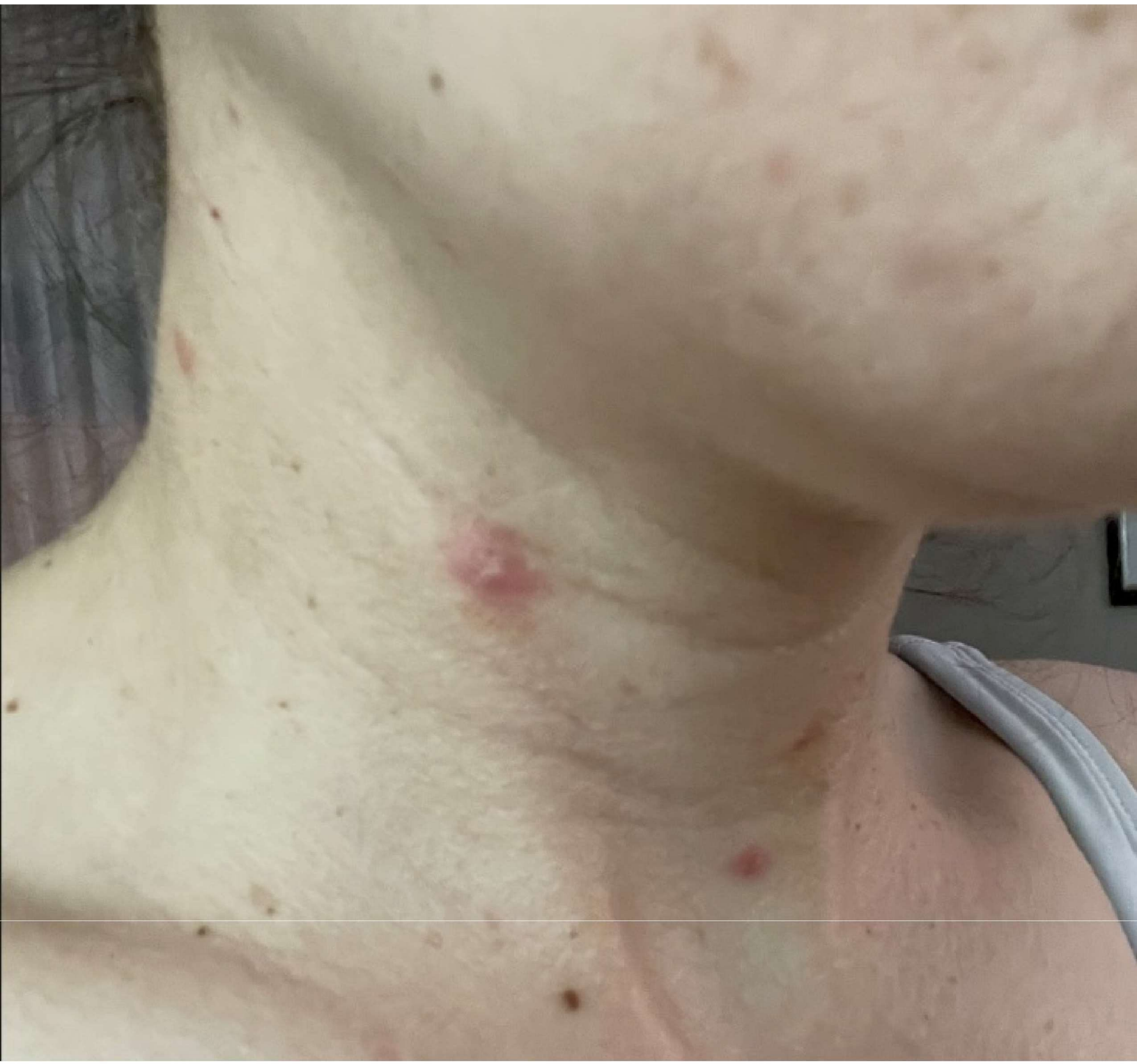


EXHIBIT B

WOODNICK LAW, PLLC
1747 E. Morten Avenue, Suite 205
Phoenix, Arizona 85020
Telephone: (602) 449-7980
Facsimile: (602) 396-5850
Office@WoodnickLaw.com

Gregg R. Woodnick, #20736
Kaci Y. Bowman, #023542
Attorneys for Defendant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In Re the Matter of:

LAURA OWENS,

Plaintiff,

v.

GREGORY GILLESPIE,

Defendant.

Case No.: CV2021-052893

DEFENDANT/COUNTERCLAIMANT GREGORY GILLESPIE'S SECOND SUPPLEMENTAL RULE 26.1 DISCLOSURE STATEMENT

(Additions in bold)

(Assigned to the Hon. Alison Bachus)

Pursuant to Rule 26.1, *Arizona Rules of Civil Procedure*, Defendant/Counterclaimant, (hereinafter "Mr. Gillespie"), by and through undersigned counsel, hereby submits his **Second Supplemental** Rule 26.1 Disclosure Statement. Mr. Gillespie reserves the right to supplement his disclosure statement as discovery progresses, and as the parties continue to disclose information pursuant to Rule 26.1, *Arizona Rules of Civil Procedure*.

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I. FACTUAL BASIS OF DEFENSES AND COUNTERCLAIMS

See Motion to Dismiss filed 09/24/21, Answer and Counterclaim filed 01/04/22 and Motion to Dismiss/Motion for Judgment on Pleadings of Plaintiff's Abortion Coercion Claim filed 02/15/22. **In addition, and critically notable, Plaintiff has reportedly fabricated a pregnancy and subsequent abortion in the past during a relationship with Michael Marraccini in 2016.**

II. LEGAL THEORIES UPON WHICH DEFENSES AND COUNTERCLAIMS ARE BASED

See Motion to Dismiss filed 09/24/21, Answer and Counterclaim filed 01/04/22 and Motion to Dismiss/Motion for Judgment on Pleadings of Plaintiff's Abortion Coercion Claim filed 02/15/22.

III. NAMES, ADDRESSES AND TELEPHONE NUMBERS OF WITNESSES DEFENDANT/COUNTERCLAIMANT EXPECTS TO CALL AT TRIAL

1. Gregory Gillespie
   c/o Gregg R. Woodnick
   WOODNICK LAW, PLLC
   1747 E. Morten Avenue, Suite 205
   Phoenix, AZ 85020
   (602)449-7980

Mr. Gillespie is expected to testify regarding the extent of his relationship with Plaintiff, all communications with Plaintiff and the emotional distress and monetary damages he has suffered as a result.

2. Laura Owens
   [redacted]
   Scottsdale, AZ 85254
   [redacted]

Plaintiff is expected to testify regarding her allegations against Mr. Gillespie and the alleged damages she has suffered as a result.

3. Plaintiff's current and former medical providers.

4. Any other witness found to have relevant information regarding the subject matter of this lawsuit.

5. In the absence of an agreement about the admissibility of documents, any and all custodians of records, and any other witnesses required to authenticate or lay proper foundation for documents presented.

6. Without waiving any objections, any and all experts, if any, listed by any party.

IV. PERSONS WHOM DEFENDANT/COUNTERCLAIMANT BELIEVES MAY HAVE KNOWLEDGE OR INFORMATION RELEVANT TO THE EVENTS THAT GAVE RISE TO THIS ACTION

1. Joseph W. Cotchett, Alison E. Cordova, Toni Stevens and Patrice O'Malley of Cotchett, Pitre & McCarthy, LLP, 840 Malcolm Road, Suite 200, Burlingame, CA 94010, [redacted] are believed to have knowledge or information regarding Plaintiff's seemingly fraudulent emails purportedly authored by Joseph Cotchett and lawyers that have not worked at the firm for quite some time.

2. Michael Marraccini, [redacted], San Carlos, CA 94070, [redacted], [redacted] is believed to have knowledge or information regarding allegations Plaintiff lodged against him in the past and alleged emotional distress and damages Plaintiff allegedly sustained as a result **(as alleged in FDV-18-813693) and Plaintiff's admissions regarding her fabrication of a pregnancy and subsequent**

abortion during their relationship in 2016. Stephanie Marraccini and Colin Scanlon are also believed to have knowledge or information regarding allegations Plaintiff lodged against Michael Marraccini in FDV-18-813693 and Plaintiff's admissions regarding her fabrication of a pregnancy and subsequent abortion during her relationship with Michael Marraccini in 2016. Upon information and belief, Stephanie Marraccini and Colin Scanlon live in San Francisco, California.

3. Plaintiff's family members including, but not limited to, Ronn Owens, Jan Black, Sarah Navarro and Christian Navarro may have knowledge or information relevant to the allegations that gave rise to this action as well as Plaintiff's actions against Michael Marraccini and defendants in Case No. CGC-19-575032 and alleged resulting damages. Upon information and belief, Mr. Owens and Ms. Black live in San Francisco, California and Sarah and Christian Navarro live in New York, New York.

Any and all persons identified through on-going discovery and/or disclosure. Mr. Gillespie reserves the right to supplement as discovery progresses.

V. NAMES OF ALL PERSONS WHO HAVE GIVEN STATEMENTS

1. Stephanie Marraccini gave a written statement under penalty of perjury on or about March 26, 2018 in FDV-18-813693 indicating knowledge of Plaintiff's admissions regarding her fabrication of a pregnancy and subsequent abortion during her relationship with Michael Marraccini in 2016.

2. Colin Scanlon gave a written statement under penalty of perjury on or about March 27, 2018 in FDV-18-813693 indicating knowledge of Plaintiff's

admissions regarding her fabrication of a pregnancy and subsequent abortion during her relationship with Michael Marraccini in 2016.

Any and all persons identified through on-going discovery and/or disclosure. Mr. Gillespie reserves the right to supplement as discovery progresses.

VI. ANTICIPATED SUBJECT AREAS OF EXPERT TESTIMONY

Mr. Gillespie reserves the right to supplement as discovery progresses.

VII. DAMAGES

Mr. Gillespie has sustained significant monetary damages as a result of being unable to work due to the extreme amount of emotional distress he experienced while being subjected to Plaintiff's fraudulent representations and intentional infliction of emotional distress and is therefore seeking to be compensated for the same in addition to an award of his attorneys' fees and costs pursuant to A.R.S. §§ 12-341, 12-349 and Rule 11, *Arizona Rules of Civil Procedure*.

VIII. EXHIBITS

1. Text messages between parties' cell phones from 06/29/21 through 08/24/21 [GG0001-GG0216];
2. Communications between Plaintiff's work phone and Mr. Gillespie's cell phone dated 08/02/21 [GG0217-GG0217];
3. Communications between Plaintiff [redacted]@gmail.com) and Mr. Gillespie's cell phone dated 08/02/21 [GG0218-GG0218];

4. Communications between Plaintiff [redacted]@aol.com) and Mr. Gillespie's cell phone dated 08/02/21 through 08/05/21 [GG0219-GG0343];

5. Communications between Plaintiff [redacted]@nobodytoldmeshow.com) and Mr. Gillespie's cell phone dated 08/06/21 [GG0344-GG0352];

6. Communications between Plaintiff [redacted]@nobodytoldmeshow.com) and Mr. Gillespie's cell phone dated 08/06/21 [GG0353-GG0353];

7. Communications between Plaintiff [redacted]@gmail.com) and Mr. Gillespie's cell phone dated 08/06/21 [GG0354-GG0355];

8. Communications between Plaintiff [redacted]@lauraowensmusic.com) and Mr. Gillespie's cell phone dated 08/07/21 through 08/08/21 [GG0356-GG0401];

9. Communications between Plaintiff [redacted]@gmail.com) and Mr. Gillespie's cell phone dated 08/09/21 through 08/10/21 [GG0402-GG0403];

10. Communications between Plaintiff [redacted]@gmail.com) and Mr. Gillespie's cell phone dated 08/16/21 [GG0404-GG0404];

11. Letter from Plaintiff to Mr. Gillespie [GG0405-GG0412];

12. Email from Plaintiff to Mr. Gillespie dated 08/22/21 regarding Urgent: copy of conversation with Joe Cotchett & contract [GG0413-GG0420];

13. Plaintiff's Instagram posts [GG0421-GG0431];

14. Email from Plaintiff to undersigned counsel dated 02/06/22 and attached screenshot [GG0432-GG0433];

15. Plaintiff's Complaint for Damages Based Upon: Negligence, Negligent Entrustment, Negligent Hiring, Supervision or Retention in Case No. CGC-19-575032 [GG0434-GG0449];

16. 'Vanishing' blogpost on I Still Believe - Our story and journey after the stillbirth of our son and our faith in the Lord [GG0450-GG0452];

17. https://www.youtube.com/watch?v=UlOX-_VDIfo (The Lifesaving Power of Kindness to Strangers | Laura Owens | TEDxMercerIslandHSWomen - YouTube);

18. **All public records obtained regarding FDV-18-813693 [GG0453-GG0672];**

19. Plaintiffs' current and former medical records from all providers (*will supplement*);

20. Without waiving available objections, any and all transcripts of depositions or statements taken of any person in this matter and any exhibits or attachments thereto.

21. Without waiving available objections, any and all admissible portions of discovery responses and disclosure statements served by any party in this matter and any exhibits or attachments thereto.

22. Without waiving available objections, any and all expert reports and attachments thereto provided in this matter.

23. Without waiving available objections, any and all exhibits and or evidence disclosed and/or listed by Plaintiffs.

IX. INSURANCE POLICIES

Not applicable.

X. RELEVANT DOCUMENTS

Mr. Gillespie reserves the right to supplement as discovery progresses.

DATED this 4th day of March, 2022.

WOODNICK LAW, PLLC

Gregg R. Woodnick
Kaci Y. Bowman
Attorneys for Defendant

COPY of the foregoing document e-mailed this 4th day of March, 2022 to:

Laura Owens
[redacted]
Scottsdale, AZ 85254
[redacted]@gmail.com
Plaintiff Pro Per

By: */s/Sara Seeburg*

VERIFICATION

GREGORY GILLESPIE, being first duly sworn upon his oath, deposes and says:

That he is the Defendant/Counterclaimant in the foregoing cause of action; that as such, he is authorized to make this Verification; that he has read the foregoing *Second Supplemental Disclosure Statement* and knows the contents thereof to be true of his own knowledge, except as to those matters stated on information and belief, and as to such, he believes the same to be true.

DocuSigned by:
Greg Gillespie
F6854IEEEBEC422...

GREGORY GILLESPIE

3/4/2022

Date

EXHIBIT C

7/28/2021 8:50 AM (Viewed 7/28/2021 9:38 AM)

Laura B [redacted]

I understand

7/28/2021 8:50 AM (Viewed 7/28/2021 9:38 AM)

Laura B [redacted]

What is your answer?

7/28/2021 9:44 AM

Laura B [redacted]

Is there no reason?

7/28/2021 11:10 AM

Laura B [redacted]

I just want to be honest. At this point, I am very attached and would continue the pregnancy on my own without your involvement unless you think we will get to that point ourselves one day. Please consider my values when answering and not just your own because it would destroy me for you to change your mind. You really need to be committed to me and not just explore things for me to do this. Otherwise, I really want to keep it on my own and do the right thing.

7/28/2021 11:10 AM

iPhone [redacted]

You said you had already made up your mind

7/28/2021 11:10 AM

iPhone [redacted]

So you're changing

7/28/2021 11:18 AM (Viewed 7/28/2021 11:23 AM)

Laura B [redacted]

I'm wanting to make sure you understand the impact of this decision on me

7/28/2021 11:18 AM (Viewed 7/28/2021 11:23 AM)

Laura B [redacted]

And that I would be doing this only for you

7/28/2021 11:23 AM

iPhone [redacted]

Yes

7/28/2021 11:23 AM

iPhone [redacted]

But also for you

7/28/2021 11:23 AM

iPhone [redacted]

And we can do it right in the future

7/28/2021 11:24 AM (Viewed 7/28/2021 11:26 AM)

Laura B [redacted]

Yeah, because if we aren't going to last, there's no reason for me not to do it

7/28/2021 11:25 AM (Viewed 7/28/2021 11:26 AM)

Laura B [redacted]

So I'm sorry for putting so much pressure on you, but I'm trying to be realistic. I am fine doing it in me own and would do that with no question if it was someone that I didn't see myself with.

7/28/2021 11:26 AM

Laura B [redacted]

That's why I have been questioning you so much on what you felt with me because it's very risky on my end.

EXHIBIT D

8/2/2021 11:41 AM

iPhone [redacted]

So please, get them. I'm going to rest. We can talk tonight

8/2/2021 11:43 AM (Viewed 8/2/2021 11:47 AM)

[redacted]@aol.com

Please unblock me on social media if you mean it. You know that is a majorly sore spot for me and why it is.

8/2/2021 11:43 AM (Viewed 8/2/2021 11:47 AM)

[redacted]@aol.com

But yes - get rest

8/2/2021 11:44 AM (Viewed 8/2/2021 11:47 AM)

[redacted]@aol.com

The drugs do not interact well for people with epilepsy so I may decide to do a surgical in a week or two like you wanted originally. I hadn't told the doctor with My Choix that I had epilepsy and was on medicine for it because I was worried that she wouldn't prescribe the pills.

8/2/2021 11:48 AM

iPhone [redacted]

Then don't take the epilepsy medicine

8/2/2021 11:49 AM

[redacted]@aol.com

I will have seizures

8/2/2021 11:49 AM

[redacted]@aol.com

I will figure it out.

8/2/2021 11:49 AM

iPhone [redacted]

And why would you change your mind about going in to have it done

8/2/2021 11:49 AM

iPhone [redacted]

You said you wouldn't do that

8/2/2021 11:49 AM

[redacted]@aol.com

I may not have a choice is why

8/2/2021 11:49 AM (Viewed 8/2/2021 11:50 AM)

[redacted]@aol.com

You said you wanted that??

8/2/2021 11:50 AM

iPhone [redacted]

I want it done

8/2/2021 11:50 AM

iPhone [redacted]

So We aren't stressing.

8/2/2021 11:51 AM (Viewed 8/2/2021 11:52 AM)

[redacted]@aol.com

Pills work up until 12 weeks so I have time. I am very confused about your actual intentions with me and don't feel comfortable terminating it until you figure out what you want. If I stress you out to the point of blocking me when we figured it was actually done, I don't know what to do. I would think that would have taken the stress away.

8/2/2021 11:52 AM

iPhone [redacted]

Excuse me?

8/2/2021 11:52 AM

iPhone [redacted]

I am sick

8/2/2021 11:52 AM

iPhone [redacted]

And I turned off everything

8/2/2021 11:52 AM

[redacted]@aol.com

Don't want to make you talk in circles. I'm just confused. I can get the medicine regardless and just wait to take it until/if I feel ready. It really is up to you. I don't trust you not to block me at this point if it's done and you know that you have been my reason to terminate.

8/2/2021 11:52 AM

iPhone [redacted]

So I can rest

8/2/2021 11:54 AM

[redacted]@aol.com

All of that would maybe make sense except that when I went on my computer and opened iMessage for the first time in forever, my message immediately got delivered whereas right before, it went in green. The real red flag was the social media block cause I went to message you there.

8/2/2021 11:55 AM

[redacted]@aol.com

You could have just said you needed to rest and you'd texted or called when you got up. I never would have texted you then.

8/2/2021 11:55 AM

iPhone [redacted]

Swear on my grandmothers grave o won't block you. Now. Let me rest.

8/2/2021 11:55 AM

iPhone [redacted]

And follow through with your word.

8/2/2021 11:55 AM

[redacted]@aol.com

I was petrified that you were dying with no response

8/2/2021 11:56 AM

iPhone [redacted]

No fucking way

8/2/2021 11:56 AM

iPhone [redacted]

So get that out of your freaking mind

8/2/2021 11:56 AM

iPhone [redacted]

And don't mention it again

8/2/2021 11:56 AM

[redacted]@aol.com

I care about you and have seen too many news stories about this taking a turn for the worst suddenly

EXHIBIT E

8/4/2021 7:31 PM

[redacted]@aol.com

This makes no sense

8/4/2021 7:31 PM

iPhone [redacted]

You should have know I didn't want anything to do with this

8/4/2021 7:31 PM

iPhone [redacted]

And fucking ended it then

8/4/2021 7:31 PM

[redacted]@aol.com

I never would have done that

8/4/2021 7:31 PM

iPhone [redacted]

Yep

8/4/2021 7:32 PM

[redacted]@aol.com

That really doesn't seem right to do

8/4/2021 7:32 PM

iPhone [redacted]

Pretty fucking clear

8/4/2021 7:32 PM

iPhone [redacted]

Neither is this

8/4/2021 7:32 PM

iPhone [redacted]

Take the fucking pills Laura

8/4/2021 7:32 PM

iPhone [redacted]

And stop threatening me and laying

8/4/2021 7:32 PM

iPhone [redacted]

Lying

8/4/2021 7:32 PM

[redacted]@aol.com

I think you're the one threatening here, not me.

8/4/2021 7:32 PM

iPhone [redacted]

Great

8/4/2021 7:32 PM

iPhone [redacted]

You could block me

8/4/2021 7:32 PM

iPhone [redacted]

Your choice not too

8/2/2021 11:57 AM

iPhone [redacted]

I don't care what you hear in the media. Fuck the fake media

8/2/2021 11:57 AM

[redacted]aol.com

I worried. You've sounded awful.

8/2/2021 11:57 AM

iPhone [redacted]

I'm calling the police

8/2/2021 11:57 AM

[redacted]@aol.com

Huh?

8/2/2021 11:57 AM

iPhone [redacted]

I'm worried about you and harming yourself and the baby.

8/2/2021 11:57 AM

[redacted]@aol.com

I'm not harming myself?

8/2/2021 11:57 AM

iPhone [redacted]

Exactly.

8/2/2021 11:57 AM

iPhone [redacted]

Stop fucking worrying that I'm dying and don't mention it again

8/2/2021 11:57 AM

iPhone [redacted]

Thank you. Leave it.

8/2/2021 11:57 AM

iPhone [redacted]

Don't!

8/2/2021 11:58 AM

iPhone [redacted]

Don't mention another word

8/2/2021 11:58 AM

iPhone [redacted]

Thanks.

8/2/2021 11:58 AM

[redacted]@aol.com

I care about you, omg

8/2/2021 11:58 AM

iPhone [redacted]

Now, I'm going to sleep

8/2/2021 11:59 AM

[redacted]aol.com

As I've said, unblock me. I don't trust you at all because of that.

8/4/2021 7:21 PM

iPhone [redacted]

And you'll get your gas money in child support

8/4/2021 7:21 PM

iPhone [redacted]

Unless you lie on your taxes or your broke as fuck

8/4/2021 7:21 PM

[redacted]@aol.com

I said I would do it for the version of you who wrote the nice stuff earlier

8/4/2021 7:21 PM

iPhone [redacted]

You don't get shit from me

8/4/2021 7:21 PM

[redacted]@aol.com

I can promise you that's not the case

8/4/2021 7:21 PM

iPhone [redacted]

Grwat

8/4/2021 7:22 PM

iPhone [redacted]

Then you don't need a dime from me

8/4/2021 7:22 PM

iPhone [redacted]

And don't have to commit mortal sin

8/4/2021 7:22 PM

[redacted]@aol.com

Aren't we doing an abortion?

8/4/2021 7:22 PM

iPhone [redacted]

Or are you that greedy

8/4/2021 7:22 PM

iPhone [redacted]

Woman, you are

8/4/2021 7:22 PM

[redacted]@aol.com

Im so confused

8/4/2021 7:22 PM

iPhone [redacted])

I have not a fucking day in the matter

8/4/2021 7:22 PM

iPhone [redacted])

If I don't get a say, then you don't get money from me

8/4/2021 7:22 PM

iPhone [redacted])

I'm confused to. You are holding me hostage over a bastard child

EXHIBIT F

8/4/2021 7:21 PM

iPhone [redacted]

And you'll get your gas money in child support

8/4/2021 7:21 PM

iPhone [redacted]

Unless you lie on your taxes or your broke as fuck

8/4/2021 7:21 PM

[redacted]@aol.com

I said I would do it for the version of you who wrote the nice stuff earlier

8/4/2021 7:21 PM

iPhone [redacted]

You don't get shit from me

8/4/2021 7:21 PM

[redacted]@aol.com

I can promise you that's not the case

8/4/2021 7:21 PM

iPhone [redacted]

Grwat

8/4/2021 7:22 PM

iPhone [redacted]

Then you don't need a dime from me

8/4/2021 7:22 PM

iPhone [redacted]

And don't have to commit mortal sin

8/4/2021 7:22 PM

[redacted]@aol.com

Aren't we doing an abortion?

8/4/2021 7:22 PM

iPhone [redacted]

Or are you that greedy

8/4/2021 7:22 PM

iPhone [redacted]

Woman, you are

8/4/2021 7:22 PM

[redacted]@aol.com

Im so confused

8/4/2021 7:22 PM

iPhone [redacted]

I have not a fucking day in the matter

8/4/2021 7:22 PM

iPhone [redacted]

If I don't get a say, then you don't get money from me

8/4/2021 7:22 PM

iPhone [redacted]

I'm confused to. You are holding me hostage over a bastard child

8/4/2021 7:22 PM

[redacted]@aol.com

You do get a say....

8/4/2021 7:22 PM

iPhone [redacted]

It's pathetic

8/4/2021 7:23 PM

iPhone [redacted]

Yeah, I said end the life of an unwanted, not created out of love child who doesn't have a heart beat

8/4/2021 7:23 PM

iPhone [redacted]

And let us live are fu Kong loves which right now you are ruining

8/4/2021 7:23 PM

[redacted]@aol.com

Which you can still have...

8/4/2021 7:23 PM

[redacted]aol.com

Right

8/4/2021 7:23 PM

iPhone [redacted]

Then prove it

8/4/2021 7:23 PM

iPhone [redacted]

And fucking do it

8/4/2021 7:23 PM

iPhone [redacted]

And don't act stupid and read directions wrong

8/4/2021 7:23 PM

iPhone [redacted]

I find that very difficult to believe

8/4/2021 7:24 PM

iPhone [redacted]

I thought you weren't extremely smart?

8/4/2021 7:24 PM

[redacted]@aol.com

WHO LOOKS TO SEE IF TABLETS GO IN THEIR VAGINA?????

8/4/2021 7:24 PM

[redacted]@aol.com

You don't need to call me woman and bitch.

8/4/2021 7:25 PM

iPhone [redacted]

You don't need to hold me hostage

8/4/2021 7:25 PM

[redacted]@aol.com

You are being very, very cruel.

EXHIBIT G

7/29/2021 9:28 AM

iPhone [redacted]

How are feeling?

7/29/2021 9:47 AM (Viewed 7/29/2021 9:52 AM)

Laura B [redacted]

Hi, I had a very bad night sleep and I have had to take care of the horses all morning since my guy, Ibon, texted me that he was sick. Thrown up twice.

More than that, I mentally feel awful and I even saw that you can possibly reverse the pill online. I won't, but I hope we are worth it in end the lol

7/29/2021 9:48 AM (Viewed 7/29/2021 9:52 AM)

Laura B [redacted]

You?

7/29/2021 11:05 AM (Viewed 7/29/2021 11:23 AM)

Laura B [redacted]

This is really rough. I'm feeling so guilty

7/29/2021 11:39 AM (Viewed 7/29/2021 11:44 AM)

Laura B [redacted]

If you are feeling like me/having regrets, I can definitely not take the one tonight, seems like that might be all we would need to do because I'm not bleeding yet

7/29/2021 11:45 AM

iPhone [redacted]

No, I don't.

7/29/2021 11:54 AM (Viewed 7/29/2021 11:55 AM)

Laura B [redacted]

Well, I'm feeling very sad about it. You're not the one waiting to pass a kid. Horrible. Are you sure you want to be with me after all of it?

7/29/2021 12:58 PM (Viewed 7/29/2021 2:10 PM)

Laura B [redacted]

Are you completely positive you want to be with me and aren't going to leave? Because I'm 10000 percent having regrets and feeling awful about this

7/29/2021 1:44 PM (Viewed 7/29/2021 2:10 PM)

Laura B [redacted]

??? Been crying on and off all day

7/29/2021 2:33 PM (Viewed 7/29/2021 2:43 PM)

Laura B [redacted]

I'm feeling sick AF and regretting this. I really don't know if I want to go through with this.

7/29/2021 3:30 PM (Viewed 7/29/2021 4:12 PM)

Laura B [redacted]

I don't want to continue with this abortion if you're bailing on me. Feels like it.

7/29/2021 5:03 PM (Viewed 7/29/2021 5:28 PM)

Laura B [redacted]

I don't care if this sounds super petty, but doesn't look like you unblocked me. I just looked. Told you many times this was a big deal...don't get why you didn't do that if you were serious and I said this was important

7/29/2021 5:04 PM (Viewed 7/29/2021 5:28 PM)

Laura B [redacted]

I'm having major guilt on this, so please make me feel better and not want to try to undo it. I don't know if this feeling is normal or not, but it's awful.

EXHIBIT H

Fortify Legal Services
3707 E Southern Avenue
Mesa, AZ 85206
(602) 529-4777
Kyle O'Dwyer (036095)
kyle@FortifyLS.com
Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Laura Owens, Plaintiff, vs. Gregory Gillespie, Defendant.	Case No: CV2021-052893 **PLAINTIFF'S INITIAL DISCLOSURE STATEMENT**

Plaintiff Laura Owens, by and through counsel undersigned, does hereby submit her Initial Rule 26.1 Disclosure Statement, pursuant to the Arizona Rules of Civil Procedure.

The contents of this Disclosure Statement are provisional and subject to supplementation, amendment, explanation, change and amplification. This Disclosure Statement is based upon information currently known and believed to be accurate and may change as further information is obtained from investigation and discovery.

I. FACTUAL BASIS

Ms. Owens became pregnant with Mr. Gillespie's child not long after knowing each other. Mr. Gillespie demanded confirmation of the pregnancy first by demanding access to Ms. Owens' confidential patient portal, which Ms. Owens granted, by requesting a video appointment with one of Ms. Owens' health care providers to confirm the pregnancy, which also occurred, and a note written by Dr. Jones,

which was also provided to him. In all instances, the pregnancy was confirmed by lab results and verbal confirmation by a healthcare provider.

Ms. Owens and Mr. Gillespie discussed the pregnancy and whether or not Ms. Owens should obtain an abortion. Mr. Gillespie coerced Ms. Owens to obtain an abortion by threatening to call law enforcement on her, threatening to withhold financial support from her, threatening to destroy her reputation, and emotionally and mentally abusing her into submitting to his will. See the Complaint, which is incorporated herein for additional facts relevant to this analysis.

Mr. Gillespie claims that the pregnancy was falsified, that correspondences with Joseph Cotchett and assistants and attorneys at his firm were falsified, and that the complaint was filed in an attempt to coerce Mr. Gillespie into a relationship with Ms. Owens. Ms. Owens vehemently denies the allegation that she has falsified any documents and denies that Mr. Gillespie was damaged in any way. Mr. Gillespie falsified multiple documents. Ms. Owens did not have an ultrasound. She further denies that Mr. Gillespie had any loss of income due to her actions.

II. LEGAL THEORIES

A. Intentional Infliction of Emotional Distress- By Plaintiff

A cause of action for intentional infliction of emotional distress is proven if a party can show (1) extreme and outrageous conduct; (2) the opposing party intends or recklessly disregards the near certainty that distress will result from the conduct; (3) severe emotional distress occurs as a result of the defendant's conduct; and (4) damages due to that emotional distress. *Ford v. Revlon*, 153 Ariz. 38, 43 (1987). Mr. Gillespie's conduct, as described above, meets this definition. Further, Ms. Owens suffered severe emotional distress as a result, in that she suffered, and continues to suffer from, severe anxiety, depression, shock, and utter guilt due to the decision defendant coerced her to make to terminate the pregnancy and his other actions in pretending to be other individuals in order to continue discussions with her. Any pre-existing mental health conditions were exacerbated by Defendant's conduct.

B. Intentional Infliction of Emotional Distress- By Defendant

Defendant cannot establish extreme and outrageous conduct, severe emotional distress, or that he has suffered any damages. The counterclaim is devoid of any factual allegations regarding these issues and the disclosure statements likewise include no factual allegations as to how Defendant has suffered any emotional distress or damages. Further, Plaintiff believes Mr. Gillespie continued to be employed and therefore did not suffer damages. Further, any emotional distress that Defendant may have suffered was not from Plaintiff's actions but other causes in his life.

III. WITNESSES

1. Laura Owens
c/o Fortify Legal Services
3707 E Southern Avenue
Mesa, AZ 85206
(602) 529-4777

Ms. Owens is expected to testify as to her knowledge of the subject matter of the Complaint; her conversations with the parties and witnesses and the damages sustained by her.

2. Gregory Gillespie
c/o Woodnick Law
1747 E Morten Ave., Suite 205
Phoenix, AZ 85020
(602) 449-7980

Mr. Gillespie is expected to testify as to his knowledge of the subject matter of the Plaintiffs' Complaint; his conversations with the parties and witnesses and the defenses alleged by the Defendant.

3. Joseph Cotchett
Cotchett, Pitre, & McCarthy, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010
[redacted]

Mr. Cotchett is expected to testify as to his knowledge of the subject matter of the Plaintiffs' Complaint; his conversations with the parties and witnesses and the defenses alleged by the Defendants.

4. Dr. John Jones, DO
One Medical Group
15210 N. Scottsdale Road, Suite 275
Scottsdale, AZ 85254

Dr. Jones is expected to testify as to his knowledge of the subject matter of the Plaintiffs' Complaint; his conversations with the parties and witnesses and the defenses alleged by the Defendants.

5. Julie Ahlrich, NP
One Medical Group
15210 N. Scottsdale Road, Suite 275
Scottsdale, AZ 85254

Ms. Ahlrich is expected to testify as to her knowledge of the subject matter of the Plaintiffs' Complaint; her conversations with the parties and witnesses and the defenses alleged by the Defendants.

6. Abigail Swartz
Contact Information unknown but will be supplemented.

Ms. Swartz is expected to testify as to her knowledge of the subject matter of the Plaintiffs' Complaint and her own personal history with Defendant; her conversations with the parties and witnesses and the defenses alleged by the Defendants.

7. Danny Hutzler
Contact Information unknown but will be supplemented.

Mr. Hutzler is expected to testify as to his knowledge of the subject matter of the Plaintiffs' Complaint; his conversations with the parties and witnesses and the defenses alleged by the Defendants.

8. **Circa Lighting Employees**
[redacted]
Scottsdale, AZ 85251
[redacted]

These employees are expected to testify as to their knowledge of the subject matter of the Defendant's counterclaim; their conversations with the parties and witnesses and employment information of the Defendant.

9. All witnesses listed by all other parties.

10. All witnesses listed in any reports previously disclosed.

11. Foundational witnesses as necessary.

IV. PERSONS WITH KNOWLEDGE OR INFORMATION

1. Claudia Swartz

2. Brian Pruett

Plaintiff will supplement this information if and when applicable.

V. PERSONS WHO HAVE GIVEN STATEMENTS

Plaintiff is unaware of any persons who have given statements other than those already disclosed. Plaintiff will supplement this information if and when applicable.

VI. POTENTIAL AREAS OF EXPERT TESTIMONY

A. Emotional distress expert;

B. Valuation of damages incurred by Plaintiff;

C. Forensic computer expert;

D. Any area identified by any other party in this case, regardless of whether those areas are later de-listed or withdrawn;

E. Any area necessary to rebut any expert opinions issued by the Defendant; and,

F. Any area of expertise that may become relevant following additional discovery and investigation.

VII. COMPUTATION AND MEASURE OF DAMAGES

The award Plaintiff seeks shall be computed by accurate accounting of all costs and fees associated with this case, billed at reasonable rates. It is anticipated that the damages will amount to at least $40,000.

VIII. EXHIBITS

1. Medical Records (LO000001-14, 20-21, 23-24);

2. Text Messages (LO000015-19, 22);

3. Order of Protection (LO000025-29);

4. Messages with Circa Lighting (LO000030-31);

5. All pleadings, disclosure statements or matters of record, including any exhibits attached thereto.

6. The responses of any party to any interrogatory, request for production, or request for admission.

7. The transcript and exhibits of deposition testimony given by any party or witnesses.

8. Any document produced with a disclosure statement, in response to a request for production of documents, or pursuant to subpoena.

9. Any document identified by any party in any disclosure statement, pre-hearing statement or list of witnesses and exhibits.

10. Any report, diagram or similar document pre- statement or list of witnesses and exhibits.

11. Any report, diagram or similar document prepared by any experts retained in connection with this litigation.

12. Any and all exhibits listed/utilized by any other party.

IX. DOCUMENTS WHICH MAY BE RELEVANT OR WHICH MAY LEAD TO THE DISCOVERY OF ADMISSIBLE EVIDENCE

Plaintiff will supplement this information if and when applicable.

RESPECTFULLY SUBMITTED this 23rd day of November, 2022.

FORTIFY LEGAL SERVICES

/s/ Kyle O'Dwyer
Kyle O'Dwyer
3707 E Southern Avenue
Mesa, AZ 85206
Attorney for Plaintiff

VERIFICATION

I, the undersigned party in this action declare under penalty of perjury of the laws of the State of Arizona that the foregoing Disclosure is true and correct and that this verification is executed by me on 11 / 23 / 2022.

Laura Owens

COPY of the foregoing emailed
this 23rd day of November, 2022, to

Gregg R. Woodnick
Kaci Y. Bowman
Woodnick Law, PLLC
1747 E. Morten Avenue, Suite 205
Phoenix, AZ 85020
Gregg@woodnicklaw.com
Kaci@woodnicklaw.com
Attorneys for Defendant

/s/ *Kyle O'Dwyer*