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7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

8 **IN AND FOR THE COUNTY OF MARICOPA**

9 In Re the Matter of:

10 **LAURA OWENS,**

11 Plaintiff,

12 v.

13 **GREGORY GILLESPIE,**

14 Defendant.

Case No.: CV2021-052893

15 **REPLY IN SUPPORT OF MOTION
16 TO DISMISS/MOTION FOR
17 JUDGMENT ON PLEADINGS OF
18 PLAINTIFF'S ABORTION
19 COERCION CLAIM**

(Assigned to the Hon. Alison Bachus)

20 Defendant, GREGORY GILLESPIE, by and through undersigned counsel, hereby files
21 his Reply in Support of his Motion to Dismiss/Motion for Judgment on Pleadings of
22 Plaintiff's Abortion Coercion Claim ("Reply").

- 23 1. Plaintiff's filing is non-responsive to the pending motion

24 Plaintiff's Response does not address any of the arguments pled in Defendant's
25 Motion to Dismiss/Motion for Judgment on Pleadings of Plaintiff's Abortion Coercion Claim
26 ("Motion") that was filed February 15, 2022. As a reminder, Defendant's Motion argued the
27 following:

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- 1 • Plaintiff's Complaint fails to state a claim for which relief can be granted as
- 2 A.R.S. § 36-2153 does not create a cause of action against a non-medical
- 3 provider individual;
- 4 • Plaintiff failed to join the necessary medical provider defendant to recover for
- 5 an abortion being performed without informed consent; and
- 6
- 7 • A.R.S. § 36-2153(G) is unconstitutional as it violates the First Amendment by
- 8 (a) acting as a prior restraint on free speech; (b) being void for vagueness and
- 9 (c) being overbroad.
- 10

11 However, after two extensions of time to respond, Plaintiff's Response failed to even
12 cite to the relevant statute let alone substantively respond to the multitude of ways in which
13 Defendant detailed that her claim for relief pursuant to A.R.S. § 36-2153 must fail. The Court
14 should disregard the arguments contained in Plaintiff's Response because they are
15 inflammatory in nature and entirely immaterial to the purely legal arguments in Defendant's
16 Motion.
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18 To be clear, Defendant denies the allegations in Plaintiff's Response, but this is not the
19 proper forum to raise or dispute these factual allegations. The issues before the Court are
20 purely legal questions relating to the sufficiency of the Complaint and the constitutionality of
21 the statute. Plaintiff's Response appears focused on reducing these concerns to a factual
22 debate that has no bearing on the outcome. Rather than using her extra time to substantively
23 respond to the issues raised, Plaintiff's Response offers nothing to the Court's analysis and
24 rehashes issues the Court already considered and reserved for summary judgment or trial.
25 Even if the Court considers the Response rather than striking or disregarding it as non-
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1 responsive, it does not contain any mention—much less any analysis—of the pleading’s
2 sufficiency or constitutional concerns.

3 2. Plaintiff’s Response implicates Rule 11

4 To the extent that the Court deems it proper to consider the allegations in Plaintiff’s
5 Response, it is critically important to note that Plaintiff’s Response contains numerous
6 assertions that raise concerns pursuant to Rule 11, *Arizona Rules of Civil Procedure*.
7 Although Defendant is not currently requesting sanctions—see Rule 11(c)(2)—Plaintiff’s
8 Response appears to be making new allegations of electronic fraud that are presented for an
9 improper purpose, lack evidentiary support, and clearly were not formed after “reasonable
10 inquiry” into the facts as required by Rule 11(b). Being immaterial to the issues presented in
11 the Motion, these assertions can only be viewed as intended to cause undue prejudice that has
12 nothing to do with the sufficiency of the complaint or validity of the statute.
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16 In her Response, Plaintiff alleges, inter alia, that:

- 17 a. Defendant somehow gained access to Plaintiff’s personal computer.
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19 b. Defendant found and then edited an old fee agreement between Plaintiff and a
20 California attorney she had hired in 2019.
21
22 c. Defendant falsified hundreds of emails and text messages using Plaintiff’s email
23 accounts and phone number.
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25 d. Defendant accessed an email account that Plaintiff allegedly no longer uses, and that
26 Plaintiff gave him the password to and then Defendant sent himself a doctored
27 sonogram image.
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1 Even if these allegations belonged in a Response to a Motion to Dismiss/Motion for
2 Judgment on the Pleadings on constitutional grounds (though they clearly do not), Plaintiff
3 fails to attach any exhibits to support the new allegations or to prove the allegations are “not
4 being presented for an improper purpose,” “are warranted by existing law,” or “have
5 evidentiary support” pursuant to Rule 11(b). The Response is not even supported by an
6 affidavit, declaration, or verification to support these new factual claims that are facially
7 absurd. (Defendant has not attempted to consult with Plaintiff yet because he is not pursuing
8 Rule 11 sanctions at this time, but Defendant reserves his right to seek sanctions if this
9 noxious litigation continues).

12 To further compound the problem, Plaintiff also states in her Response that she intends
13 to amend her Complaint regardless of whether the Court finds that it is deficient. *See*
14 Response at 7 (“Plaintiff does intend to Motion this court for Leave to Amend Her Complaint
15 should the Court deny Defendant’s Motion to Dismiss ...”). After nearly eight (8) months of
16 litigation (with no disclosures from Plaintiff despite her Rule 26 obligations), Plaintiff is still
17 uncertain about what claims she is making. A party’s claims should become narrower and
18 more refined over the course of pretrial procedures, not broader. The Court cannot allow
19 Plaintiff to “move the goalpost” each time Defendant exercises a legal right or invokes a
20 procedural mechanism to develop the case. Plaintiff’s unwillingness to commit to a position
21 prejudices Defendant and wastes judicial time and resources.

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