Jackie Brokaw

From: David Gingras [redacted]
Sent: Wednesday, August 7, 2024 5:58 PM
To: Jackie Brokaw
Cc: Laura Owens
Subject: RE: State Bar File No. 24-1692 - Gingras
Attachments: Ltr - AZ Bar - August 7, 2024 - File No. 24-1692.pdf

Ms. Brokaw,

Attached is my response to the charge from [redacted], 24-1692.

As before, I have cc'd my client, Laura Owens, on this response, since the allegations relate to her case. Although Ms. Owens' consent is not required here (per ER 1.6(d)(4)), she has nevertheless reviewed this response and has given her prior informed written consent to its contents.

As I indicated in my other response sent earlier today, Ms. Owens is happy to discuss this matter with bar counsel and to provide any additional information you/he may need. Laura's phone number is: [redacted], and she is also easy to reach via the email address cc'd here. Laura has read the charge from [redacted] and is familiar with both the complaint, and the details in my response.

Per ER 4.2, I don't believe bar counsel needs my consent to communicate directly with Laura (I assume such contact is otherwise authorized by law). If my consent is required, please accept this as my consent to communicate directly with Laura. This consent applies to both this charge, and also 24-1826 (Deans), and any other matter involving my representation of Laura.

Thanks.

David Gingras, Esq.
Gingras Law Office, PLLC
[redacted]

From: Jackie Brokaw [redacted]
Sent: Wednesday, August 7, 2024 8:46 AM
To: David Gingras [redacted]
Subject: State Bar File No. 24-1692 - Gingras

Good morning,

Attached is a letter from Senior Bar Counsel James Lee regarding the above-referenced matter. Also attached is a Protective Order that was issued in this matter.

Thank you,

Jackie

Jackie Brokaw, Lead Legal Secretary
State Bar of Arizona
4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266
[redacted]
Serving the public and enhancing the legal profession.

GINGRAS LAW OFFICE, PLLC

4802 E. Ray Road #23-271, Phoenix, AZ 85044 • [redacted]

Via Email Only: c/o [redacted]

August 7, 2024

James D. Lee, Esq.
Senior Bar Counsel, State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266

Re: File No. 24-1692
Complainant: [redacted]

Dear Mr. Lee,

This letter is in response to yours dated August 7, 2024 regarding a complaint you received from [redacted] As explained below, the complaint has no basis whatsoever and it should be promptly dismissed.

After reviewing the charge from [redacted], I need to be honest – her allegations are largely (if not completely) unintelligible. I have no idea who this person is. I have never met [redacted], so I have no personal knowledge regarding her allegations except to the extent they are described in the charge you received.

Having said that, I will do my best to decipher her allegations and respond as best I can. Because the charge contains multiple repetitive statements which appear to raise the same general points, I will try to lump these together and respond to each group in turn.

To help provide some context, as I explained in my response to the charge from Dr. Deans (24-1826), I represent a woman named Laura Owens with respect to a single case – *Owens v. Echard*, FC2023-052114. That matter involved a petition to establish paternity filed by Laura (*pro se*) on August 1, 2023. In short, Laura claimed she had a one-night stand with a man named Clayton Echard who was formerly the star of the reality TV dating show *The Bachelor*. In her petition, Laura claimed she became pregnant with Mr. Echard's child (or children), and she petitioned the court to establish paternity.

Laura claims she had a miscarriage in mid-October or early November 2023. As a result, she filed a motion to dismiss the paternity action with prejudice on December 28, 2023. Confusingly, the superior court *granted* the motion to dismiss, but then allowed the case to proceed to trial on June 10, 2024. The trial was supposedly focused on Clayton's request for sanctions, based on his allegation that Laura "faked" being pregnant. Obviously Laura *strenuously* denies that she ever faked being pregnant.

I first appeared in Laura's paternity case on March 25, 2024. Prior to this, I had no involvement of any kind in the dispute. Also, Laura was represented by other counsel in the paternity case for part of December 2023 through mid-March 2024.

Importantly, Laura also had a *separate* matter involving Mr. Echard – FC2023-052771. The other matter was not a paternity case. This other proceeding involved a *pro se* Petition for an Order of Protection (OOP). In short, in the OOP case, Laura claimed Clayton harassed her by posting an embarrassing (partially nude) photo of her on the Internet. After a hearing in late 2023 (at which Laura was represented by other counsel, NOT me), the court found in her favor and granted the protective order against Clayton.

After the OOP case ended, on March 26, 2024, Clayton's attorney filed a motion in the OOP case requesting relief from the order based on "fraud". In short, Clayton's attorney claimed Laura was never pregnant, and thus ineligible for a protective order (which generally requires a prior *parental or romantic* relationship between the parties). To help respond to that issue, I entered my appearance in the OOP case on April 9, 2024. However, the OOP case was later consolidated with the paternity case, so I filed nothing further in the OOP case after my initial appearance.

Turning to the specific claims in [redacted] complaint, she appears primarily focused on the paternity case between Laura and Clayton. Based on her language, it is clear she is a member of the JFC Cult which I previously described (her complaint is essentially nothing but a copy-pasted list of JFC Cult talking points which have been shared online by other cult members). In case this isn't obvious — the JFC Cult sees me as a threat to their goal of obtaining "justice" for Clayton, so these complaints are presented solely for the purpose of harassing me and trying to interfere with my representation of Laura.

Having said that, to the extent I can understand [redacted] claims, here is my response to each point.

1. "Releasing Sealed Documents"

[redacted] makes several references suggesting I somehow violated a court order by publishing "sealed" or "confidential" information. Here are a few general examples quoted from her charge, all of which are completely conclusory and unsupported:

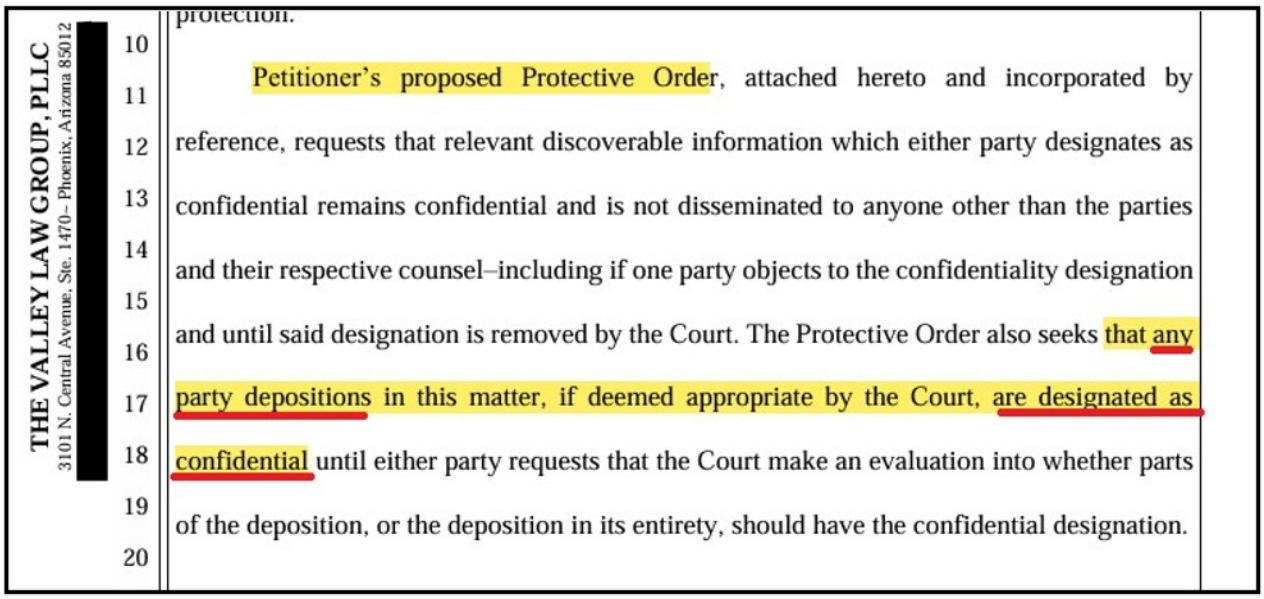
- "Violating the rules of releasing sealed documents without court permission."
- "Releasing sealed documents without court permission."
- "Breaching confidentiality and contempt of court by unauthorized release of sealed documents."
- "Instances of releasing sealed photos, medical records, and videos on social media"

- "A video depicting Clayton Echards' deposition, which was sealed in the Owens vs. Echard case, was allegedly made public before the trial scheduled for June 10th, 2024" (emphasis added).

As I previously explained in response to the charge from Dr. Deans, there is no court order sealing anything or otherwise preventing the disclosure of pleadings, transcripts, depositions, or records filed in the case. This is a popular JFC talking point, but it is completely false.

On the contrary, and as I previously explained, while Laura was representing herself *pro se*, she filed a motion on September 14, 2023 asking the court to seal the entire record. That request was denied by minute entry order dated October 18, 2023.

After Laura retained counsel (the one before me), her attorney re-raised the same privacy arguments in a motion entitled "Motion for Confidentiality And Preliminary Protective Order" filed on January 17, 2024. A copy of this motion is attached as Exhibit A. That motion expressly asked for an order allowing depositions (and other discovery-related materials) to be marked confidential and protected from public disclosure.



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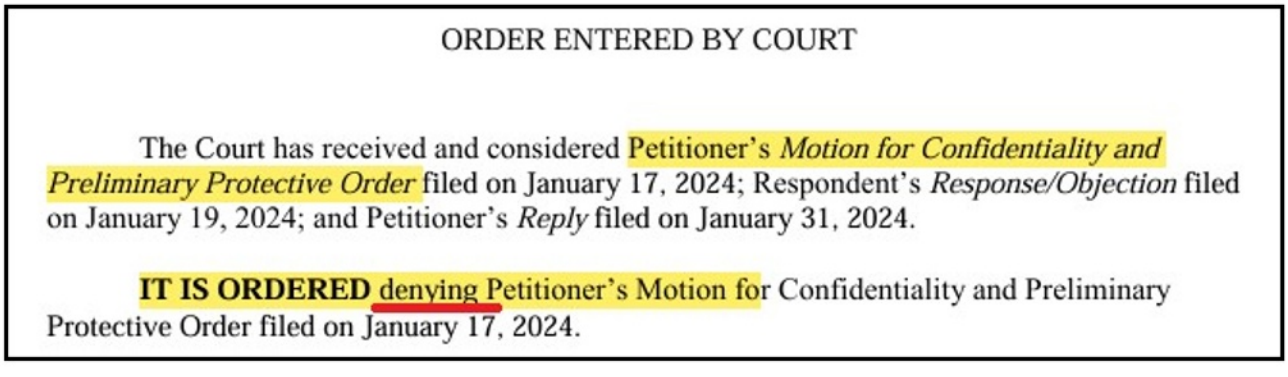
3101 N. Central Avenue, Ste. 1470 – Phoenix, Arizona 85012

protection.

Petitioner's proposed Protective Order, attached hereto and incorporated by reference, requests that relevant discoverable information which either party designates as confidential remains confidential and is not disseminated to anyone other than the parties and their respective counsel–including if one party objects to the confidentiality designation and until said designation is removed by the Court. The Protective Order also seeks that any party depositions in this matter, if deemed appropriate by the Court, are designated as confidential until either party requests that the Court make an evaluation into whether parts of the deposition, or the deposition in its entirety, should have the confidential designation.

On February 15, 2024, the court issued an order denying this request in its entirety. A copy of that order is attached as Exhibit B.



ORDER ENTERED BY COURT

The Court has received and considered Petitioner's *Motion for Confidentiality and Preliminary Protective Order* filed on January 17, 2024; Respondent's *Response/Objection* filed on January 19, 2024; and Petitioner's *Reply* filed on January 31, 2024.

IT IS ORDERED denying Petitioner's Motion for Confidentiality and Preliminary Protective Order filed on January 17, 2024.

Aside from these two separate motions filed by Laura asking the court to seal the record and allow parties to keep discovery materials confidential (both of which were denied), Clayton never asked the court for similar relief. He never moved for, nor did the court ever grant, any order restricting the publication of depositions or any other case-related documents. There simply is nothing in the docket that would even remotely support such a conclusion, bearing in mind – even if such an order existed (which it does not) the Arizona Supreme Court has previously determined a trial court cannot lawfully prohibit the publication of matters occurring in open court; any such order is "void". *See Phoenix Newspapers, Inc. v. Superior Court*, 101 Ariz. 257, 259 (1966) (order prohibiting disclosure of details of court hearing violated Arizona constitution and was void; Superior Court has no authority to "foreclose the right of the people and the press from freely discussing and printing the proceedings held in open court.") This probably explains why the trial court *repeatedly* denied Laura's requests for confidentiality/privacy, and why the court specifically rejected her request to keep deposition transcripts confidential.

In fairness, there is a single sentence buried in a minute entry order issued in February 2024 (before I appeared in the case) which seems to reflect some sort of informal agreement between the parties not to publish *medical records disclosed by the other party*. But in this instance, Clayton never disclosed any medical records of any kind. The only medical records at issue in the case belonged to Laura, and she chose to publish them to respond to false statements made by the JFC Cult, Clayton, and/or his lawyers.

2. "Witness Tampering"; "Threatening to have witnesses arrested"

This is another popular JFC Cult talking point – they claim I committed "witness tampering" because I threatened to have a witness arrested. Here is what actually happened.

During the course of discovery, Clayton disclosed that he intended to call a trial witness named Mike Marraccini. Mr. Marraccini is an ex-boyfriend of Laura who resides in San Francisco. Laura dated Mr. Marraccini for approximately two years in 2016–17. The entirety of Clayton's disclosures regarding Mr. Marraccini are shown here:

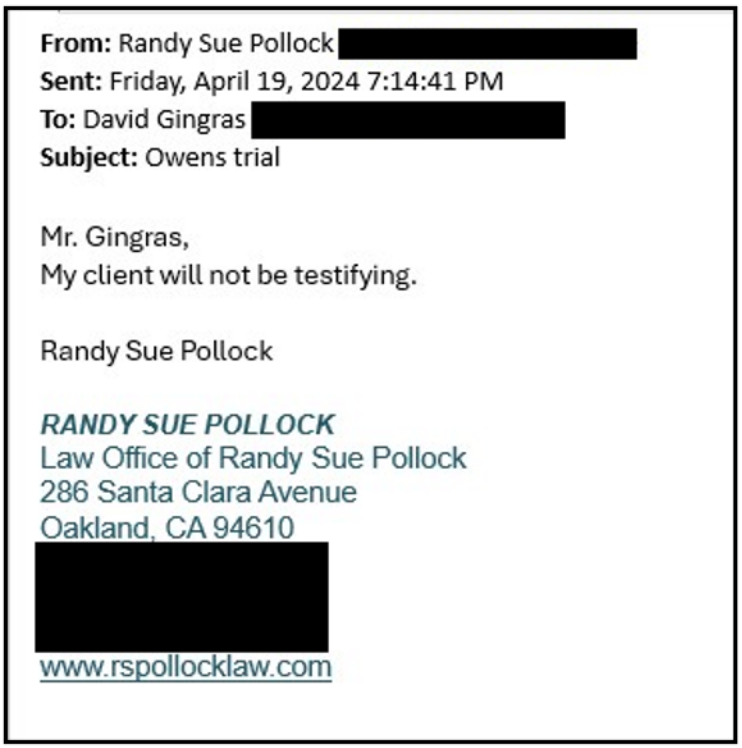
5. **Michael Maraccini**

c/o Randy Sue Pollock, Attorney at Law

[redacted]

This witness is expected to testify about his prior interactions with Petitioner, her alleged two (2) pregnancies during their relationships, and the subsequent litigation.

As I would in any case, while preparing the case for trial, I reached out to the contact person listed for Mr. Marraccini (a lawyer named Randy Sue Pollock) to ask if I could interview Mr. Marraccini to learn more about his expected testimony. After speaking with Ms. Pollock, she told me she had never heard of the *Owens v. Echard* case, and that she did not believe Mr. Marraccini would appear at trial. I asked Ms. Pollock to confirm this to me in writing. On April 19, 2024, she did – in the email shown below.



From: Randy Sue Pollock [redacted]
Sent: Friday, April 19, 2024 7:14:41 PM
To: David Gingras [redacted]
Subject: Owens trial

Mr. Gingras,
My client will not be testifying.

Randy Sue Pollock

RANDY SUE POLLOCK
Law Office of Randy Sue Pollock
286 Santa Clara Avenue
Oakland, CA 94610
[redacted]
www.rspollocklaw.com

A few weeks later, just days before the disclosure/discovery cutoff, Clayton's counsel informed me that, in fact, contrary to Ms. Pollock's written representation to me, Mr. Marraccini would appear and testify at trial. In response I explained there were several problems with this. First, Clayton had failed to disclose anything about the expected substance of Mr. Marraccini's testimony. Second, I noted Laura had a current, valid Domestic Violence Restraining Order (DVRO) issued against Mr. Marraccini by the San Francisco County Superior Court, and that this order did not contain any exception for in-person testimony. Third, I explained that under federal law (the "Violence Against Women Act" or "VAWA"), it would be a serious federal crime for Mr. Marraccini to engage in interstate travel for the purpose of violating a DVRO. *See* 18 U.S.C. § 2262 (available at: https://www.law.cornell.edu/uscode/text/18/2262). Fourth, I explained that the California DVRO could not be modified or ignored by the Arizona courts; VAWA expressly required the Arizona court to enforce the California DVRO as-written. *See* 18 U.S.C. § 2265 (requiring full faith and credit be given to interstate protective order) (available at: https://www.law.cornell.edu/uscode/text/18/2265).

Despite raising those concerns, I told Mr. Woodnick I would be happy to work with him to obtain permission from the California court that issued the DVRO so that Mr. Marraccini could testify (I am currently also licensed to practice in California). The only condition was I asked Mr. Woodnick to comply with his disclosure obligations by providing me with information regarding Mr. Marraccini's anticipated trial testimony (which Mr. Woodnick was already required to provide pursuant to Rule 49 of the Rules of Family Law Procedure). Mr. Woodnick rejected that request, leaving us at an impasse.

After I was unable to reach any agreement with Mr. Woodnick, I filed an emergency request for a hearing with the trial court so these issues could be discussed. That request was denied, without explanation. In order to preserve the issues, on June 3, 2024, I filed a Pretrial Statement (attached as Exhibit C) in which these same issues were discussed (see pages 9–11). In the Pretrial Statement, I explained it would be a crime for Mr. Marraccini to violate the California DVRO, and that any violation of the order would subject him to arrest.

> Accordingly, if Mr. Marraccini appears at trial without permission from the California court that issued the original order, he will be committing a crime and will be subject to arrest pursuant to A.R.S. § 13–3602(R). This issue has been reported to Court security by undersigned counsel who has requested that Mr. Marraccini be arrested if he violates the DVRO, as the law requires.

There is absolutely nothing unethical or inappropriate about any part of these remarks. As the California DVRO order (attached as Exhibit D) states, the order complies with VAWA and is subject to automatic, mandatory enforcement in all 50 states. The order further contains exactly the same warning that [redacted] points to as alleged "witness tampering" – it notes Mr. Marraccini is subject to arrest for any violation of the order, and interstate travel for the purpose of violating the order may result in him being charged with a federal crime. Clearly, there is nothing improper about me providing the *same warning* to Mr. Marraccini or his counsel that the DVRO itself contains.

Case Number:
FDV-18-813693

Warnings and Notices to the Restrained Person in 2

If you do not obey this order, you can be arrested and charged with a crime.

- If you do not obey this order, you can go to jail or prison and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- If you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.

3. "Posted a video of his client lifting her dress above her boobs"

[redacted] charge contains several vague comments about information I posted about this case, including certain indentified photos/videos. [redacted] claims: "One such video purportedly shows his client, Laura Owens, in a manner that may be deemed inappropriate for public disclosure." She further explains: "GINGRAS POSTED A VIDEO OF HIS CLIENT LIFTING HER DRESS ABOVE HER BOOBS SHOWING HER BLUE BRA AND BLACK PANTY LINES."

What on Earth is [redacted] talking about? And WHY ON EARTH would any sane lawyer post a video of his client *lifting her dress above her boobs*?

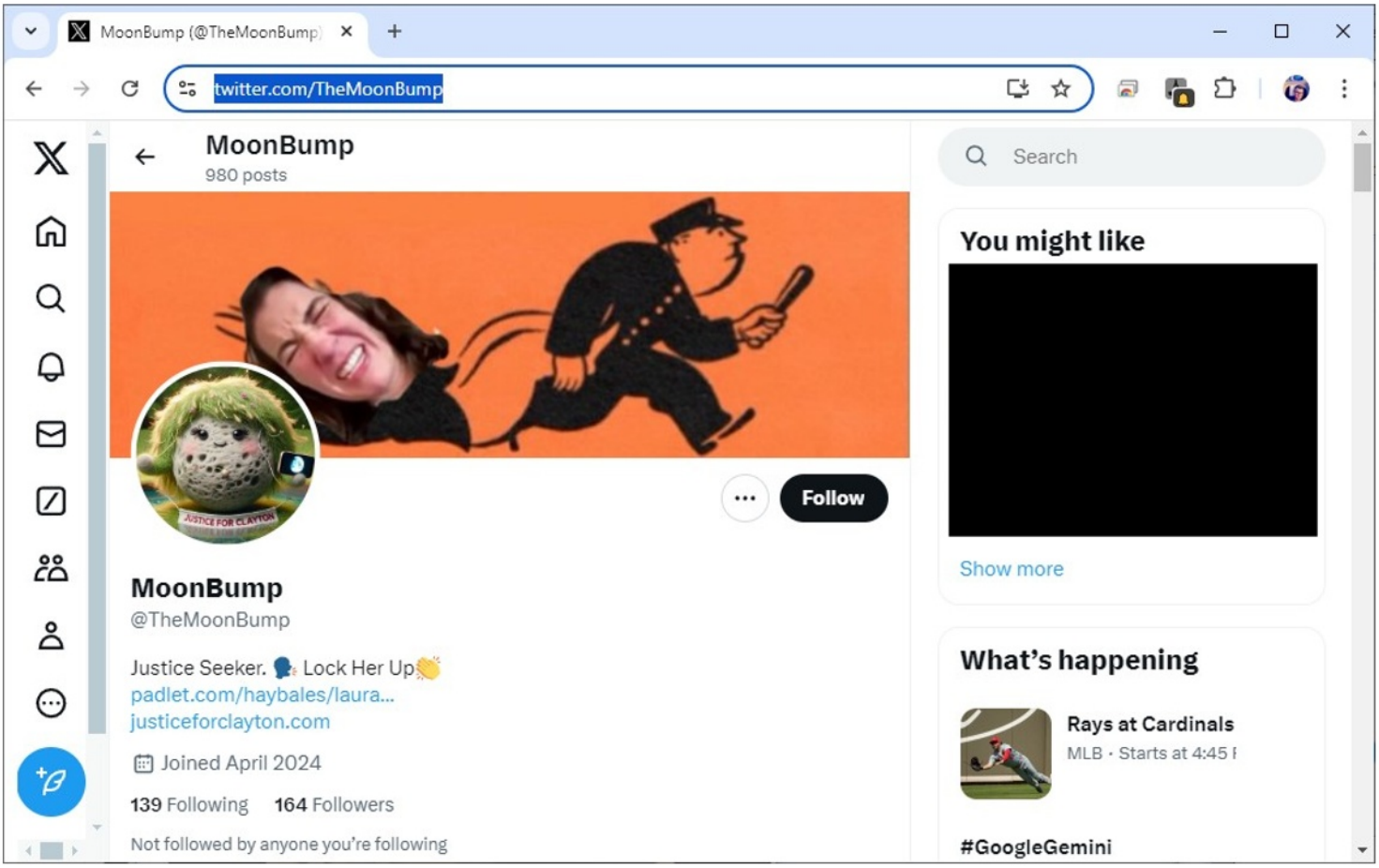
Here's why – because on January 3, 2024, Clayton's counsel (Mr. Woodnick) filed a Motion for Sanctions in the paternity case (FC2023-052114). In that pleading (which he later withdrew, but not before the JFC Cult seized on it), Mr. Woodnick accused Laura of appearing in court wearing a fake "moon bump" to falsely make it appear she was pregnant. Mr. Woodnick claimed this happened during a videotaped court appearance that took place on November 2, 2023 (again, before I was Laura's counsel).

YES, that is an astonishing allegation to make, but Mr. Woodnick made it – as shown below (to save space, the entire 18 page Motion for Sanctions is not attached as an exhibit).

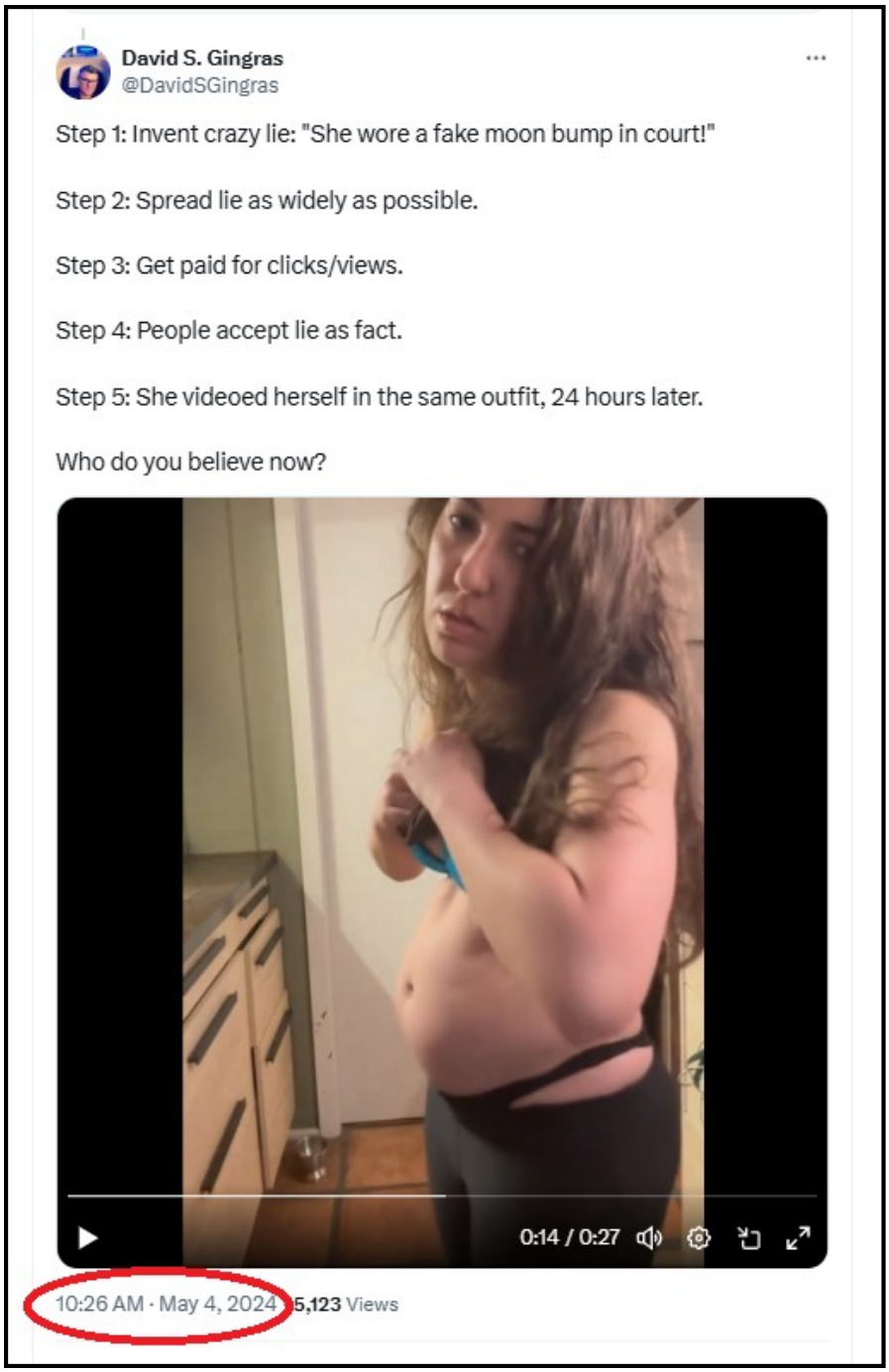
Respondent obtained an Injunction of Harassment against Petitioner based on the receipt of 500+ harassing messages in (CV2023-05392). During the proceedings, on November 2, 2023, Petitioner wore a fake stomach ("moon bump") to appear pregnant and claimed, with no scientific support, that she was 24 weeks pregnant with Respondent's twins and due on February 14, 2024 *See* Respondent's Response/Objection to Petitioner's Motion to Dismiss (filed 1/3/24); *see also* FTR for hearing on 11/2/23. Petitioner then sought to have this Court enter Orders against Respondent despite no verifiable proof Petitioner was pregnant and no child subject to this Court's jurisdiction (with respect to entering parenting-related Orders) by

As it turns out, Mr. Woodnick's "moon bump" story was completely false; he simply lied to the court about this point in an effort to make Laura appear crazy (only a crazy person would wear a fake pregnancy belly in court). I would have reported this false statement by Mr. Woodnick to the State Bar as a clear violation of ER 3.3(a)(1), but I understand the Bar has an unwritten policy against considering complaints filed by lawyers in pending litigation.

In any case, this cruel gambit unfortunately worked exactly as Mr. Woodnick intended – the JFC Cult seized on the story, and *repeatedly* spread Mr. Woodnick's "moon bump" claim far and wide. An anonymous cult member even created a new Twitter account mocking Laura, showing a photo of her crying while being dragged away by police, and suggesting "lock her up". *See*, *e.g.*,: https://twitter.com/TheMoonBump (note the link to JusticeForClayton.com in the account bio). Also note that "TheMoonBump" Twitter account has tweeted 980 times about this case.



As the old saying goes – *a lie can travel halfway around the world while the truth is still putting on its shoes*. In this instance, that is exactly what happened. After Laura hired me, and after suffering months of damage caused by Mr. Woodnick's cruel and patently false "moon bump" story being spread online, Laura asked me to help stop the damage. To do this, Laura asked me to publish a video she took of herself 24 hours after the court appearance in which she allegedly wore a fake belly. This video CLEARLY showed any allegation of her wearing a "moon belly" was completely false (because her swollen belly was clearly real). The tweet where this video was posted is shown here:



Again, this video was posted with Laura's written consent and at her request, so this is NOT an ER 1.6 issue. While this sort of thing may seem VERY strange in any other context, in this situation I believed it was necessary and appropriate given the vast amount of false information previously published online by the JFC Cult (with Mr. Woodnick's tacit assistance and encouragement).

5. "He arranged for an excessive security detail, including a bomb squad, drug-sniffing dogs, and a police escort"

Welcome to the crazy world of the JFC Cult. I see in her June 26, 2024 email [redacted] self-identifies as part of the "Justice for Clayton *collective*". Interesting term.

I have very little response to these specific allegations except to say:

- NO, I did not arrange for the "*bomb squad*" to appear at trial on June 10th. To my knowledge, no "bomb squad" personnel were present. If they were, it certainly had nothing to do with me.

- I have no idea what "*drug sniffing dog*" [redacted] is referring to. If there were any dogs present at trial, I did not notice them, and I certainly had nothing to do with them being there.

- Court security DID provide an escort to/from court for myself and Laura. This was done at Laura's request because she had received death threats from JFC Cult members and because Mr. Marraccini threatened to violate (and actually did violate) the DVRO by appearing in court without permission.

6. "He made an unwarranted 911 call, during which he followed the witness and disclosed personal information to the operator."

As explained above, Laura had (and still has) a valid, lawful court order from the State of California which required Mr. Marraccini to remain at least 300 feet away from her at all times, without exception. On the morning of trial (June 10th) Laura informed me that she saw Mr. Marraccini in the parking lot, within 300 feet. She then asked me to contact law enforcement to ask them to enforce the DVRO.

I initially contacted court security, but they advised they were unable to help. They specifically told me the only option was to call 9-1-1 and ask Phoenix Police to enforce the court's order (which they were required by VAWA to do). In response to the instructions from court security, I called 9-1-1 and reported the matter to law enforcement.

For whatever it is worth, Judge Mata's division specifically instructs all parties and counsel to call 9-1-1 if they believe they are in danger of physical harm. Below is an excerpt of an email I received from Judge Mata's clerk on April 4, 2024 which contains precisely that admonition:

> **While the Court cannot provide legal advice or advice on which forms to file, the superior court website features a resource center, Law Library, where documents and guides can be found, here: The Judicial Branch of Arizona in Maricopa County - Law Library Resource Center**
>
> If a party or any adult for that matter, believes that a child is being abused or neglected they may call the Arizona Department of Child Safety hotline at **1-888-SOS-CHILD (1-888-767-2445)**, and if a person believes that they or a child are in danger of physical harm or are a victim of a crime local law enforcement or **911** should be contacted.
>
> Thank you,
>
> **Judge Mata's Division**
> Northeast Regional Center
> 18380 North 40th Street, Courtroom 102
> Phoenix, Arizona 85032
> [redacted]

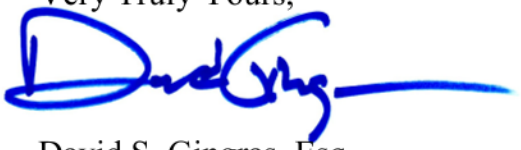
Clearly, Laura had every right to ask law enforcement to enforce a facially-valid court order. Court security (and Judge Mata's division) advised calling 9-1-1 was the proper recourse, so that is what I did. There was nothing improper about this.

Finally, I have no idea what [redacted] is talking about when she says that during the 9-1-1 call, I "followed the witness and disclosed personal information to the operator". If the "witness" she is referring to is Mr. Marraccini, that allegation is simply false. I stayed with (or near) court security personnel during this entire call, and when Phoenix Police arrived, I provided them with a copy of the DVRO and I explained the situation to them. I did not "follow" anyone, nor did I disclose "personal information" to anyone other than law enforcement (I assume the "personal information" [redacted] is referring to is Mr. Marraccini's date of birth, which is listed on the DVRO and which Phoenix Police specifically asked me to provide to them).

In any event, I believe this responds to all specific allegations in [redacted] charge. If you believe I have missed something, I would appreciate it if you could let me know the specific allegation you feel needs to be addressed. I will be glad to update this response if there is something further you need to know.

As always, feel free to contact me with any questions: [redacted]

Very Truly Yours,



David S. Gingras, Esq.

Exhibit A

THE VALLEY LAW GROUP, PLLC
Cory B. Keith – SBN 035209
3101 N. Central Avenue, Suite 1470
Phoenix, Arizona 85012
[redacted]
Attorneys for Petitioner

Clerk of the Superior Court
*** Electronically Filed ***
C. Diaz, Deputy
1/17/2024 9:58:26 PM
Filing ID 17201988

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In Re the Matter Of: **LAURA OWENS,** Petitioner, and **CLAYTON ECHARD,** Respondent.	Case No. FC2023-052114 **MOTION FOR CONFIDENTIALITY AND PRELIMINARY PROTECTIVE ORDER** (Assigned to the Hon. Julie Mata)

Petitioner, **LAURA OWENS** (hereinafter "Petitioner"), by and through undersigned counsel, hereby files this Motion for Confidentiality and Preliminary Protective Order pursuant to Rule 53, *Arizona Rules of Family Law Procedure, ("ARFLP")*. Petitioner requests the Court sign and adopt the proposed Protective Order (*attached hereto as "Exhibit 1"*) as a formal Order of this Court or to issue its own protective order as deemed suitable by the Court.

I. STATEMENT OF FACTS

1. On August 1, 2023, Petitioner filed her Petition to Establish Paternity, Legal Decision-Making, Parenting Time, and Child Support (hereinafter "The Petition").

2. On August 21, 2023, Respondent filed his Response to the Petition.

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3. On December 28, 2023, Petitioner filed a Motion to Dismiss requesting that the Court dismiss the Petition.

4. On January 4, 2024, Respondent issued a Notice of Deposition summoning her to attend a deposition scheduled for January 17, 2024.

5. On January 11, 2024, undersigned counsel filed his Notice of Appearance on behalf of Petitioner.

6. On January 16, 2024, undersigned counsel emailed legal counsel representing Respondent ("Opposing Counsel") asking if Respondent would agree to a preliminary protective order with relation to the deposition. Respondent declined. *See "Exhibit 2"*.

7. Following the referenced January 16, 2024, email exchange, undersigned duly notified Opposing Counsel of his intent to submit this Motion. It was also conveyed that Petitioner would seek the Court's issuance of a protective order prior to her deposition. *Id.*

II. LAW AND ARGUMENT

Rule 53(a), *ARFLP* allows the court for good cause to enter an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) forbidding the discovery;

(2) specifying terms and conditions, including time and place, for the discovery;

(3) prescribing a discovery method other than the one selected by the party seeking discovery;

(4) forbidding inquiry into certain matters, or limiting the scope of discovery to certain matters;

(5) designating the persons who may be present while the discovery is conducted;

(6) requiring that a deposition be sealed and opened only on court order;

(7) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

(8) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the court directs.

Furthermore, Rule 53 (d) also allows the Court to enter an order that limits a party from disclosing information or materials produced in the action to a person who is not a party to the action:

(A) the party seeking confidentiality must show why a confidentiality order should be entered or continued; and

(B) the party opposing confidentiality must show why a confidentiality order should be denied in whole or in part, modified, or vacated. The burden of showing good cause for an order remains with the party seeking confidentiality.

Additionally, Rule 53 (2) requires that the court make findings of fact concerning any relevant factors, including but not limited to:

(A) any party's or person's need to maintain the confidentiality of such information or materials;

(B) any nonparty's or intervenor's need to obtain access to such information or materials; and

(C) (C) any possible risk to the public health, safety, or financial welfare that such information or materials may relate to or reveal.

Case law directly citing Rule 53, *ARFLP* is sparse. However, as the Commentary for Rule 53 states, Rule 53 is based on Rule 26 (c) of the Arizona Rules of Civil Procedure which provides additional insight and case law on the subject. Rule 26 (c)(l) similarity provides that upon good cause shown, court may make various protective orders that justice requires to protect a party or person from annoyance, embarrassment, oppression,

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or undue burden or expense. Rule 26(c)(l) Ariz. Rule Civ. Procedure. *See, e.g., Arpaio v. Figueroa,* 229 Ariz. 444, 276 P.3d 51 (2012) *MacMillan v. Schwartz,* 250 P.3d 1213, 1220-21 (Ariz. Ct. App. 2011).

The text of Rule 53 (a), *ARFLP* provides the Court with no fewer than eight separate and non-inclusive means by which it might ensure that a party is not subjected to annoyance embarrassment, oppression, and undue burden or expense. In other words, the rule provides the Court with broad discretion in fashioning orders for parties or information entitled to protection.

Petitioner's proposed Protective Order, attached hereto and incorporated by reference, requests that relevant discoverable information which either party designates as confidential remains confidential and is not disseminated to anyone other than the parties and their respective counsel–including if one party objects to the confidentiality designation and until said designation is removed by the Court. The Protective Order also seeks that any party depositions in this matter, if deemed appropriate by the Court, are designated as confidential until either party requests that the Court make an evaluation into whether parts of the deposition, or the deposition in its entirety, should have the confidential designation.

1. *Respondent's Requested and Anticipated Discovery will Further Annoy, Embarrass, and Oppress Petitioner*.

Respondent's anticipated discovery is sensitive in nature and should be protected. Respondent intends to depose Petitioner or is seeking discovery relating to several sensitive and potentially privileged topics including her previous sexual relations, specifics regarding the sexual encounter with Respondent, previous pregnancies, discussions surrounding potential adoption or abortions, her privileged medical records, her miscarriage, and other

topics. While Petitioner concedes that certain discovery may be necessary in this matter to appropriately litigate unresolved issues - including the issue of attorney fees - this limited issue does not warrant the dissemination of sensitive information to non-parties to this case.

Petitioner has already been annoyed, embarrassed, and oppressed by Respondent's actions and has concerns that this will only worsen as discovery continues. Respondent is consistently using his social media platforms to control the narrative of this case. Respondent is an American television personality best known for his appearance on two seasons of the Bachelor/Bachelorette. Respondent has approximately 360,000 social media followers across Instagram and TikTok alone. *See Exhibit 3*. Respondent has also made appearances on multiple interviews or podcasts throughout this case where he has discussed this case/situation.

As a result, Petitioner has been the subject of disparaging comments, harassment, annoyance, and undue scrutiny from tens of thousands of individuals online.[1] This deliberate effort to shape public opinion has created an environment that is not only emotionally distressing for Petitioner but also poses a potential threat to the fairness of the legal proceedings. Petitioner desires to litigate this case on the merits, free from ongoing concerns that she will receive further annoyance and embarrassment from the public should aspects of the disclosures and/or her deposition testimony be freely disseminated to the public.

[1] Counsel notes that specific instances of online disparaging of Petitioner are not included in this Motion as counsel believes this would only encourage the conduct for the people following this case. To the extent that this Court deems it appropriate or necessary, counsel will provide the Court with specific instances of the public comments which are annoying and embarrassing Petitioner across social media and online platforms. However, any such disclosure(s) should be protected under seal or revealed via "in camera review" with only the Judge and attorneys present to avoid worsening the continued impact of this case to Petitioner.

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While Petitioner concedes that she also made comments to organizations, these efforts were in attempt to clear up the many false narratives circling publicly.

2. *The Court Should Limit the Method of Respondent's Discovery Abilities.*

The only issue remaining in this action is the issue of sanctions or attorney fees. It is undisputed that the parties do not share a child in common and that Petitioner is not presently pregnant. A deposition is unnecessary to seek the information Respondent would require to properly litigate the sole remaining issue of attorney fees. Respondent refused to agree to enter into any preliminary protective order prior, causing necessity for filing of this Motion. Given Respondent's mainstream history of divulging information related to this case to the mases, without issuance of a protective order Petitioner anticipates portions of and/or her deposition as a whole will be discussed and/or disseminated publicly, thus subjecting her to additional annoyance or embarrassment.[2]

Petitioner believes discovery can be completed sufficiently through alternative means including the use of uniform and non-uniform interrogatories, the request for production of documents, a written deposition, cross examination, or other means.

3. *If the Court does not Preclude the Parties from Conducting Depositions of the Opposing Parties, the Court Should Limit the Scope of the Depositions to the Present Matter.*

In the event the Court does not outright deny the parties' abilities to depose the other, the Court should limit the deposition to the issues narrowly involved in the present litigation. Petitioner believes this should initiate with the party's act or alleged act of sexual

[2] Counsel notes that in his limited time on this case, substantial amounts of information have leaked to the public or media within hours or days of the information being transmitted. This includes not only things like Motions, but also emails between counsel and other details surrounding the case as well.

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intercourse. In an email exchange between counsel, Respondent Counsel has expressed intent to depose Petitioner regarding her previous relationships which are entirely unrelated to this matter. *See "Exhibit 2"*.

4. *The Court Should Issue an Order Designating Confidentially Deemed Discovery as Protected and Confidential.*

The present case is unique. This Court is aware of the constant struggle within Arizona courts and laws weighing the best interests of a child against the privileges designed to protect communications with certain professionals. While this case is still labeled as a Family Court case, the parties do not share a minor child in common and therefore, there is no obligation for Petitioner to share protected or privileged information. Almost all the requested discovery to date seeks otherwise privileged information from Petitioner. While Petitioner concedes that disclosure of certain medical records may become necessary to support her claims, she is uncomfortable disclosing such personal and private information without a protective order in place. Even then, Petitioner should only be required to produce evidence establishing the viability of her claims instead of all medical records or HIPPA releases as Respondent has and will likely continue to request.

III. CONCLUSION

For the reasons set forth, issuance of a protective order is necessary and can be accomplished without any material prejudice to either party. As such, Petitioner asks this Court to sign the Proposed form of Preliminary Protective Order attached hereto as "Exhibit 1". Doing so will protect the parties from additional embarrassment and annoyance, while allowing this case to be decided on the merits.

//

RESPECTFULLY submitted this 17th day of January 2024.

THE VALLEY LAW GROUP, PLLC

/s/ Cory Keith

Cory B. Keith
Attorney for Petitioner

ORIGINAL of the foregoing e-filed
this 17th day of January 2024, with:

Clerk of the Superior Court
Maricopa County Superior Court

COPY presumed delivered even date to:
The Honorable Julie Mata

COPY emailed even date to:
Gregg Woodnick
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By: ILS

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Exhibit B

Clerk of the Superior Court
*** Electronically Filed ***
02/21/2024 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2023-052114 02/15/2024

HONORABLE JULIE ANN MATA

CLERK OF THE COURT
C. Ladden
Deputy

IN RE THE MATTER OF
LAURA OWENS

CORY B KEITH

AND

CLAYTON ECHARD

GREGG R WOODNICK

JUDGE MATA

ORDER ENTERED BY COURT

The Court has received and considered Petitioner's *Motion for Confidentiality and Preliminary Protective Order* filed on January 17, 2024; Respondent's *Response/Objection* filed on January 19, 2024; and Petitioner's *Reply* filed on January 31, 2024.

IT IS ORDERED denying Petitioner's Motion for Confidentiality and Preliminary Protective Order filed on January 17, 2024.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: https://superiorcourt.maricopa.gov/llrc/fc_gn9/

Exhibit C

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[redacted]

Attorney for Petitioner
Laura Owens

MARICOPA COUNTY SUPERIOR COURT

STATE OF ARIZONA

In Re Matter of: **LAURA OWENS,** **Petitioner,** **And** **CLAYTON ECHARD,** **Respondent.**	Case No: FC2023-052114 **PETITIONER'S PRETRIAL STATEMENT** **(Assigned to Hon. Julie Mata)**

Pursuant to Rule 76.1, Ariz. R. Fam. L.P., Petitioner Laura Owens ("Laura" or "Petitioner") hereby submits the following Pretrial Statement.

1. A Brief Description of the Nature of the Action

This case began as a paternity establishment action. Laura claims she had sexual intercourse with Respondent Clayton Echard ("Clayton" or "Respondent") on May 20, 2023. Prior to filing this action, Laura claims she tested positive for pregnancy on **five separate occasions**: May 31, June 1, June 19, July 25, and August 1.

After efforts to resolve the matter failed, Laura filed this case on August 1, 2023. At that time, Laura was not represented by counsel and neither was Clayton.

On October 16, 2023, Laura had a lab blood test which showed an HCG level of 102. Although this test confirmed she was still pregnant, the HCG level on October 16,

2023 was far lower than would have been expected for a "viable" pregnancy. This indicated Laura was still pregnant on that date, but the pregnancy was virtually certain to end without a healthy child/children being born.

Unsure of how to proceed, two days later, on October 18, 2023, Laura filed a form requesting mediation (a request Clayton did not oppose or even respond to). Laura will explain the intent of that filing was to give her an opportunity to inform Clayton that it appeared the pregnancy was non-viable and that Laura wanted to dismiss this petition once the pregnancy loss was confirmed. Despite no objection from Clayton, the Court denied Laura's mediation request as premature a month later on November 19, 2023.

In the interim, on November 14, 2023, Laura was seen by an OB/GYN facility called MomDoc where it was confirmed she was no longer pregnant. After learning she was no longer pregnant, Laura filed no further pleadings in this matter and took no action to keep the case active. Because she is not an attorney and was not represented by counsel, Laura was not familiar with the process for seeking voluntary dismissal. She assumed if no further actions were taken, the case would simply be dismissed for inactivity, as confirmed by the administrative dismissal notice dated 12/4/23.

Clayton's counsel first appeared in the case on December 12, 2023 and immediately began filing various motions and pleadings *without* making any effort to meet and confer with Laura as required by Rule 9(c). This caused Laura to retain her own counsel who immediately appeared in the case and moved to voluntarily dismiss the action with prejudice on December 28, 2028. Because Laura was no longer pregnant, she asserted her petition was moot. This remains Laura's position today.

Aside from the moot establishment petition, Clayton presents at least two or three arguably "live" issues for resolution. First, Clayton claims he is entitled to a "judgment of *non-paternity*" which Laura interprets to mean a judgment *affirmatively* finding Clayton was *not* the biological father of any children Laura may have miscarried (as opposed to a judgment declaring the establishment petition moot and/or that the circumstances render any paternity issues inconclusive and thus impossible to determine).

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Nothing in Title 25, Chapter 6 permits the relief Clayton seeks. Rather, when an *establishment* petition is filed, the Court may either find paternity *is established* (usually by applying one of more of the presumptions set forth in A.R.S. § 25–814(A)), or the Court may find paternity is *not established* (either because there is no evidence to support any presumption under A.R.S. § 25–814(A), or because the presumption was rebutted by clear and convincing evidence per A.R.S. § 25–814(A)). Again, because Laura is no longer pregnant, her position is that the establishment petition is moot, and there are no paternity establishment determinations for this Court to make.

Nevertheless, as the party asking for a "judgment of *non-paternity*" in an otherwise moot case, assuming the Court does not merely dismiss this relief as legally unavailable, Laura's position is that Clayton bears the burden of proving, by admissible evidence, he is biologically *excluded* as the father of any children Laura was or may have been pregnant with. *See*, *e.g.*, A.R.S. § 25–807(D) ("the party opposing the establishment of the alleged father's paternity shall establish by clear and convincing evidence that the alleged father is not the father of the child.") To date, Clayton has produced no evidence *disproving* paternity (beyond his own conflicting statements about whether he believes pregnancy was even possible here).

Second, Clayton asks the Court to find "Laura was never pregnant". Again, nothing in Title 25, Chapter 6 permits the Court to grant such relief. However, if it did, as the proponent of that claim, Clayton must offer admissible evidence to prove his allegation. Again, to date, Clayton has offered nothing but pure speculation and conjecture to support this theory.

Laura contends what Clayton is actually seeking is tantamount to a civil defamation claim over which this Court lacks subject matter jurisdiction. For that reason, Laura's position is this Court cannot grant this specific relief as a matter of law, even if Clayton had compelling facts and evidence to support it (which he does not).

Third, in his *Amended* Response to Laura's Petition (filed 1/26/2024), Clayton requests sanctions under Rule 26 and fees under A.R.S. § 25-324. As explained in other

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briefing, Clayton cannot receive sanctions under Rule 26 because he has failed to follow the strict requirements of that rule and there is no pending Rule 26 motion. Furthermore, Clayton cannot recover fees under A.R.S. § 25-324 because Laura has not engaged in any unreasonable litigation conduct in this case.

To the extent Clayton incurred any fees *after* December 12, 2023, those fees were not caused by any unreasonable litigation conduct on Laura's part. On the contrary, if Clayton's counsel had simply met and conferred with Laura (as required by Rule 9(c)), counsel would have learned Laura was no longer pregnant and there were no remaining paternity issues to litigate. At that time, there was no need for Clayton to incur any fees at all; the case would have been automatically dismissed without any further action.

Clayton's decision to continue spending months litigating moot paternity issues in what amounts to a civil defamation case filed in a court that lacks subject matter jurisdiction over that claim is unreasonable litigation conduct on his part, not Laura's. Accordingly, Laura is entitled to an award of fees and costs pursuant to A.R.S. § 25-324.

Finally, there is one separate issue remaining – Clayton's request for relief from the Order of Protection based on fraud. That issue has been fully briefed and Laura's position has already been explained – there was NO fraud in this case, and there is no basis to grant relief from the OOP.

2. Party Names/Addresses

- Laura Owens; c/o Petitioner's Counsel
- Clayton Echard; c/o Respondent's Counsel

3. Name and Date of Birth of Each Minor Child

Not applicable.

4. Parties' Stipulations or Agreements

None.

5. Statement of Uncontested Facts Or Law

None.[1]

[1] Laura offered to stipulate to certain facts; Clayton refused to stipulate to *any* facts.

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6. Detailed and Concise Statements of Contested Issues of Fact and Law

Pursuant to Rule 82(a)(1), Laura has separately requested findings of fact and conclusions of law, and has provided detailed proposed findings on both issues. Rather than repeating those points here, Laura offers the following *summarized* list of contested facts and questions of law for the Court to resolve:

CONTESTED FACTS

A. Was Laura pregnant at the time she filed this case on August 1, 2023?

B. Did Laura have any good faith basis to believe, on August 1, 2023, that she was pregnant (even if she was not)?

C. Did Laura have any good faith basis to believe, on August 1, 2023, that Clayton was the father?

D. Did Laura continue to litigate this action after August 1, 2023 knowing that she was not, in fact, pregnant?

E. What caused Laura to test positive for pregnancy five times before this action was filed, if it was not caused by her being pregnant?

F. What caused Laura to have HCG in her blood on October 16, 2023, if it was not caused by her being pregnant?

G. Was the motion for voluntary dismissal filed by Laura on December 28, 2023, brought within a reasonable amount of time after Laura tested negative for pregnancy, thus precluding sanctions per A.R.S. § 12–349(C)?

H. Has Clayton presented clear and convincing evidence to show he was not the biological father of any unborn child Laura was pregnant with?

CONTESTED ISSUES OF LAW

A. Assuming *arguendo* that Laura violated Rule 26 by bringing or continuing to pursue this action without any factual basis, was she nevertheless entitled to the benefit of the safe harbor provisions of Rule 26(c)(2)(B), even though notice of her right to "withdraw or appropriately correct the alleged violation(s)" was never given?

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