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7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MARICOPA**

9 [REDACTED],

Case No.: CV2021-052893

10 **Plaintiff,**

APPLICATION FOR COSTS

11 **v.**

(Assigned to the Hon.
Michael Gordon)

12 **GREGORY GILLESPIE,**

13 **Defendant.**

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15 Pursuant to A.R.S. § 12-341, Defendant/Counterclaimant Gregory Gillespie
16 (“Defendant”), by and through undersigned counsel, respectfully requests recovery of his
17 taxable costs as the successful party in this matter. [See Defendant’s Verified Statement of
18 Costs, attached hereto as **Exhibit “A”**].¹ This Application is supported by the following
19 Memorandum of Points and Authorities.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I. INTRODUCTION**

22 On August 11, 2021, Plaintiff initiated this Action and brought claims for abortion
23 coercion and intentional infliction of emotional distress. On January 4, 2022, Defendant

24
25 ¹ Counsel for Defendant has reached out to Defendant’s prior counsel regarding a record
26 of fees. To date, undersigned counsel has not received any such records, but undersigned
counsel will supplement Defendant’s Verified Statement of Costs once he receives
additional documentation.

LAW

ZAZUETA

1 answered the Complaint and brought counterclaims for fraud and intentional infliction of
2 emotional distress. Here, Defendant was forced to defend himself against a claim that is
3 not supported by Arizona law, i.e., abortion coercion, and, as a result, Defendant was
4 required to file a motion to dismiss for a claim that simply lacked legal support. With
5 respect to Plaintiff’s claim for intentional infliction of emotional distress, Plaintiff
6 presented utterly no evidence to support her claim, and a portion of Defendant’s briefing
7 was directed to addressing Plaintiff’s late disclosures. And, at the end of the litigation,
8 Defendant successfully defended Plaintiff’s claims. Considering the totality of the
9 litigation, and Plaintiff’s conduct, Defendant is entitled to his taxable costs.

10 **II. LEGAL ARGUMENT**

11 Under A.R.S. § 12-341: “The successful party to a civil action shall recover from
12 his adversary all costs expended or incurred therein unless otherwise provided by law.”
13 The Court possess “...substantial discretion to determine who is a successful party.” *Assyia*
14 *v. State Farm Mut. Auto. Ins. Co.*, 229 Ariz. 216, 223–24, 273 P.3d 668, 675–76 (App.
15 2012) (citing *Fulton Homes Corp. v. BBP Concrete*, 214 Ariz. 566, 572, ¶ 25, 155 P.3d
16 1090, 1096 (App.2007) (quoting *Pioneer Roofing Co. v. Mardian Constr. Co.*, 152 Ariz.
17 455, 467, 733 P.2d 652, 664 (App.1986) (internal quotations omitted)). Arizona courts
18 have upheld an award of costs based on the totality of the litigation, even where neither
19 party prevailed on their respective claims. *Nataros v. Fine Arts Gallery of Scottsdale, Inc.*,
20 126 Ariz. 44, 49, 612 P.2d 500, 505 (App. 1980) (internal citations omitted). Moreover,
21 Arizona courts have applied the net judgment rule. *See Ayala v. Olaz*, 161 Ariz. 129, 131,
22 776 P.2d 807, 809 (App. 1989).

23 Even though neither party prevailed on their respective claims, Defendant is the
24 successful party in this Action. The Court, through its discretion, should consider Plaintiff’s
25 lack of legal and factual support for her claims, which unnecessarily increased the costs of
26 this matter. The Court should also consider Plaintiff’s conduct, which included, but is not



1 limited to, providing no support for her claim for intentional infliction of emotional
2 distress. When confronted with this reality, Plaintiff introduced late disclosures that
3 Defendant was forced to address. Despite the above, Defendant’s Motion for Summary
4 Judgment was granted. Given the totality of the litigation, the Court, in its discretion,
5 should find that Defendant is the successful party in this matter.

6 **III. CONCLUSION**

7 For the foregoing reasons, the Court should grant the present Application.

8 **RESPECTFULLY SUBMITTED** this 15th day of December 2023.

9 **ZAZUETA LAW, PLLC**

10 */s/ Fabian Zazueta*
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20 **ELECTRONICALLY** filed this same day
21 via AZTurboCourt.com.

22 **COPY** emailed this same day on:

23 Kyle O’Dwyer, Esq.
24 **FORTIFY LEGAL SERVICES**
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Attorney for Plaintiff

/s/ Garrett Respondek

EXHIBIT A



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12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
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14 [REDACTED]

Case No.: CV2021-052893

Plaintiff,

VERIFIED STATEMENT OF COSTS

v.

(Assigned to the Hon.
Michael Gordon)

GREGORY GILLESPIE,

Defendant.

15 TO THE CLERK OF THE COURT AND THE PARTIES AGAINST WHOM
16 COSTS ARE CLAIMED:

17 I declare under penalty of perjury that the foregoing is true and correct:

18 1. I am the managing attorney at Zazueta Law, PLLC and responsible for
19 representing Defendant in this Action.

20 2. I make this Verified Statement of Costs with personal knowledge that the
21 following costs have been incurred and expended by Zazueta Law, PLLC in this Action.

DESCRIPTION	AMOUNT
Filing Fee: Notice of Appearance	\$10.61
Filing Fee: Motion for Summary Judgment	\$10.61
Filing Fee: Separate Statement of Facts	\$10.61



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Filing Fee: Notice of Extension to file Response to Motion for Summary Judgment	\$6.70
Filing Fee: Response to Motion for Summary Judgment and Separate Statement of Facts	\$6.70
Filing Fee: Stipulation to Extend Time	\$6.70
Filing Fee: Application for Costs	\$6.70
Filing Fee: Notice of Lodging of Proposed Judgment	\$6.70
TOTAL	\$65.33

3. Pursuant to A.R.S. § 12-341, Defendant hereby claims these costs against Plaintiff.

4. I have read the foregoing and verify that the facts stated herein are true and correct to the best of my knowledge.

RESPECTFULLY SUBMITTED this 15th day of December 2023.

ZAZUETA LAW, PLLC

/s/ Fabian Zazueta
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