

APPEAL NO. B341119
Consolidated Appeal No. B345361

**IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION ONE**

JANE DOE,

Plaintiff and Respondent,

vs.

ALKIVIADES DAVID, an Individual, et al.

Defendants and Appellant.

**APPEAL FROM THE SUPERIOR COURT FOR LOS
ANGELES COUNTY**

Trial Court Case No. 20STCV37498

Hon. Judge Christopher K. Lui

**APPELLANT ALKIVIADES DAVID APPENDIX
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TAB 1

AA0015

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1 **GARY A. DORDICK, ESQ.** (SBN: 128008)
2 **KEITH D. GRIFFIN, ESQ.** (SBN: 204388)
3 **DUSTIN Z. MOAVEN, ESQ.** (SBN: 320939)
4 **DORDICK LAW CORPORATION**
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6 LOS ANGELES, CALIFORNIA 90017
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9 **LIVINGSTON • BAKHTIAR**
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11 LOS ANGELES, CALIFORNIA 90010
12 **TEL: (213) 632-1550 • FAX: (213) 632-3100**
13 Attorneys for Plaintiff:

FILED
Superior Court of California
County of Los Angeles
10/01/2021

Sherri R. Carter, Executive Officer / Clerk of Court
By: J. Arceo Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

CASE No.: 20STCV37498

JANE DOE, an Adult Individual Suing Under
Anonymity Due to Privacy and Safety Concerns,

PLAINTIFF,

v.

ALKIVIADES DAVID, an Individual, a.k.a.)
ALKI DAVID; HOLOGRAM USA, INC., a
California Corporation, a.k.a. HOLOGRAM
USA PRODUCTIONS, INC., HOLOGRAM
USA ENTERTAINMENT, INC., FILMON.TV,
INC., FILMON.TV NETWORKS, INC. and
FILMON.TV LA, INC.; SWISSX LABS AG,
INC., a California Corporation, a.k.a. SWISSX
LOUNGE and FILMONTV UK, LTD.; and
DOES 1 through 150, Inclusive,

DEFENDANTS.

FIRST AMENDED
COMPLAINT FOR DAMAGES

- 1. **SEXUAL ASSAULT AND BATTERY**
- 2. **FALSE IMPRISONMENT**
- 3. **VIOLATIONS OF THE RALPH CIVIL RIGHTS ACT**
- 4. **VIOLATIONS OF THE BANE CIVIL RIGHTS ACT**
- 5. **SEXUAL HARASSMENT**
- 6. **SEX/GENDER DISCRIMINATION**
- 7. **RETALIATION**
- 8. **FAILURE TO PREVENT**
- 9. **WRONGFUL AND/OR CONSTRUCTIVE DISCHARGE**
- 10. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

PLAINTIFF

1. At all relevant times mentioned herein, Plaintiff JANE DOE, an adult residing in the County of Los Angeles, hereby sues under anonymity for privacy and safety concerns. Plaintiff hereby asserts her rights afforded her under Article I, § 28 of the California Constitution and contends that the disclosure of her true identity, by suing under her name, will compromise her safety and her privacy in a sensitive, personal matter.

DEFENDANTS

1
2 2. Plaintiff has been informed and believes and thereon alleges that, at all relevant times
3 mentioned herein, defendants HOLOGRAM USA INC., also known as and/or conducting business
4 as HOLOGRAM USA PRODUCTIONS, INC., HOLOGRAM USA ENTERTAINMENT, INC.,
5 FILMON.TV, INC., FILMON.TV NETWORKS, INC. and FILMON.TV LA, INC., as well as DOES
6 1 to 50 (hereinafter collectively known as “HUI”), were and are corporations and/or legal entities,
7 headquartered in the State of California, County of Los Angeles. Plaintiff has also been informed
8 and believes and thereon alleges that, at all relevant times mentioned herein, HUI regularly employed
9 five or more persons and was the employer and/or co-employer of Plaintiff.

10 3. Plaintiff is informed and believes and thereon alleges that, at all relevant times mentioned
11 herein, defendants SWISSX LABS AG, INC., also known as and/or conducting business as SWISSX
12 LOUNGE and FILMONTV UK, LTD., as well as DOES 51 to 100 (hereinafter collectively known
13 as “SWISS-X”), were and are corporations and/or legal entities, headquartered in the State of
14 California, County of Los Angeles. Plaintiff has also been informed and believes and thereon alleges
15 that, at all relevant times mentioned herein, SWISS-X regularly employed five or more persons and
16 was the employer and/or co-employer of Plaintiff.

17 4. Plaintiff is informed and believes and thereon alleges that, at all relevant times mentioned
18 herein, ALKIVIADES DAVID, also known as and/or conducting business as, ALKI DAVID, as well
19 as DOES 101 to 150 (hereinafter collectively known as “AD”), was and is an individual with his
20 primary residence located in the County of Los Angeles, State of California. Plaintiff has also been
21 informed and believes and thereon alleges that, at all relevant times mentioned herein, AD regularly
22 employed five or more persons and was the employer and/or co-employer of Plaintiff. Plaintiff has
23 been further informed and believes and thereon alleges that, at all relevant times mentioned herein,
24 AD was and continues to be an executive, director, principal, owner and/or managing agent of both
25 HUI and SWISS-X.

26 5. Whenever in this Complaint reference is made to “Defendants” such allegation shall refer
27 to the acts or omissions of AD, HUI, and SWISS-X, inclusive of each DOE, 1 to 150, acting
28 individually, jointly and/or severally.

1 6. The true names and capacities, whether individual, corporate, associate, or otherwise, of
2 DOES 1 to 150, are unknown at this time and thus said individuals and/or entities are being sued
3 herein by such fictitious names. Plaintiff will seek leave to amend this Complaint to insert the true
4 names and capacities of said DOES when same becomes known to her.

5 7. Plaintiff has been informed and believes and thereon alleges that, at all relevant times
6 mentioned herein, DOES 1 to 150, were residents of, headquartered in, or principally doing business
7 in the State of California and County of Los Angeles. Plaintiff has been further informed and
8 believes and thereon alleges that each DOE and specifically named Defendant herein is legally
9 responsible in some manner or means for the events and happenings referred to herein and
10 proximately caused damage to Plaintiff, either through their own conduct or the conduct of their
11 agents, servants, or employees, or due to their ownership supervision and/or management of the
12 employees, agents, entities and/or instrumentalities that caused said damages, or in some other
13 manner or means that is presently unknown to Plaintiff.

14 8. Plaintiff has been informed and believes and thereon alleges that, at all times mentioned
15 herein, a unity of interest and ownership existed by and between AD, HUI, SWISS-X and DOES 1
16 to 150 herein, such that any individuality or separateness between all said Defendants ceased to exist.
17 Plaintiff is therefore informed and believes and thereon alleges that, at all relevant times herein
18 mentioned, each Defendant, whether a DOE or specifically named, was the agent, principal and/or
19 employee of its, his, or her co-Defendants AD, HUI and/or SWISS-X and in doing the things
20 hereinafter alleged, was acting within the authority, purpose, course and scope of such agency and
21 employment with advance knowledge, consent approval and/or ratification of each Defendant and/or
22 co-Defendant AD, HUI and/or SWISS-X.

23 9. Plaintiff has been informed and believes and thereon alleges that HUI, SWISS-X and
24 DOES 1 to 150 maintained such a unity of interest between the corporate form and the owner, AD,
25 that the corporate form of HUI and SWISS-X ceased to exist. Plaintiff is informed and believes that
26 AD is the sole owner of HUI and SWISS-X and funded the operations of said entities with his own
27 personal funds, which were co-mingled among each of the Defendants.

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1 10. In fact, Plaintiff has been informed and believes and thereon alleges that HUI and
2 SWISS-X were undercapitalized, routinely disregarded corporate formalities and shared corporate
3 officers. Plaintiff has been additionally informed and believes and thereon alleges that justice can
4 not be served in the absence of each of the named entities herein, as AD has transferred and
5 concealed his assets by and among AD, HUI and SWISS-X to avoid enforcement of judgments
6 rendered against him, including any potential judgment that might be rendered in this action.

7 11. Plaintiff has been informed and believes and thereon alleges that, at all relevant times
8 mentioned herein, the specifically named Defendants and DOES 1 to 150, were also the successors-
9 in-interest and/or alter egos of each other, in that they purchased, controlled, dominated and/or
10 operated one another without any separate identity, observation of formalities, or other manner of
11 division. Plaintiff thus alleges that to continue maintaining the fictitious facade of separateness and
12 individual existence between AD, HUI and SWISS-X, as well as said Defendants and DOES, would
13 sanction a fraud and/or promote injustice.

14 OVERVIEW OF PLAINTIFF'S CLAIMS

15 12. Plaintiff brings this suit against AD, HUI, SWISS-X and DOES 1 to 150, for economic,
16 non-economic and compensatory damages under *Govt. Code* § 12940(j)(3) and *Civil Code* § 52.1(h);
17 punitive damages, under *Civil Code* § 3294; costs; prejudgment interest pursuant to *Code of Civ.*
18 *Proc.* § 3291; equitable relief, under *Civil Code* § 52.1(b), (c) and (h); civil penalties and reasonable
19 attorneys' fees pursuant to *Govt. Code* § 12965(b), *Code of Civ. Proc.* § 1021.5 and *Civil Code* §§
20 52(a)-(b), 52.1(h)-(i) and 52.4(a), resulting from AD'S intentional sexual assault, battery and forcible
21 rape of Plaintiff, in violation of *Civil Code* §§ 52.4(a) and 1708.5, *Cal. Penal Code* §§ 240, 242,
22 243(d), 243.4, 261 and 281; false imprisonment in violation of *Cal. Penal Code* § 236; violence,
23 credible threats thereof, intimidation and/or coercion in violation of Plaintiff's Civil Rights under
24 *Civil Code* §§ 51.7(a), 52(b), 52.1 and 52.4; sexual harassment in violation of *Govt. Code* §
25 12940(j)(1) and (j)(3); sex/gender discrimination, in violation of *Govt. Code* §§ 12920, 12940(a),
26 (c) and 2 C.C.R. § 11006; retaliation, in violation of *Govt. Code* § 12940(h), *Labor Code* §§ 98.6,
27 1102.5 and 2 C.C.R. § 11021; failure to prevent, under *Govt. Code* §§ 12940(k); wrongful and/or
28 constructive discharge in violation of public policy; and intentional infliction of emotional distress.

PROCEDURAL ALLEGATIONS

13. The unlawful acts and violations alleged herein were committed by Defendants in the County of Los Angeles, State of California and the amount of damages sought by Plaintiff herein exceed the minimum jurisdictional limits of this Court. Furthermore, on or about October 1, 2019, Plaintiff filed charges of discrimination and harassment, against Defendants with the California Department of Fair Employment and Housing (hereinafter “DFEH”) and received her notice of Right-to-Sue from the DFEH on the same date.

14. Notably, pursuant to *Cal. Rules of Court*, Appendix I, entitled, *Emergency Rules Relating to COVID-19*, any cause of action which accrued between April 6, 2020 and October 1, 2020 shall be tolled until October 1, 2020. In fact, California Emergency Rule 9 explicitly provide:

“(a) Tolling statutes of limitations over 180 days

Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.

“(b) Tolling statutes of limitations of 180 days or less

Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that are 180 days or less are tolled from April 6, 2020, until August 3, 2020.”

15. Furthermore, as recognized by the Advisory Committee Comment:

“Emergency rule 9 is intended to apply broadly to toll any statute of limitations on the filing of a pleading in court asserting a civil cause of action. The term ‘civil causes of action’ includes special proceedings. (*See Code Civ. Proc.*, §§ 312, 363 [‘action,’ as used in title 2 of the code (Of the Time of Commencing Civil Actions)”

Rule 9 additionally applies to statutes of limitations on filing of causes of action in court found in codes other than the *Code of Civil Procedure* as well.

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1 16. Accordingly, any claim alleged in this First Amended Complaint, including but not limited
2 to Plaintiff's Claim for False Imprisonment, which accrued during the tolling period, was tolled and
3 protected until October 1, 2020. Plaintiff filed her original Complaint for Damages, containing, *inter*
4 *alia*, her cause of action for False Imprisonment, on September 30, 2020, which is prior to the
5 expiration of the tolling period as identified in Emergency Rule 9. Therefore, all of Plaintiff's causes
6 of action, including but not limited to her False Imprisonment claims, have been timely filed.

7 FACTUAL ALLEGATIONS

8 17. Plaintiff, now 33 years old, is a religious, timid and trusting woman, who AD violently
9 raped one evening during her employment. Plaintiff works predominately in the entertainment
10 industry, as a promoter and marketer as well as a model. Plaintiff has been informed and believes
11 and thereon alleges that the entertainment industry is a small, close knit and insular community.

12 18. Plaintiff has been informed and believes and thereon alleges that maintaining good
13 relationships within the industry is crucial to ensuring consistent and reliable employment. Plaintiff
14 has been informed and believes and thereon alleges that if she were branded as a *trouble-maker*,
15 *complainer*, *tattletale*, or *whistle-blower*, it could and would have severe adverse consequences for
16 her livelihood and directly impact her ability to obtain employment in the entertainment industry.

17 19. Plaintiff has been informed and believes and thereon alleges that AD is well known, both
18 in the Los Angeles entertainment industry and internationally, as a media mogul and billionaire
19 business magnate. Plaintiff has been informed and believes and thereon alleges that AD is, and at
20 all relevant times mentioned herein, was the principal, owner, director and/or managing agent of
21 HUI, SWISS-X and multiple other businesses or ventures.

22 20. Plaintiff has been informed and believes and thereon alleges that HUI is comprised of
23 various co-mingled businesses, business ventures and/or companies, including but not limited to an
24 international subscription streaming service, a theater on Hollywood Boulevard and an entertainment
25 company that holds the rights to patented hologram technology. Plaintiff has been informed and
26 believes and thereon alleges that, at all relevant times mentioned herein, AD'S position with HUI
27 affords him sufficient discretionary authority to formulate HUI'S corporate policies.

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1 21. Plaintiff has been informed and believes and thereon alleges that SWISS-X, like HUI, also
2 consists of a portfolio of co-mingled businesses, business ventures and/or companies. Plaintiff has
3 been informed and believes and thereon alleges that, although SWISS-X is advertised and marketed
4 as being dedicated to importing, promoting and selling a line of Swiss-made cannabidiol (“CBD”)
5 products, it also offers an unrelated subscription streaming service powered by HUI. Plaintiff has
6 been informed and believes and thereon alleges that HUI’S theater is and/or was likewise used as
7 SWISS-X’S retail facility as well as the host for all of SWISS-X’S promotional events, including
8 but not limited to shows, parties, etc. Plaintiff has been informed and believes and thereon alleges
9 that, at all relevant times mentioned herein, AD’S position with SWISS-X affords him sufficient
10 discretionary authority to formulate SWISS-X’S corporate policies.

11 22. Plaintiff has been informed and believes and thereon alleges that, in the years leading up
12 to November 2015, she had developed and cultivated multiple business relationships within the Los
13 Angeles entertainment industry, many of whom had connections to AD or his businesses, including
14 but not limited to HUI and SWISS-X. In fact, on multiple occasions, several of Plaintiff’s clients
15 and/or associates encouraged her to seek employment with AD to further her career.

16 23. Plaintiff has been informed and believes and thereon alleges that AD owned and operated
17 a host of co-mingled businesses, including but not limited to HUI and SWISS-X. Throughout her
18 employment with AD and his various companies, Plaintiff performed employment-related tasks for
19 each company. While Plaintiff was typically paid via PayPal from AD’s FILMON TV entities, she
20 routinely performed employment related activities for AD directly and for his other companies,
21 including the HOLOGRAM and SWISS-X entities.

22 24. Specifically, Plaintiff performed agency, consulting and promotional services for the HUI
23 entities by promoting AD’s ownership rights to certain assets, including but not limited to particular
24 holograms. In this regard, Plaintiff promoted AD’s interests to MTV Lebanon, which was interested
25 in purchasing the exclusive rights to use and/or distribute throughout the Middle East, certain
26 holograms owned by AD and/or AD’s companies. Plaintiff scheduled meetings and introduced AD
27 to individuals interested in securing such rights. In addition, within one to two months of being hired
28 by AD, Plaintiff was promoted to co-manager of AD’s SWISS-X LOUNGE.

1 25. As such, Plaintiff performed managerial services for and on behalf of AD with respect to
2 the SWISS-X LOUNGE, including but not limited to staffing the lounge, scheduling, supervising,
3 securing inventory and managing the general operation of the business. Plaintiff performed these
4 services for the benefit of AD, and AD'S SWISS-X entities, including SWISS-X LOUNGE.
5 Throughout her employment, Plaintiff was consistently and repeatedly encouraged by AD to solicit
6 business for the HUI and SWISS-X entities.

7 26. Plaintiff has been informed and believes and thereon alleges that in or about November
8 2015, she interviewed with AD for a position and was hired. Plaintiff has been informed and believes
9 and thereon alleges that her primary role involved business development, including the marketing
10 and promotion of HUI as well as AD'S other related ventures and/or businesses.

11 27. Soon after she was hired, Plaintiff perceived that AD fancied himself to be a provocateur.
12 In fact, Plaintiff observed that AD relished his portrayal as a "villain" or "bad-boy" by the media.
13 In this vein, Plaintiff has been informed and believes and thereon alleges that early in her
14 employment, AD snuck up behind her as she sat at her desk, cut off a lock of her hair and handed
15 it to her "for good luck." On numerous occasions, Plaintiff also witnessed AD yelling at, mocking,
16 scaring and/or belittling her female co-workers, or engaging in other crass, unprofessional conduct
17 such as telling sexually explicit jokes. Plaintiff has since been informed and believes and thereon
18 alleges that AD'S behavior was intentionally calculated to objectify and intimidate his female
19 employees, including Plaintiff, and to desensitize them into accepting his misbehavior as normal.

20 28. While Plaintiff was unsettled by AD'S juvenile antics, she assumed he was misguidedly
21 trying to live up to his public persona as an eccentric *billionaire bad-boy*. Plaintiff was indeed lulled
22 into believing that AD acted in the herein described manner solely for shock and/or entertainment
23 value, since he was often, if not always, filming himself for social media.

24 29. Notwithstanding, Plaintiff has been informed and believes and thereon alleges that, in or
25 about the summer of 2016, a young female co-worker approached her while in a startled, shaken
26 state and confided in her that AD had cornered her in the elevator by herself and unzipped her dress,
27 causing the partial exposure of her breasts. Plaintiff's co-worker further said that immediately before
28 doing this, AD complimented her dress because it offered "easy access" or words to that effect.

1 30. On another occasion, the same co-worker informed Plaintiff that AD had forcibly kissed
2 her on the mouth without her consent. Following the foregoing incidents, Plaintiff's co-worker
3 repeatedly told her that she felt "unsafe" and scared to be alone with AD.

4 31. Plaintiff has been informed and believes and thereon alleges that, in or about early
5 September 2016, she was scheduled to be travel to the Middle East in order to oversee an important
6 and potentially lucrative project that was assigned to her. Plaintiff has been informed and believes
7 and thereon alleges that on or about August 29, 2016, her supervisor informed her that AD wanted
8 to meet with her in Greece before she arrived in the Middle East.

9 32. Accordingly, Plaintiff flew to Greece, where she spent the night in the guest house on AD'S
10 private island without incident. The following morning, Plaintiff was summoned to have breakfast
11 with AD, during which they discussed the Middle East project. After breakfast, AD led Plaintiff into
12 his bedroom, got on his bed and invited her to sit next to him to continue their discussions. Since
13 there was no other seating available in the room, Plaintiff complied, but kept her laptop on her lap.

14 33. While the conversation was initially about the project, AD eventually began telling Plaintiff
15 about his marital woes, including his wife's alleged infidelity with another woman and other highly
16 private matters. AD even asked Plaintiff—a woman 19 years his junior—for marital advice. In an
17 effort to change the tone, Plaintiff spoke to AD about her religious beliefs and encouraged him to
18 pray to God for answers.

19 34. Unfazed, AD leaned in to kiss Plaintiff on her mouth, causing her to turn her face and stand
20 up. AD then apologized multiple times, as Plaintiff packed her computer and excused herself to
21 prepare for her trip. Plaintiff had no further interactions with AD before leaving Greece.

22 35. Plaintiff has been informed and believes and thereon alleges that in or about mid-November
23 2016, while she was still working in the Middle East, her supervisor summoned her back to Los
24 Angeles for a meeting. At the meeting, Plaintiff was notified that she and other employees were
25 being laid-off due to financial difficulties. Plaintiff has been informed and believes and thereon
26 alleges that she had no further contact with AD until approximately May 2018, when he invited her
27 to attend the opening of SWISS-X, his newest venture at the time.

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1 36. Plaintiff has been informed and believes and thereon alleges that on or about September
2 6, 2018, several months after the opening of SWISS-X, AD offered her a job as “brand ambassador,”
3 promoting and marketing SWISS-X under the supervision of HUI’S theater manager. Plaintiff turned
4 down the offer, but AD convinced her to take the job, assuring her that it was good for her career.

5 37. Plaintiff has been informed and believes and thereon alleges that after accepting the job,
6 AD had Plaintiff accompany him to his hotel room in order to retrieve some CBD products he
7 claimed he had inadvertently left behind. Plaintiff complied, and once in AD’S hotel room, he
8 obtained a vile of what appeared to be an oil, poured it into the palm of his hand and licked it. AD
9 then insisted that Plaintiff also sample the oil to familiarize herself with the product she was going
10 to promote. When Plaintiff declined, AD insisted, assuring her that it was safe, non-intoxicating
11 because it was just CBD and that it would only make her feel “relaxed.” Although she did not want
12 to, Plaintiff felt pressured and compelled to try the oil and thus reluctantly did so.

13 38. Plaintiff has been informed and believes and thereon alleges that after sampling the oil, AD
14 left the room for nearly 15 minutes before emerging and calling for Plaintiff to join him in the
15 bedroom. In the bedroom, AD pressured Plaintiff to sit next to him on the bed as she waited to feel
16 the effects of the product. Plaintiff ambivalently agreed, but sat on the bed with her back to AD.

17 39. Plaintiff has been informed and believes and thereon alleges that when she sat on the bed,
18 AD began speaking about his girlfriend leaving him for another man. As he was talking, AD
19 unexpectedly and without consent reached over and placed his hand on Plaintiff’s thigh, prompting
20 her to jump to her feet. AD quickly apologized, assured Plaintiff that he meant no disrespect and
21 pleaded with her to sit back down. Again, feeling pressured, Plaintiff complied, but admonished AD
22 to keep his hands to himself and further informed him that she was eager to leave.

23 40. Plaintiff has been informed and believes and thereon alleges that she eventually began
24 feeling somewhat inebriated and disoriented, causing her to lean her back against the headrest of the
25 bed. At some point thereafter, AD began masturbating. Plaintiff has been informed and believes and
26 thereon alleges that as soon as she realized what AD was doing, she tried getting up, but AD grabbed
27 her hand and started pulling it toward his penis, repeatedly saying: “hold on; hold on” and “help me
28 out” or words to that effect.

1 41. Plaintiff has been informed and believes and thereon alleges that, during the struggle, her
2 hand contacted AD’S penis and other intimate parts of his anatomy. Plaintiff has been informed and
3 believes and thereon alleges that despite trying to get away, AD forcibly held her next to him for an
4 appreciable amount of time before exclaiming: “hold on; I’m cu*ing” or words to that effect.
5 Stunned, shocked and appalled, Plaintiff watched in horror as AD ejaculated unto himself before
6 letting her go. Plaintiff has been informed and believes and thereon alleges that some of AD’S semen
7 also made contact with her person and/or clothing.

8 42. As soon as AD released her, Plaintiff jumped to her feet and began yelling at AD. AD
9 initially attempted to make light of his conduct before beginning to apologize profusely. As Plaintiff
10 gathered her belongings and left, AD continually apologized, blamed his conduct on the oil and
11 pledged to never engage in such behavior again.

12 43. Plaintiff has been informed and believes and thereon alleges that by the time she arrived
13 home, she was feeling very intoxicated and ill. Plaintiff has been informed and believes and thereon
14 alleges that even after sleeping through the night, she still felt dazed the following day. Plaintiff has
15 thus been informed and believes and thereon alleges that the oil AD coerced her to sample contained
16 intoxicants and not just CBD as he represented to her. Plaintiff has been informed and believes and
17 thereon alleges that AD knowingly and intentionally gave her adulterated oil and/or an intoxicant,
18 in hopes of lowering her inhibitions, making it easier for him to engage her in unwanted, unsolicited
19 sexual activity that she would not consent to if sober. Plaintiff has thus been informed and believes
20 and thereon alleges that AD did this solely due to her gender and that he would not have engaged in
21 the herein described conduct had Plaintiff been a man.

22 44. Plaintiff has been informed and believes and thereon alleges that on or about September
23 7, 2018, her prospective supervisor—AD’S theater manager—contacted her to schedule her start
24 date. Plaintiff informed the theater manager about AD drugging her and told him she did not want
25 to work for AD. However, the theater manager apologized for AD’S behavior, assured her AD was
26 a harmless prankster, that she would have little to no contact with AD and that the job was going to
27 be a great opportunity for her. Plaintiff reluctantly agreed and after she started, she had virtually no
28 direct contact with AD and when she did, he was respectful and professional toward her.

1 45. Plaintiff has been informed and believes and thereon alleges that on or about November
2 7, 2018, she and her supervisor met with AD in his hotel room, which routinely doubled as his
3 office. Plaintiff has been informed and believes and thereon alleges that during the meeting, AD
4 began smoking what she perceived to be marijuana, before telling her he was leaving the country for
5 the holiday season and wanted her to be available for work when he returned. Plaintiff has been
6 informed and believes and thereon alleges that she understood this to mean she was being laid-off.

7 46. Plaintiff has been informed and believes and thereon alleges that on or about January 30,
8 2019, while AD was still out of the country, her former supervisor notified her that he was no longer
9 working for AD. Plaintiff has been informed and believes and thereon that her former supervisor did
10 not go into the details underlying his departure, but did express anger about AD.

11 47. Plaintiff has been informed and believes and thereon alleges that on or about March 22,
12 2019, AD offered her a new job, which she declined, since she had accepted another offer. However,
13 AD refused to take no for an answer and badgered Plaintiff until she agreed to accept the job.

14 48. Plaintiff has been informed and believes and thereon alleges that she started her new job
15 immediately and by or about mid-April 2019, her responsibilities included, but were not limited to
16 overseeing her co-workers, assigning work, scheduling, monitoring sales, purchasing supplies,
17 booking performers, negotiating contracts, resolving disputes, marketing and promoting SWISS-X,
18 seeking new business opportunities, etc. Plaintiff has been informed and believes and thereon alleges
19 that AD even introduced her as his personal assistant to his business associates, including celebrities.

20 49. Plaintiff has been informed and believes and thereon alleges that between March 22 and
21 April 20, 2019, she consistently worked over 50 hours a week. Plaintiff regularly met with AD, who
22 remained respectful to her, but continued to behave inappropriately toward her female co-workers.

23 50. Plaintiff has been informed and believes and thereon alleges that by or about mid-April
24 2019, AD owed her and her co-workers, a substantial amount of unpaid wages and/or commissions.
25 Plaintiff has been informed and believes and thereon alleges that she had also received numerous
26 complaints from various vendors who AD owed money to. Plaintiff has been informed and believes
27 and thereon alleges that by or about April 21, 2019, she had made numerous efforts to schedule a
28 meeting to speak with AD about the money he owed her and his staff to no avail.

1 51. Plaintiff has been informed and believes and thereon alleges that while working on or about
2 the evening of April 21, 2019, she was summoned to meet with AD at the theater. When Plaintiff
3 arrived, she greeted AD, who, at the time, appeared to be smoking what she perceived to be
4 marijuana. AD was also accompanied by his Doberman Pinscher guard dog.

5 52. As soon as Plaintiff greeted AD, he began walking through the theater with his dog by his
6 side, asking her questions about various topics, including but not limited to payroll, vendors and
7 other business matters. Plaintiff followed behind with her notebook, answering AD'S questions and
8 jotting down notes in connection with his instructions. During their conversation, AD behaved
9 professionally and gave no indication as to what he may have been planning.

10 53. AD eventually led Plaintiff to the second floor, where he unlocked and opened the door to
11 the computer server room. As soon as AD opened the door, Plaintiff was able to see that the room
12 was dark and very small. At this point, Plaintiff became apprehensive because she could think of no
13 reason why AD would want to take her into such a small, dark space.

14 54. Plaintiff has been informed and believes and thereon alleges that after opening the door,
15 AD walked into the room with his dog, then suddenly grabbed her by the arm and pulled her in. As
16 soon as they entered the room, AD shut the door and pinned Plaintiff's back against it with his body
17 weight, making it difficult for her to move or breathe.

18 55. AD then began groping Plaintiff, who could smell the strong odor of marijuana on his
19 breath as he forcibly kissed her mouth and face. Plaintiff tried resisting and repeatedly said "NO!"
20 and "STOP!" but was unable to get away as AD was much stronger and heavier than she was.
21 Plaintiff has been informed and believes and thereon alleges that at this time, AD made multiple
22 attempts to pull down her pants as she fought to keep them up. Plaintiff has been informed and
23 believes and thereon alleges that, the entire time, she was afraid that AD'S dog may attack her if it
24 perceived her to be hurting AD or a threat to him.

25 56. At one point, Plaintiff felt AD'S weight shift off of her as he tried to unbuckle his belt.
26 Plaintiff took the opportunity to shove AD back in an effort to get away, but he just as quickly lunged
27 at Plaintiff and re-pinned her against the door. As he did this, AD forcibly cupped his hand over
28 Plaintiff's mouth and whispered, in a hushed angry tone: "shut the fu*k up!" or words to that effect.

1 57. Plaintiff has been informed and believes and thereon alleges that AD thereafter yanked
2 down her pants, tearing them, and maneuvered his body into a position that enabled him to forcibly
3 penetrate her vagina with his erect penis, all while firmly holding Plaintiff's mouth and face in his
4 hand. During the rape, Plaintiff became frozen with fear and believed that resistance might provoke
5 an escalation of violence, or cause AD'S dog to attack.

6 58. Plaintiff has been informed and believes and thereon alleges that as AD raped her, she felt
7 detached from her body and may have lost track of time. Plaintiff has been informed and believes
8 and thereon alleges that her focus was eventually reestablished when she heard the voice of her co-
9 worker calling for AD. Plaintiff has been informed and believes and thereon alleges that at or about
10 that moment, AD stopped and told her to keep quiet, repeatedly *hushing* her. Plaintiff complied as
11 she was completely immobilized. When the co-worker continued to call for AD, he released
12 Plaintiff, buckled his pants, opened the door and told her to wait for him, before exiting with his dog.
13 Plaintiff immediately pulled up her pants and went to the restroom as soon as she saw AD was gone.

14 59. Plaintiff has been informed and believes and thereon alleges that minutes later, AD entered
15 the restroom where she was. Plaintiff has been informed and believes and thereon alleges that as
16 soon as AD saw her, he smiled and said something to the effect of "you've got a really great ass,"
17 or words to that effect, to which Plaintiff angrily replied, "Alki, get out!" or words to that effect.
18 Plaintiff has been informed and believes and thereon alleges that AD appeared puzzled, but
19 complied. After AD left, Plaintiff stayed in the bathroom long enough to regain her composure, then
20 left the theater.

21 60. Plaintiff has been informed and believes and thereon alleges that on or about the day after,
22 she was contacted by co-workers who were locked out of the theater. When Plaintiff went to open
23 the theater, she informed her co-workers that she was quitting. However, the employees implored
24 her to stay, telling her they needed her and that she was the only one who made sure they were paid.

25 61. Plaintiff has been informed and believes and thereon alleges that by or about this time, AD
26 was habitually late in paying her, his staff and the vendors. Plaintiff has been informed and believes
27 and thereon alleges that by late April 2019, she appeared to be the only person AD would speak with
28 when it came to paying his staff.

1 62. In fact, Plaintiff has been informed and believes and thereon alleges that her co-workers
2 routinely complained to her about AD ignoring them whenever they asked him about their pay. As
3 such, Plaintiff felt obligated to keep working, not only because AD owed her a substantial amount
4 of wages, but also because her co-workers were depending on her as well.

5 63. Therefore, Plaintiff reluctantly agreed to keep working, but did her best to avoid direct
6 contact with AD as much as possible. Plaintiff has been informed and believes and thereon alleges
7 that AD also appeared to be avoiding her as well. Not only did AD travel out of the country shortly
8 after the rape, Plaintiff has been informed and believes and thereon alleges that even when he
9 returned, he appeared to visit the theater less often or for shorter periods of time than before the rape.

10 64. Plaintiff has been informed and believes and thereon alleges that by or about late June
11 2019, AD had become increasingly erratic and unpredictable with relation to his business decisions.
12 Plaintiff has been informed and believes and thereon alleges that at one point in time, in or about
13 late-May 2019, AD summarily terminated a number of employees without warning or reason.
14 Plaintiff has been informed and believes and thereon alleges that in or about June 2019, she learned
15 from several co-workers that AD had masturbated in the presence of another young female
16 employee.

17 65. Plaintiff has been informed and believes and thereon alleges that by or about the first week
18 of July 2019, she learned from her co-workers that AD had paid them the wages he owed. Plaintiff
19 has been informed and believes and thereon alleges that at or about this time, AD owed her several
20 thousand dollars in unpaid wages and/or commissions. Plaintiff has been informed and believes and
21 thereon alleges that she confronted AD about the pay he owed her, but he refused to pay her,
22 terminating her employment.

23 66. Plaintiff has been informed and believes and thereon alleges that AD perceived that she
24 was intending to report him, HUI and SWISS-X to the relevant governmental agencies for pay
25 violations as she had repeatedly complained to him about his failure to pay the wages on time.
26 Plaintiff has thus been informed and believes and thereon alleges that she was retaliatorily denied
27 pay and terminated, based upon her actual and/or perceived opposition to Defendants' unlawful
28 employment practices, namely, the failure to pay owed wages in a timely manner.

1 67. Additionally, each and every act committed by AD, including the incident where he
2 masturbated as the rape, as herein set forth, either directly or indirectly resulted in sexually offensive
3 contact with Plaintiff's person. Plaintiff has been informed and believes and thereon alleges that AD
4 committed the herein described acts with the intent to cause harmful and offensive contact with the
5 intimate parts of Plaintiff's anatomy and to cause Plaintiff an imminent apprehension of a harmful
6 or offensive contact with the intimate parts of AD'S anatomy. In fact, at all relevant times
7 mentioned herein, AD'S sexual misconduct, as herein alleged, was unwelcome, pervasive and
8 severe.

9 68. At no time did Plaintiff ever consent to being restrained, detained and/or confined by AD
10 and at all relevant times mentioned herein, AD'S misconduct was carried out while he was acting
11 in the course and scope of his employment with SWISS-X, HUI, or both. As such, AD'S
12 misconduct was sufficiently so severe and pervasive that it adversely altered the condition of
13 Plaintiff's employment. Plaintiff has been informed and believes and thereon alleges that a
14 reasonable woman of her age, in her circumstances, would have considered the conduct AD
15 subjected her to, as herein alleged, to have created a work environment that was hostile and abusive
16 and Plaintiff did so consider her work environment to be hostile and abusive.

17 69. Moreover, Plaintiff was unable to easily sever ties with AD since he was her employer and
18 the owner or principal of both HUI and SWISS-X. Plaintiff has been informed and believes and
19 thereon alleges that HUI and SWISS-X, by and through the acts or omissions of their directors and
20 managing agents, including but not limited to AD, aided, incited and/or conspired with AD, either
21 affirmatively or tacitly, to deprive Plaintiff of her civil rights, thereby directly exposing her to
22 intimidation, the threat of violence and/or violence, which was committed against her solely due to
23 her sex/gender. Indeed, Plaintiff has been informed and believes and thereon alleges that AD would
24 not have engaged in such abusive, deliberate and unsolicited misconduct had Plaintiff been a man.

25 **FIRST CAUSE OF ACTION**
26 **SEXUAL ASSAULT & BATTERY**
(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)

27 70. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 69 and
28 incorporates each by reference as though set forth in full herein.

1 71. At all relevant times mentioned herein, AD was not only Plaintiff's employer, but the
2 owner, principal, director and/or managing agent of HUI and SWISS-X. On multiple occasions, AD
3 touched Plaintiff in an unwanted offensive sexual manner, as herein alleged, with the explicit intent
4 to cause harmful or offensive contact with an intimate part of Plaintiff's anatomy or to subject
5 Plaintiff to an imminent apprehension of a harmful or offensive contact with AD'S intimate parts,
6 or the use of his intimate parts in violation of *Cal. Civil Code* §§ 52.4(a) and 1708.5, as well as *Cal.*
7 *Penal Code* §§ 240, 242, 243(d), 243.4, 261 and 281. Plaintiff neither consented to the contact
8 herein set forth, nor to AD'S conduct. The harmful, offensive contact and conduct of AD, including
9 the rape, caused and continue to cause Plaintiff to suffer severe irreparable injuries and damages.

10 72. AD'S actions, as herein alleged, occurred in the course and scope of his employment with
11 HUI and SWISS-X. Plaintiff has been informed and believes and thereon alleges that HUI and
12 SWISS-X, by and through their owners, principles, directors and/or managing agents, including but
13 not limited to AD, knew of AD'S misconduct and/or his propensity for such misconduct, yet failed
14 to take immediate, appropriate, or adequate corrective or remedial measures and actions to protect
15 Plaintiff, thereby tacitly approving, ratifying, encouraging, aiding, abetting, inciting and/or
16 conspiring with AD in carrying out the subject harmful acts and/or omissions herein set forth.

17 73. As a direct, foreseeable, legal and proximate result of Defendants' conduct and actions, as
18 herein described, Plaintiff suffered serious, irreparable injuries and damages. Said injuries include,
19 but are not limited to extreme emotional distress, mental anguish and discomfort, as well as severe
20 anxiety, trepidation, apprehension, panic, dread, fear, worry, embarrassment, humiliation and shame
21 all to her damage in an amount to be proven at trial.

22 74. Defendants' conduct, as herein described, was carried out deliberately, intentionally,
23 oppressively, fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety.
24 As such, Defendants acted in a willful and intentional manner and their conduct, as herein set forth,
25 was and continues to be despicable, malicious and outrageous in that it caused and continues to cause
26 Plaintiff to needlessly suffer cruel and unjust hardship. Therefore, Defendants' conduct, acts and
27 omissions as herein alleged, justify an award of punitive and exemplary damages in an amount
28 sufficient to deter them from ever engaging in such conduct again in the future.

SECOND CAUSE OF ACTION
FALSE IMPRISONMENT

(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)

75. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 74 and incorporates each by reference as though set forth in full herein.

76. At all relevant times herein, AD was the owner, principal, director and/or managing agent of HUI and SWISS-X and Plaintiff's employer. On multiple occasions, AD deprived Plaintiff of her freedom of movement through physical force, coercion, threat of violence and/or menace in violation of *Penal Code* § 236. Plaintiff never consented to being detained by AD. As such, the harmful, offensive detention has caused and continues to cause Plaintiff irreparable injuries and damages.

77. AD'S actions, as herein alleged, occurred in the course and scope of his employment with HUI and SWISS-X. Plaintiff has been informed and believes and thereon alleges that HUI and SWISS-X, by and through their owners, principles, directors and/or managing agents, including but not limited to AD, knew of AD'S misconduct and/or his propensity for such misconduct, yet failed to take immediate, appropriate, or adequate corrective or remedial measures and actions to protect Plaintiff, thereby tacitly approving, ratifying, encouraging, aiding, abetting, inciting and/or conspiring with AD in carrying out the subject harmful acts and/or omissions herein set forth.

78. As a direct, foreseeable, legal and proximate result of Defendants' conduct and actions, as herein described, Plaintiff suffered serious, irreparable injuries and damages. Said injuries include, but are not limited to extreme emotional distress, mental anguish and discomfort, as well as severe anxiety, trepidation, apprehension, panic, dread, fear, worry, embarrassment, humiliation and shame all to her damage in an amount to be proven at trial.

79. Defendants' conduct, as herein described, was carried out deliberately, intentionally, oppressively, fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety. As such, Defendants acted in a willful and intentional manner and their conduct, as herein set forth, was and continues to be despicable, malicious and outrageous in that it caused and continues to cause Plaintiff to needlessly suffer cruel and unjust hardship. Therefore, Defendants' conduct, acts and omissions as herein alleged, justify an award of punitive and exemplary damages in an amount sufficient to deter them from ever engaging in such conduct again in the future.

THIRD CAUSE OF ACTION
VIOLATION OF THE RALPH CIVIL RIGHTS ACT
(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)

80. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 79 and incorporates each by reference as though set forth in full herein.

81. *Civil Code* § 51.7 provides that all persons have the right to be free from violence or threats of violence based upon, *inter alia*, their sex/gender. On multiple occasions, AD deprived Plaintiff of her freedom of movement through physical force, coercion, threats of violence and/or menace in violation of *Penal Code* § 236 and further touched Plaintiff in an unwanted, offensive sexual manner, as herein described, with the explicit intent to cause harmful or offensive contact with an intimate part of Plaintiff’s anatomy or to subject Plaintiff to an imminent apprehension of a harmful or offensive contact with AD’S intimate parts, or the use of his intimate parts in violation of *Civil Code* §§ 52.4(a) and 1708.5, as well as *Penal Code* §§ 240, 242, 243(d), 243.4, 261 and 281. At no time did Plaintiff ever consent to the contact or conduct that she was subjected to, as herein alleged. In fact, AD’S conduct, as herein alleged, including the rape, was a substantial factor in the causing Plaintiff to suffer serious, irreparable injuries and damages.

82. Moreover, AD’S actions, as herein alleged, occurred in the course and scope of his employment with HUI and SWISS-X. Plaintiff has been informed and believes and thereon alleges that HUI and SWISS-X, by and through their owners, principles, directors and/or managing agents, including but not limited to AD, knew of AD’S misconduct and/or his propensity for such misconduct, yet failed to take immediate, appropriate, or adequate corrective or remedial measures and actions to protect Plaintiff, thereby tacitly approving, ratifying, encouraging, aiding, abetting, inciting and/or conspiring with AD in carrying out the subject harmful actions herein set forth.

83. Plaintiff has been informed and believes and thereon alleges that her sex/gender was a substantial and determining factor in AD’S herein alleged misconduct as well as HUI’S and SWISS-X’S failure to take immediate appropriate corrective action to protect her and/or to prevent her from being exposed such conduct. As such, Defendants’ acts and/or omissions, as set forth herein, were in direct violation of *Civil Code* § 51.7.

///

1 84. As a direct, foreseeable, legal and proximate result of Defendants' acts and/or omissions,
 2 Plaintiff suffered serious, irreparable injuries and damages, including, but not limited to, extreme
 3 emotional distress, mental anguish and discomfort, severe anxiety, trepidation, apprehension, panic,
 4 dread, fear, worry, embarrassment, humiliation and shame in an amount to be proven. Plaintiff was
 5 also caused to retain attorneys and has thus incurred legal fees, expenses and costs, entitling her to
 6 reimbursement of same pursuant to *Civil Code* §§ 51.7 and 52(b), in an amount to be proven.

7 85. Defendants' conduct, as herein described, was carried out deliberately, intentionally,
 8 oppressively, fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety.
 9 As such, Defendants acted in a willful and intentional manner and their conduct, as herein set forth,
 10 was and continues to be despicable, malicious and outrageous in that it caused and continues to cause
 11 Plaintiff to needlessly suffer cruel and unjust hardship. Therefore, Defendants' conduct, acts and
 12 omissions as herein alleged, justify an award of punitive and exemplary damages in an amount
 13 sufficient to deter them from ever engaging in such conduct again in the future.

14 **FOURTH CAUSE OF ACTION**
 15 **VIOLATION OF THE BANE CIVIL RIGHTS ACT**
 16 **(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)**

17 86. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 85 and
 18 incorporates each by reference as though set forth in full herein.

19 87. *Civil Code* § 52.1 prohibits any and all interference or attempted interference with another's
 20 rights by threats, intimidation and/or coercion, regardless of whether or not the victim is in a
 21 protected class. On multiple occasions, AD deprived Plaintiff of her freedom of movement through
 22 physical force, coercion, threats of violence and/or menace in violation of *Penal Code* § 236 and
 23 further touched Plaintiff in an unwanted, offensive sexual manner, with the explicit intent to cause
 24 harmful or offensive contact with an intimate part of Plaintiff's anatomy or to subject Plaintiff to an
 25 imminent apprehension of a harmful or offensive contact with AD'S intimate parts, or the use of his
 26 intimate parts in violation of *Civil Code* §§ 52.4(a) and 1708.5, as well as *Penal Code* §§ 240, 242,
 27 243(d), 243.4, 261 and 281. At no time did Plaintiff ever consent to the contact or conduct that she
 28 was subjected to, as herein alleged. In fact, AD'S conduct, including the rape, was a substantial
 factor in the causing Plaintiff to suffer serious, irreparable injuries and damages.

1 88. Moreover, AD'S actions, as herein alleged, occurred in the course and scope of his
 2 employment with HUI and SWISS-X. Plaintiff has been informed and believes and thereon alleges
 3 that HUI and SWISS-X, by and through their owners, principles, directors and/or managing agents,
 4 including but not limited to AD, knew of AD'S misconduct and/or his propensity for such
 5 misconduct, yet failed to take immediate, appropriate, or adequate corrective or remedial measures
 6 and actions to protect Plaintiff, thereby tacitly approving, ratifying, encouraging, aiding, abetting,
 7 inciting and/or conspiring with AD in carrying out the subject harmful actions herein set forth.

8 89. Plaintiff has been informed and believes and thereon alleges that her sex/gender as well as
 9 her attempts to exercise her right to liberty, free movement and to be free from suffering physical
 10 harm, were substantial and determining factors in AD'S herein alleged conduct as well as HUI'S and
 11 SWISS-X'S failure to take immediate appropriate corrective action to protect her and/or to prevent
 12 her from being exposed such conduct. As such, Defendants' acts and/or omissions, as set forth
 13 herein, were in direct violation of *Civil Code* § 52.1.

14 90. As a direct, foreseeable, legal and proximate result of Defendants' acts and/or omissions,
 15 Plaintiff suffered serious, irreparable injuries and damages, including, but not limited to, extreme
 16 emotional distress, mental anguish and discomfort, severe anxiety, trepidation, apprehension, panic,
 17 dread, fear, worry, embarrassment, humiliation and shame in an amount to be proven. Plaintiff was
 18 also caused to retain attorneys and has thus incurred legal fees, expenses and costs, entitling her to
 19 reimbursement of same pursuant to *Civil Code* §§ 52.1 and 52(b) in an amount to be proven.

20 91. Defendants' conduct, as herein described, was carried out deliberately, intentionally,
 21 oppressively, fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety.
 22 As such, Defendants acted in a willful and intentional manner and their conduct, as herein set forth,
 23 was and continues to be despicable, malicious and outrageous in that it caused and continues to cause
 24 Plaintiff to needlessly suffer cruel and unjust hardship. Therefore, Defendants' conduct, acts and
 25 omissions as herein alleged, justify an award of punitive and exemplary damages in an amount
 26 sufficient to deter them from ever engaging in such conduct again in the future.

27 ///

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**FIFTH CAUSE OF ACTION
SEXUAL HARASSMENT AND/OR HOSTILE WORK ENVIRONMENT
(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)**

92. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 91 and incorporates each by reference as though set forth in full herein.

93. At all relevant times herein, AD was the owner, principal, director and/or managing agent of HUI and SWISS-X and Plaintiff’s employer. At all relevant times mentioned herein, AD subjected Plaintiff to a concerted, routine and repeated pattern of offensive, abusive and unwanted sexual harassment, culminating with a violent rape, all of which was directly motivated by and related to Plaintiff’s sex/gender. At no time did Plaintiff ever consent to AD’S conduct.

94. Plaintiff has been informed and believes and thereon alleges that a reasonable woman in her circumstances and of her age would have considered AD’S conduct to have created a work environment that was hostile and abusive. In fact, Plaintiff did so consider her work environment to be hostile and abusive.

95. Plaintiff has been informed and believes and thereon alleges that HUI and SWISS-X, by and through their executives, directors and managing agents, including but not limited to AD, knew of AD’S harassment and inappropriate sexual propensities, yet failed to take immediate, appropriate, or adequate corrective and/or remedial measures to protect Plaintiff, in violation of *Govt. Code* §§ 12940(k) and 12940(j)(1). As such, HUI and SWISS-X not only failed to take steps to prevent AD’S conduct, they approved, ratified, encouraged, aided, abetted, incited and/or conspired with AD in carrying out the subject harassment.

96. As a direct, foreseeable, legal and proximate result of Defendants’ acts and/or omissions, Plaintiff suffered substantial loss of tangible job benefits, in addition to severe anxiety, trepidation, apprehension, panic, dread, fear, worry, embarrassment, humiliation, shame, mental and emotional distress and discomfort, all to her damage in an amount to be proven at trial. As a further direct, foreseeable, legal and proximate result of Defendants acts and/or omissions, as herein described, Plaintiff was also caused to retain attorneys and has thus incurred legal fees, expenses and costs, entitling her to reimbursement of same pursuant to *Govt. Code* § 12965(b), in an amount to be proven.

1 97. Defendants' conduct, as herein described, was carried out deliberately, intentionally,
2 oppressively, fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety.
3 As such, Defendants acted in a willful and intentional manner and their conduct, as herein set forth,
4 was and continues to be despicable, malicious and outrageous in that it caused and continues to cause
5 Plaintiff to needlessly suffer cruel and unjust hardship. Therefore, Defendants' conduct, acts and
6 omissions as herein alleged, justify an award of punitive and exemplary damages in an amount
7 sufficient to deter them from ever engaging in such conduct again in the future.

8 **SIXTH CAUSE OF ACTION**
9 **DISCRIMINATION BASED ON SEX/GENDER**
10 **(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)**

11 98. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 97 and
12 incorporates each by reference as though set forth in full herein.

13 99. At all relevant times mentioned herein, *Govt. Code* § 12940(a) prohibits employers,
14 including Defendants, from discriminating against employees in the terms, conditions, or privileges
15 of employment based upon their sex/gender. At all relevant times mentioned herein, Plaintiff was
16 a member of a protected class of persons under *Govt. Code* § 12940, et seq., in that she is a woman
17 who was the target of repeated, continuous and pervasive sexual harassment and related intimidation
18 and coercion, including a rape, at the hands of AD. Plaintiff has been informed and believes and
19 thereon alleges that HUI and SWISS-X, by and through their executives, directors and managing
20 agents, including but not limited to AD, also knew of AD'S sexual propensities as well as the
21 continuous and unwelcomed sexually charged conduct of AD towards Plaintiff.

22 100. Plaintiff has been informed and believes and thereon alleges that Defendants have, and at
23 all relevant times mentioned herein had, a purported no-tolerance policy against the specific type of
24 conduct that AD exposed Plaintiff to. Nevertheless, HUI and SWISS-X took no steps to prevent,
25 proscribe, or forestall AD from continuing his behavior toward Plaintiff and also failed to implement
26 their own policies and procedures relating to such conduct due to Plaintiff's gender/sex. Instead, by
27 and through the acts and/or omissions of its executives, directors and managing agents, including
28 but not limited to AD, HUI and SWISS-X expressly or impliedly consented to, condoned,
authorized, approved, encouraged, conspired with, aided, abetted and/or ratified AD'S misbehavior.

1 101. Plaintiff has been informed and believes and thereon alleges that her sex/gender was a
 2 substantial and determining factor in HUI'S and SWISS-X'S failure to take immediate appropriate
 3 corrective action to protect her and/or prevent her from being exposed to the type of conduct and
 4 behavior herein described. As such, Defendants' acts and omissions, as herein set forth were
 5 unlawfully discriminatory and in violation of *Govt. Code* § 12940(a).

6 102. As a direct, foreseeable, legal and proximate result of Defendants' acts and/or omissions,
 7 Plaintiff suffered substantial loss of tangible job benefits, as well as severe anxiety, panic, dread,
 8 fear, worry, trepidation, apprehension, embarrassment, humiliation, shame, mental and emotional
 9 distress and discomfort, all to her damage in an amount to be proven at trial. As a further direct,
 10 foreseeable, legal and proximate result of Defendants acts and/or omissions, Plaintiff was also
 11 caused to retain attorneys and has thus incurred legal fees, expenses and costs, entitling her to
 12 reimbursement of same pursuant to *Govt. Code* § 12965(b), in an amount to be proven.

13 103. Defendants' conduct, as herein described, was carried out deliberately, intentionally,
 14 oppressively, fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety.
 15 As such, Defendants acted in a willful and intentional manner and their conduct, as herein set forth,
 16 was and continues to be despicable, malicious and outrageous in that it caused and continues to cause
 17 Plaintiff to needlessly suffer cruel and unjust hardship. Therefore, Defendants' conduct, acts and
 18 omissions as herein alleged, justify an award of punitive and exemplary damages in an amount
 19 sufficient to deter them from ever engaging in such conduct again in the future.

20 **SEVENTH CAUSE OF ACTION**
RETALIATION

21 **(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)**

22 104. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 103 and
 23 incorporates each by reference as though set forth in full herein.

24 105. *Labor Code* § 1102.5 and *Govt. Code* § 12940(h) make it unlawful for an employer to
 25 retaliate against an employee based on the employee's actual or perceived participation in activities
 26 that are in opposition to any unlawful employment practices, or conduct in violation of public policy,
 27 whether intended or not by the employee expressing the opposition. Failing to pay employees wages
 28 due and owing is an unlawful employment practice.

1 106. Plaintiff has been informed and believes and thereon alleges that, during her employment,
 2 AD as well as HUI and SWISS-X, by and through their executives, directors and/or managing
 3 agents, including but not limited to AD, targeted Plaintiff, retaliated against her, discriminated
 4 against her, bullied her, threatened her, intimidated her, harassed her and even raped her due to her
 5 complaints about Defendants' failure to pay their staff as well as her actual and/or perceived
 6 opposition to said illegal employment practices by Defendants, as herein alleged.

7 107. As a direct, foreseeable, legal and proximate result of Defendants' retaliatory acts and/or
 8 omissions, Plaintiff suffered substantial loss of tangible job benefits, as well as severe anxiety, panic,
 9 dread, fear, worry, trepidation, apprehension, embarrassment, humiliation, shame, mental and
 10 emotional distress and discomfort, all to her damage in an amount to be proven at trial. As a further
 11 direct, foreseeable, legal and proximate result of Defendants acts and/or omissions, Plaintiff was also
 12 caused to retain attorneys and has thus incurred legal fees, expenses and costs, entitling her to
 13 reimbursement of same pursuant to *Govt. Code* § 12965(b), in an amount to be proven.

14 108. Defendants' conduct, as herein described, was carried out deliberately, intentionally,
 15 oppressively, fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety.
 16 As such, Defendants acted in a willful and intentional manner and their conduct, as herein set forth,
 17 was and continues to be despicable, malicious and outrageous in that it caused and continues to cause
 18 Plaintiff to needlessly suffer cruel and unjust hardship. Therefore, Defendants' conduct, acts and
 19 omissions as herein alleged, justify an award of punitive and exemplary damages in an amount
 20 sufficient to deter them from ever engaging in such conduct again in the future.

21 **EIGHTH CAUSE OF ACTION**
 22 **FAILURE TO PREVENT**
(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)

23 109. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 108 and
 24 incorporates each by reference as though set forth in full herein.

25 110. At all relevant times mentioned herein, AD subjected Plaintiff to a concerted, routine and
 26 repeated pattern of offensive, abusive and unwanted sexual harassment, culminating with a violent
 27 rape, all of which was directly motivated by and related to her sex/gender. At no time did Plaintiff
 28 ever consent to AD'S conduct.

1 111. Plaintiff has been informed and believes and thereon alleges that AD as well as HUI and
 2 SWISS-X, by and through their executives, directors and managing agents, including AD, knew of
 3 AD'S harassing and discriminatory conduct, as well as his sexual propensities, as herein set forth,
 4 yet failed to take immediate, appropriate, or adequate corrective and/or remedial measures to protect
 5 Plaintiff, in violation of *Govt. Code* §§ 12940(k) and 12940(j)(1).

6 112. As a direct, foreseeable, legal and proximate result of Defendants' illegal acts and/or
 7 omissions, Plaintiff suffered substantial loss of tangible job benefits, as well as severe anxiety, panic,
 8 dread, fear, worry, trepidation, apprehension, embarrassment, humiliation, shame, mental and
 9 emotional distress and discomfort, all to her damage in an amount to be proven at trial. As a further
 10 direct, foreseeable, legal and proximate result of Defendants acts and/or omissions, Plaintiff was also
 11 caused to retain attorneys and has thus incurred legal fees, expenses and costs, entitling her to
 12 reimbursement of same pursuant to *Govt. Code* § 12965(b), in an amount to be proven.

13 113. Defendants' conduct, as herein described, was carried out deliberately, intentionally,
 14 oppressively, fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety.
 15 As such, Defendants acted in a willful and intentional manner and their conduct, as herein set forth,
 16 was and continues to be despicable, malicious and outrageous in that it caused and continues to cause
 17 Plaintiff to needlessly suffer cruel and unjust hardship. Therefore, Defendants' conduct, acts and
 18 omissions as herein alleged, justify an award of punitive and exemplary damages in an amount
 19 sufficient to deter them from ever engaging in such conduct again in the future.

20 **NINTH CAUSE OF ACTION**
 21 **WRONGFUL AND/OR CONSTRUCTIVE DISCHARGE**
 22 **(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)**

23 114. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 115 and
 24 incorporates each by reference as though set forth in full herein.

25 115. At all relevant times mentioned herein, Defendants were Plaintiff's employers and/or co-
 26 employers. *Govt. Code* §§ 12920 and 12940 identify the policy of the State to be the protection and
 27 safeguarding of the right and opportunity of all persons to seek, obtain and hold employment without
 28 discrimination on the basis of their sex/gender and/or for speaking out against unlawful employment
 practices.

1 116. *Labor Code* §1102.5 prohibits an employer from retaliating against, deterring, or
2 preventing an employee from disclosing information to a person with authority over the employee,
3 to another employee or to government agencies with authority to investigate, discover, or correct
4 violations, if the employee has reasonable cause to believe that the information discloses a violation
5 of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or
6 regulation, regardless of whether disclosing the information is part of the employee's job duties or
7 not. Plaintiff has been informed and believes and thereon alleges that Defendants refused to pay
8 Plaintiff her due wages and instead terminated her employment based upon their perception that she
9 would report their unlawful employment practices to a government agency for prosecution.

10 117. By refusing to pay Plaintiff what she was owed, thereby terminating her in the manner
11 herein alleged and/or by engaging in such unlawful, discriminatory and abusive conduct that made
12 Plaintiff's working environment so intolerable that a reasonable person in her position would have
13 concluded that there was no reasonable alternative but to resign, HUI and SWISS-X, by and through
14 the acts and/or omissions of their owner, principal, director and/or managing agents, including AD,
15 violated the fundamental public policies of the state of California.

16 118. As a direct, foreseeable, legal and proximate result of Defendants' illegal conduct, as herein
17 alleged, Plaintiff has suffered and continues to suffer, substantial losses in earnings and job benefits,
18 humiliation, embarrassment, severe mental and emotional distress and discomfort, all to her damage
19 in an amount to be proven at trial. As a further direct, foreseeable, legal and proximate result of
20 Defendants' conduct as herein alleged, Plaintiff has also been caused to retain attorneys and has thus
21 incurred legal fees, expenses and costs, entitling them to reimbursement of same pursuant to *Code*
22 *of Civil Proc.* § 1021.5, in an amount to be proven at trial.

23 119. Moreover, Defendants' conduct was carried out deliberately, intentionally, oppressively,
24 fraudulently and maliciously, in conscious disregard for Plaintiff's rights and safety. As such,
25 Defendants acted in a willful and intentional manner and their conduct was and continues to be
26 despicable, malicious and outrageous in that it caused and continues to cause Plaintiff to needlessly
27 suffer cruel and unjust hardship. Defendants' conduct, acts and omissions thus justify an award of
28 punitive and exemplary damages to deter them from engaging in such conduct again in the future.

**TENTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(PLAINTIFF AGAINST ALL DEFENDANTS, INCLUSIVE OF DOES 1 TO 150)**

120. Plaintiff re-alleges each and every allegation set forth in paragraphs 1 through 119 and incorporates each by reference as though set forth in full herein.

121. The unlawful practices and other misconduct committed by Defendants exceeded the normal risks of the employment relationship that Plaintiff had with them. Defendants wrongfully, wilfully and intentionally sought to inflict emotional distress upon Plaintiff through the conduct, actions and/or omissions described herein. The subject conduct was thus so outrageous and extreme that it exceeded the boundaries of a decent society, rendering it beyond the compensation bargain.

122. Plaintiff is informed and believes and thereon alleges that Defendants knew, must have known, should have known, or had reason to know that their conduct, as herein described, was not only in direct violation of California law and public policy, but substantially certain to inflict severe, lasting and irreparable emotional harm and distress upon Plaintiff. As such, Defendants' conduct was intentional, malicious and carried out with a deliberate, conscious, wanton and/or reckless disregard of the high degree of probability that such behavior, acts and/or omissions would cause Plaintiff to suffer extreme emotional distress and harm.

123. As a direct, foreseeable, legal and proximate result of said Defendants' intentional, wilful, deliberate conduct, as herein alleged, Plaintiff suffered and continues to suffer loss, extreme shame, mortification, humiliation, embarrassment, severe mental and emotional distress as well as substantial anguish and a high level of anxiety, trepidation, apprehension, panic, dread, fear and worry all to her damages in an amount to be proven at trial. The acts, omissions and conduct of Defendants was and continues to be oppressive, deliberate, intentional, reprehensible and malicious and was carried out in conscious disregard of their probable outcome.

124. Defendants acted in a willful, deliberate and intentional manner and their conduct was and continues to be despicable, malicious and outrageous in that it has caused and continues to cause Plaintiff to needlessly suffer cruel and unjust hardship. Defendants' conduct, actions and/or omissions thus justify an award of punitive damages in an amount sufficient to deter them from ever engaging in such conduct again in the future.

1 **WHEREFORE**, for Causes of Action One and Two, Plaintiff hereby demands judgment
2 against all Defendants, inclusive of DOES 1 through 150, as follows:

- 3 1. For economic and non-economic damages;
- 4 2. For exemplary and punitive damages according to proof;
- 5 3. For pre-judgment interest at the maximum legal rate;
- 6 4. For costs and expenses of the suit incurred herein; and
- 7 5. For such other and further relief as the Court may deem just and proper.

8
9 **WHEREFORE**, for Causes of Action Three and Four, Plaintiff hereby demands judgment
10 against all Defendants, inclusive of DOES 1 through 150, as follows:

- 11 1. For economic and non-economic damages;
- 12 2. For exemplary and punitive damages according to proof;
- 13 3. For reasonable attorneys’ fees and civil penalties pursuant to California law,
14 including, but not limited to, *Civil Code* §§ 52.1(h) and 52(b)(3);
- 15 4. For costs and expenses of the suit incurred herein;
- 16 5. For pre-judgment interest at the maximum legal rate; and
- 17 6. For such other and further relief as the Court may deem just and proper.

18
19 **WHEREFORE**, for Causes of Action Five through Eight, Plaintiff hereby demands
20 judgment against all Defendants, inclusive of DOES 1 through 150, as follows:

- 21 1. For economic and non-economic damages;
- 22 2. For exemplary and punitive damages according to proof;
- 23 3. For reasonable attorneys’ fees pursuant to California law, including but not limited
24 to *Government Code* §12965(b);
- 25 4. For costs and expenses of the suit incurred herein;
- 26 5. For pre-judgment interest at the maximum legal rate; and
- 27 6. For such other and further relief as the Court may deem just and proper.

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WHEREFORE, for the Ninth Cause of Action, Plaintiff hereby demands judgment against all Defendants, inclusive of DOES 1 through 150, as follows:

1. For economic and non-economic damages;
2. For exemplary and punitive damages according to proof;
3. For reasonable attorneys' fees pursuant to California law, including, but not limited to *Code of Civil Procedure* § 1021.5;
4. For costs and expenses of the suit incurred herein;
5. For pre-judgment interest at the maximum legal rate; and
6. For such other and further relief as the Court may deem just and proper.

WHEREFORE, for the Tenth Cause of Action, Plaintiff hereby demands judgment against all Defendants, inclusive of DOES 1 through 150, as follows:

1. For economic and non-economic damages;
2. For exemplary and punitive damages according to proof;
3. For costs and expenses of the suit incurred herein;
4. For pre-judgment interest at the maximum legal rate; and
5. For such other and further relief as the Court may deem just and proper.

DORDICK LAW CORP.
AND
LIVINGSTON • BAKHTIAR

Dated: September 30, 2021,

By: _____
EBBY S. BAKHTIAR,
ATTORNEY FOR PLAINTIFF,
JANE DOE

Document received by the CA 2nd District Court of Appeal.

1 () **BY PERSONAL SERVICE.** I caused such documents to be
2 delivered personally delivered to the persons addresses listed below.

3 () For a party represented by an attorney, delivery was made to the
4 attorney or at the attorney's office by leaving the documents, in an
5 envelope or package clearly labeled to identify the attorney being
6 served, with a receptionist or an individual in charge of the office,
7 between normal business hours.

8 () For a party, delivery was made to the party or by leaving the
9 documents at the party's residence with some person not younger
10 than 18 years of age between normal business hours.

11 () **BY FAX TRANSMISSION.** I caused all of the pages of the above
12 entitled document to be sent to the recipients noted on the attached
13 service list via electronic transfer (FAX) at the respective FAX numbers
14 pursuant to C.C.P. §1013(e) from DORDICK LAW CORPORATION on the
15 date set forth above. The machine I used complied with California Rules
16 of Court, Rule 2.306(h)(3) and no error was reported by the machine.

17 (X) **ONLY BY ELECTRONIC SERVICE [E-MAIL]** Only by emailing the
18 document(s) to the persons at the e-mail address(es). This is
19 necessitated during the declared National Emergency due to the
20 Coronavirus (COVID-19) pandemic because this office will be working
21 remotely, not able to send physical mail as usual, and is therefore using
22 only electronic mail. No electronic message or other indication that the
23 transmission was unsuccessful was received within a reasonable time
24 after the transmission. We will provide a physical copy, upon request only,
25 when we return to the office at the conclusion of the national emergency.

26 Executed on October 1, 2021 at Los Angeles, California.

27 I declare under penalty of perjury under the laws of the State of California that
28 the above is true and correct.



CRISTINA REYNOSA

1 **SERVICE LIST**

2 **Jane Doe v. David**

3 **Case No. 20STCV37498**

4
5 Ebby S. Bakhtiar, Esq.
6 LIVINGSTON • BAKHTIAR
7 3435 Wilshire Boulevard, Suite 1669
8 Los Angeles, California 90010
9 Tel: (213) 632-1550
10 Fax: (213) 632-3100
11 E-mail: ESB@LivingstonBakhtiar.com

12 ***Co-Counsel for Plaintiff, JANE DOE***

13 Aaron Allan, Esq.
14 Jill Harris, Esq.
15 GLASER WEIL
16 10250 Constellation Blvd., 19th Floor
17 Los Angeles, CA 90067
18 Tel: (310) 553-3000
19 Fax: (310) 556-2920
20 E-mail: aallan@glaserweil.com
21 E-mail: jharris@glaserweil.com
22 E-mail: ytoko@glaserweil.com

23 ***Attorney for HOLOGRAM USA, INC. and ALKI DAVID***

TAB 2

AA0049

Document received by the CA 2nd District Court of Appeal.

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):</p> <p>Gary A. Dordick, Esq. (SBN 128008); Keith D. Griffin, Esq. (SBN 204388) DORDICK LAW CORPORATION 1122 Wilshire Blvd., Los Angeles, CA 90017 TELEPHONE NO.: (310) 551-0949 FAX NO. (Optional): (855) 299-4444 E-MAIL ADDRESS (Optional): keith@dordicklaw.com ATTORNEY FOR (Name): Plaintiff, Jane Doe</p>	<p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES</p> <p>STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse</p>	
<p>PLAINTIFF/PETITIONER: Jane Doe DEFENDANT/RESPONDENT: Alkiviades David, et al.</p>	
<p>CASE MANAGEMENT STATEMENT</p> <p>(Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)</p>	<p>CASE NUMBER: 20STCV37498</p>
<p>A CASE MANAGEMENT CONFERENCE is scheduled as follows:</p> <p>Date: November 3, 2021 Time: 8:30 a.m. Dept.: 76 Div.: Room: Address of court (if different from the address above):</p> <p><input checked="" type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): Casey J. Flynn, Esq.</p>	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties** (answer one):
 - a. This statement is submitted by party (name): Plaintiff, Jane Doe
 - b. This statement is submitted **jointly** by parties (names):

2. **Complaint and cross-complaint** (to be answered by plaintiffs and cross-complainants only)
 - a. The complaint was filed on (date): September 30, 2020
 - b. The cross-complaint, if any, was filed on (date):

3. **Service** (to be answered by plaintiffs and cross-complainants only)
 - a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
SWISSX LABS AG, INC., a California Corporation
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**
 - a. Type of case in complaint cross-complaint (Describe, including causes of action):
SEE ATTACHMENT 4A.

Document received by the CA 2nd District Court of Appeal.

PLAINTIFF/PETITIONER: Jane Doe DEFENDANT/RESPONDENT: Alkiviades David, et al.	CASE NUMBER: 20STCV37498
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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

Plaintiff, Jane Doe was discriminated against, was sexually assaulted and was wrongfully discharged from her employment. Plaintiff's demand exceeds \$25,000.00. Plaintiff's damages include past lost earnings, future lost earnings, and general damages in amounts to be proven at trial.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. The trial has been set for *(date)*:

b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:
 SEE ATTACHMENT A.

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. days *(specify number)*: 20-30

b. hours (short causes) *(specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney: Ebby S. Bahktiar, Esq.

b. Firm: LIVINGSTON • BAKHTIAR

c. Address: 3435 Wilshire Boulevard, Suite 1669, Los Angeles, CA 90010

d. Telephone number: (213) 632-1550

f. Fax number: (213) 632-3100

e. E-mail address: ESB@LivingstonBakhtiar.com

g. Party represented: Plaintiff, Jane Doe

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

(1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

Document received by the CA 2nd District Court of Appeal.

PLAINTIFF/PETITIONER: Jane Doe DEFENDANT/RESPONDENT: Alkiviades David, et al.	CASE NUMBER: 20STCV37498
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input type="checkbox"/> Mediation completed on (<i>date</i>):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

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PLAINTIFF/PETITIONER: Jane Doe	CASE NUMBER: 20STCV37498
DEFENDANT/RESPONDENT: Alkiviades David, et al.	

11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):
Plaintiff - Motions in Limine before trial.

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Plaintiff	Discovery	Per Code
Plaintiff	Expert Depositions	Per Code

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

Document received by the CA 2nd District Court of Appeal.

PLAINTIFF/PETITIONER: Jane Doe	CASE NUMBER: 20STCV37498
DEFENDANT/RESPONDENT: Alkiviades David, et al.	

17. **Economic litigation**

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. **Other issues**

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. **Meet and confer**

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): 2

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: October 19, 2021

Keith D. Griffin, Esq.

(TYPE OR PRINT NAME)

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)



(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

Document received by the CA 2nd District Court of Appeal.

SHORT TITLE: Doe, Jane v. David, et al.	CASE NUMBER: 20STCV37498
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ATTACHMENT (Number): 4A*(This Attachment may be used with any Judicial Council form.)*

Causes of Action:

1. Sexual Assault and Battery
2. False Imprisonment
3. Violations of the Ralph Civil Rights Act
4. Violations of the Bane Civil Rights Act
5. Sexual Harassment
6. Sex/Gender Discrimination
7. Retaliation
8. Failure to Prevent
9. Wrongful and/or Constructive Discharge
10. Intentional Infliction of Emotional Distress

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1
(Add pages as required)

SHORT TITLE: Doe, Jane v. David, et al.	CASE NUMBER: 20STCV37498
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ATTACHMENT (Number): A

(This Attachment may be used with any Judicial Council form.)

Dates on which parties or attorneys will not be available for trial:

10/20/2021; 10/25/2021; 10/27/2021; 10/29/2021; 11/1/2021; 11/3/2021; 11/5/2021; 11/8/2021; 11/15/2021; 11/16/2021; 11/17/2021; 11/24/2021; 11/29/2021; 11/30/2021; 12/2/2021; 12/6/2021; 12/8/2021; 12/9/2021; 12/10/2021; 12/13/2021; 12/17/2021; 12/21/2021; 1/3/2022; 1/7/2022; 1/10/2022; 1/11/2022; 1/12/2022; 1/13/2022; 1/14/2022; 1/18/2022; 1/21/2022; 1/24/2022; 1/25/2022; 1/28/2022; 1/31/2022; 2/1/2022; 2/4/2022; 2/7/2022; 2/14/2022; 2/18/2022; 2/22/2022; 2/25/2022; 2/28/2022; 3/1/2022; 3/7/2022; 3/8/2022; 3/10/2022; 3/11/2022; 3/14/2022; 3/16/2022; 3/18/2022; 3/21/2022; 3/22/2022; 3/25/2022; 3/28/2022; 4/1/2022; 4/5/2022; 4/8/2022; 4/11/2022; 4/12/2022; 4/14/2022; 4/18/2022; 4/21/2022; 4/22/2022; 4/25/2022; 4/26/2022; 5/2/2022; 5/3/2022; 5/6/2022; 5/11/2022; 5/13/2022; 5/16/2022; 5/23/2022; 5/24/2022; 5/31/2022; 6/2/2022; 6/3/2022; 6/6/2022; 6/8/2022; 6/9/2022; 6/13/2022; 6/14/2022; 6/15/2022; 6/20/2022; 6/21/2022; 6/22/2022; 6/27/2022; 6/28/2022; 7/1/2022; 7/6/2022; 7/12/2022; 7/13/2022; 7/14/2022; 7/15/2022; 7/18/2022; 7/20/2022; 7/21/2022; 7/25/2022; 7/28/2022; 8/1/2022; 8/2/2022; 8/3/2022; 8/10/2022; 8/18/2022; 8/19/2022; 8/23/2022; 8/26/2022; 8/29/2022; 8/31/2022; 9/8/2022; 9/15/2022; 9/29/2022; 9/28/2022; 9/30/2022; 10/5/2022; 10/7/2022; 10/11/2022; 10/18/2022; 10/20/2022; 10/21/2022; 11/10/2022; 11/14/2022; 11/15/2022; 11/17/2022; 11/30/2022; 12/6/2022; 12/8/2022; 12/9/2022; 12/12/2022; 12/19/2022; 12/21/2022; 1/23/2023; 1/30/2023; 2/17/2023; 2/21/2023; 2/22/2023; 3/3/2023; 3/6/2023; 3/13/2023; 3/27/2023 and 7/10/2023.

Document received by the CA 2nd District Court of Appeal.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1
(Add pages as required)

1 () **BY PERSONAL SERVICE.** I caused such documents to be
2 delivered personally delivered to the persons addresses listed below.

3 () For a party represented by an attorney, delivery was made to the
4 attorney or at the attorney's office by leaving the documents, in an
5 envelope or package clearly labeled to identify the attorney being
6 served, with a receptionist or an individual in charge of the office,
7 between normal business hours.

8 () For a party, delivery was made to the party or by leaving the
9 documents at the party's residence with some person not younger
10 than 18 years of age between normal business hours.

11 () **BY FAX TRANSMISSION.** I caused all of the pages of the above
12 entitled document to be sent to the recipients noted on the attached
13 service list via electronic transfer (FAX) at the respective FAX numbers
14 pursuant to C.C.P. §1013(e) from DORDICK LAW CORPORATION on the
15 date set forth above. The machine I used complied with California Rules
16 of Court, Rule 2.306(h)(3) and no error was reported by the machine.

17 (X) **ONLY BY ELECTRONIC SERVICE [E-MAIL]** Only by emailing the
18 document(s) to the persons at the e-mail address(es). This is
19 necessitated during the declared National Emergency due to the
20 Coronavirus (COVID-19) pandemic because this office will be working
21 remotely, not able to send physical mail as usual, and is therefore using
22 only electronic mail. No electronic message or other indication that the
23 transmission was unsuccessful was received within a reasonable time
24 after the transmission. We will provide a physical copy, upon request only,
25 when we return to the office at the conclusion of the national emergency.

26 Executed on October 19, 2021 at Los Angeles, California.

27 I declare under penalty of perjury under the laws of the State of California that
28 the above is true and correct.



CRISTINA REYNOSA

1 **SERVICE LIST**

2 **Jane Doe v. David**

3 **Case No. 20STCV37498**

4
5 Ebby S. Bakhtiar, Esq.
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12 ***Co-Counsel for Plaintiff, JANE DOE***

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20 E-mail: aallan@glaserweil.com
21 E-mail: jharris@glaserweil.com
22 E-mail: ytoko@glaserweil.com

23 ***Attorney for HOLOGRAM USA, INC. and ALKI DAVID***

TAB 3

AA0060

Document received by the CA 2nd District Court of Appeal.

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5 10250 Constellation Boulevard, 19th Floor
Los Angeles, California 90067
6 Telephone: (310) 553-3000
Facsimile: (310) 556-2920
7

8 Attorneys for Defendant ALKIVIADES DAVID

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

12 JANE DOE, an Adult Individual Suing Under
13 Anonymity Due to Privacy and Safety Concerns,

14 Plaintiffs,

15 v.

16 ALKIVIADES DAVID, an Individual, a.k.a.
ALKI DAVID; HOLOGRAM USA, INC., a
17 California Corporation, a.k.a. HOLOGRAM
USA PRODUCTIONS, INC. HOLOGRAM
18 USA ENTERTAINMENT, INC., FILMON.TV,
INC., FILMON.TV NETWORKS, INC. and
19 FILMON.TV LA, INC.; SWISSX LABS AG,
INC., a California Corporation, a.k.a. SWISSX
20 LOUNGE and FILMONTV UK, LTD.; and
DOES 1 through 150, Inclusive,
21

22 Defendants.

Case No. 20STCV37498
Unlimited Jurisdiction

Assigned to the Honorable Christopher K. Lu
Department: 76

**DEFENDANT ALKIVIADES DAVID'S
ANSWER TO FIRST AMENDED
COMPLAINT**

Action Filed: September 30, 2020
Trial Date: None

23 Defendant Alkiviades David ("Defendant") hereby answers the unverified First Amended
24 Complaint ("FAC") filed by Plaintiff Jane Doe ("Plaintiff") as follows:
25

GENERAL DENIAL

26 Pursuant to the provisions of California Code of Civil Procedure Section 431.30(d),
27 Defendant denies conjunctively, disjunctively, and otherwise, each and every material allegation
28

Glaser Weil

Document received by the CA 2nd District Court of Appeal.

1 contained in the Complaint and the whole thereof, and further denies that Plaintiff has sustained
2 damages in the sum or sums alleged, or in any sum, or at all, by reason of any act, breach, or
3 omission on the part of Defendant, and further denies that Plaintiff is entitled to any of the relief
4 requested in the Complaint, whatsoever.

5 As of the date of this answer, the identity of Plaintiff has not yet been disclosed to
6 Defendant. As a result, the following affirmative defenses are being offered without a full and fair
7 opportunity to consider how these defenses may apply depending upon that identity. Defendant
8 reserves the right to amend, remove, replace and otherwise modify the following defenses once the
9 Plaintiff's identity has been confirmed, notwithstanding any other grounds to amend that arise.

10 **FIRST AFFIRMATIVE DEFENSE**

11 **(Failure to State a Cause of Action)**

12 1. AS A SEPARATE DEFENSE, neither the FAC nor any cause of action in the FAC
13 states facts sufficient to constitute a cause of action against Defendant.

14 **SECOND AFFIRMATIVE DEFENSE**

15 **(Statute of Limitations)**

16 2. AS A FURTHER SEPARATE DEFENSE, the FAC and each cause of action
17 contained therein are barred by applicable statutes of limitation, including, but not limited to,
18 California Code of Civil Procedure sections 312, 335.1, 338, 340; Civil Code sections 52 and 52.5;
19 and Government Code sections 12940, 12960, and 12965.

20 **THIRD AFFIRMATIVE DEFENSE**

21 **(Mitigation of Damages)**

22 3. AS A FURTHER SEPARATE DEFENSE, Plaintiff's alleged injuries and damages
23 any, were aggravated by Plaintiff's failure to use reasonable diligence to mitigate them.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 **(Waiver)**

26 4. AS A FURTHER SEPARATE DEFENSE, Plaintiff has waived the right to maintain
27 and pursue the claims asserted in this case.

28

Document received by the CA 2nd District Court of Appeal.

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FIFTH AFFIRMATIVE DEFENSE

(Workers' Compensation Act Exclusion)

5. AS A FURTHER SEPARATE DEFENSE, each and every purported cause of action in Plaintiff's FAC for personal injury and/or infliction of emotional distress is barred to the extent the exclusivity of remedies provided by the California Workers' Compensation Act is held to apply in this action.

SIXTH AFFIRMATIVE DEFENSE

(Consent)

6. AS A FURTHER SEPARATE DEFENSE, Plaintiff consented to the acts complained of in the FAC, with such consent having been either express and/or implied.

SEVENTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

7. AS A FURTHER SEPARATE DEFENSE, Plaintiff failed to exhaust available administrative remedies and is thus barred from seeking judicial relief in this action.

EIGHTH AFFIRMATIVE DEFENSE

(Laches)

8. AS A FURTHER SEPARATE DEFENSE, the claims asserted in this case are not maintainable under the doctrine of laches because of Plaintiff's prejudicial delay in asserting them.

NINTH AFFIRMATIVE DEFENSE

(Unclean Hands)

9. AS A FURTHER SEPARATE DEFENSE, Plaintiff has "unclean hands" with regard to the relief sought in the FAC and is therefore barred from obtaining such relief.

TENTH AFFIRMATIVE DEFENSE

(Failure to Comply with Directions)

10. AS A FURTHER SEPARATE DEFENSE, Plaintiff's FEHA and wrongful termination claims are barred, in whole or in part, to the extent that Plaintiff did not comply substantially with the directions of her employer concerning the services for which she was engaged.

Document received by the CA 2nd District Court of Appeal.

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ELEVENTH AFFIRMATIVE DEFENSE

(No Individual Liability)

11. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s claims are barred, in whole or in part as against Defendant, on the grounds that individuals are not subject to liability under the Fair Employment and Housing Act (“FEHA”) and/or common law for some or all of the employment-related conduct alleged in the FAC.

TWELFTH AFFIRMATIVE DEFENSE

(Management's Discretion)

12. AS A FURTHER SEPARATE DEFENSE, certain conduct of which Plaintiff complains and which is attributed to Defendant or his agents was a just and proper exercise of management’s discretion on the part of Defendant or his agents, and was undertaken for a fair and honest reason and regulated by good faith and probable cause under the circumstances existing at all times mentioned in Plaintiff’s FAC.

THIRTEENTH AFFIRMATIVE DEFENSE

(Privileged Conduct)

13. AS A FURTHER SEPARATE DEFENSE, any recovery on Plaintiff’s FAC, or any purported cause of action alleged therein, is barred to the extent Defendant’s conduct was privileged, undertaken in good faith, and/or justified under California law.

FOURTEENTH AFFIRMATIVE DEFENSE

(No Public Policy Violation)

14. AS A FURTHER SEPARATE DEFENSE, recovery on Plaintiff’s FAC, or any purported cause of action alleged therein, is barred to the extent Defendant’s conduct was based on legitimate, non-discriminatory and non-retaliatory business reasons and was not based upon any reason in violation of public policy or other factors protected by law.

FIFTEENTH AFFIRMATIVE DEFENSE

(Failure re Satisfactory Performance)

15. AS A FURTHER SEPARATE DEFENSE, recovery as to the FEHA and wrongful termination claims asserted by Plaintiff’s FAC is barred to the extent Plaintiff failed to satisfactorily

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1 perform her job responsibilities and conduct herself in accordance with the standards and policies of
2 her employer.

3 **SIXTEENTH AFFIRMATIVE DEFENSE**

4 **(Failure to Act in Good Faith)**

5 16. AS A FURTHER SEPARATE DEFENSE, recovery as to certain of the FEHA and
6 wrongful termination claims asserted by Plaintiff’s FAC is barred to the extent that Plaintiff failed to
7 act in good faith toward and deal fairly with Plaintiff’s employer, so as not to deprive the employer
8 of or injure the employer’s right to receive the benefits of the employment relationship.

9 **SEVENTEENTH AFFIRMATIVE DEFENSE**

10 **(After Acquired Evidence)**

11 17. AS A FURTHER SEPARATE DEFENSE, in the event that through the course of
12 discovery Defendant should obtain so called after-acquired evidence, any recovery on Plaintiff’s
13 FEHA or wrongful termination claims, is barred.

14 **EIGHTEENTH AFFIRMATIVE DEFENSE**

15 **(Managerial Immunity)**

16 18. AS A FURTHER SEPARATE DEFENSE, damages Plaintiff sustained as a result of
17 any action by management employees in the course and scope of employment by Plaintiff’s employer
18 are barred by the doctrine of managerial immunity.

19 **NINETEENTH AFFIRMATIVE DEFENSE**

20 **(No Adverse Employment Action)**

21 19. AS A FURTHER SEPARATE DEFENSE, any recovery on Plaintiff’s FEHA and
22 wrongful termination claims is barred because Plaintiff was not subjected to an adverse employment
23 action.

24 **TWENTIETH AFFIRMATIVE DEFENSE**

25 **(Not Hostile Work Environment)**

26 20. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s FEHA and wrongful termination
27 claims fail because of the absence of sufficiently severe or pervasive conduct or actions which
28 constitute a hostile work environment.

Document received by the E.A. 2nd District Court of Appeal.

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TWENTY-FIRST AFFIRMATIVE DEFENSE

(Perception Unreasonable)

21. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s claims for harassment, if any, are barred because her perception of the conduct alleged to constitute harassment was unreasonable and/or Plaintiff consented to the alleged conduct.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Preventative Opportunities)

22. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s claims for harassment, if any, are barred and/or recovery is precluded because Plaintiff unreasonably failed to take advantage of the preventative or corrective opportunities or to avoid harm otherwise.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Outside Course and Scope)

23. AS A FURTHER SEPARATE DEFENSE, Defendant cannot be held vicariously liable for conduct alleged in Plaintiff’s FAC to the extent such conduct was outside the course and scope of employment of the individual(s) who allegedly engaged in such conduct.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(No Causal Nexus)

24. AS A FURTHER SEPARATE DEFENSE, recovery on Plaintiff’s FEHA and wrongful termination claims is barred to the extent Plaintiff is unable to establish a causal nexus between alleged employment decisions and any alleged discriminatory animus or motive by Defendant.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Legitimate, Non-Discriminatory, and Non-Retaliatory Reasons for Employment Decision)

25. AS A FURTHER SEPARATE DEFENSE, recovery on Plaintiff’s FEHA and wrongful termination claims is barred to the extent that employment actions taken with respect to Plaintiff were not based on her alleged protected status, or protected activity, or any other improper or illegal consideration, but rather were based on one or more legitimate, sufficient, non-discriminatory, non-retaliatory reasons.

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TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Scope of DFEH Complaint)

26. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s purported causes of action arising under the FEHA are barred to the extent that the allegations therein do not reasonably fall within the scope of any claims made in any administrative complaints filed by Plaintiff with the Department of Fair Employment and Housing.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(Lack of Standing)

27. AS A FURTHER SEPARATE DEFENSE, Plaintiff is barred from pursuing this action to the extent that Plaintiff lacks proper standing.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(At-Will Employment)

28. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s FEHA and wrongful termination claims are barred because the term of employment was unspecified and therefore terminable at will, with or without cause, pursuant to California Labor Code § 2922.

TWENTY-NINTH AFFIRMATIVE DEFENSE

(Comparative Negligence)

29. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s claims are barred to the extent Plaintiff was comparatively negligent in her conduct.

THIRTIETH AFFIRMATIVE DEFENSE

(Assumption of Risk)

30. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s claims are barred to the extent Plaintiff assumed the risk of her actions.

THIRTY-FIRST AFFIRMATIVE DEFENSE

(Estoppel)

31. AS A FURTHER SEPARATE DEFENSE, each and every cause of action in the FAC is barred under the equitable doctrine of estoppel based on Plaintiff’s own conduct and actions.

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THIRTY-SECOND AFFIRMATIVE DEFENSE

(Independent Contractor)

32. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s FEHA and wrongful termination claims are barred in whole or in part, because, as an independent contractor, Plaintiff is not entitled to any of the relief requested.

THIRTY-THIRD AFFIRMATIVE DEFENSE

(Release, Accord, Satisfaction, Ratification, Novation)

33. AS A FURTHER SEPARATE DEFENSE, to the extent that Plaintiff agreed to accept something different than that to which she now claims she is entitled, such conduct bars Plaintiff from recovery under the doctrines of release, accord, satisfaction, ratification, and/or novation.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

(Punitive Damages)

34. AS A FURTHER SEPARATE DEFENSE, Plaintiff’s request for punitive damages is barred, or such damages are otherwise unavailable, to the extent that the acts and/or omissions complained of were performed in good faith and with a legitimate business purpose, and were not taken with malice, fraud, oppression, or in conscious disregard of Plaintiff’s rights.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

(Reservation Of Defense)

35. AS A FURTHER SEPARATE DEFENSE Defendant presently has insufficient knowledge or information on which to form a belief as to whether there may be additional, as yet unstated, affirmative defenses available as to the FAC and the causes of action for relief contained therein. Thus, subject to discovery in this action, Defendant expressly reserves his right to assert additional affirmative defenses.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays that:

1. The FAC be dismissed, in its entirety, with prejudice;
2. Plaintiff take nothing by way of this action; and

Document received by the CA 2nd District Court of Appeal.

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3. Defendant be awarded such other relief that the Court deems just and proper.

DATED: November 2, 2021

GLASER WEIL FINK HOWARD
AVCHEN & SHAPIRO LLP

By: /s/Jillian Harris
FRED D. HEATHER
AARON P. ALLAN
JILLIAN P. HARRIS
Attorneys for Defendant ALKIVIADES DAVID

Document received by the CA 2nd District Court of Appeal.

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SERVICE LIST

Gary A. Dordick, Esq.
Keith D. Griffin, Esq.
DORDICK LAW CORPORATION
1122 Wilshire Blvd.
Los Angeles, CA 90017
Tel: (310) 551-0949
Fax: (855) 299-4444
keith@dordicklaw.com
michelle@dordicklaw.com

Attorneys for Plaintiff, JANE DOE

Ebby S. Bakhtiar, Esq.
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3435 Wilshire Blvd., Suite 1669
Los Angeles, CA 90010
Tel: (213) 632-1550
Fax: (213) 632-3100
ESB@LivingstonBakhtiar.com

Co-Counsel for Plaintiff, JANE DOE

Document received by the CA 2nd District Court of Appeal.

TAB 4

AA0072

Document received by the CA 2nd District Court of Appeal.

PLAINTIFF/PETITIONER: Jane Doe	CASE NUMBER: 20STCV37498
DEFENDANT/RESPONDENT: Alkiviades David, et al.,	

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*
 This is a sexual harassment case based on Sexual Assault and Battery, False Imprisonment, Violations of the Ralph Civil Rights Act, Violations of the Bane Civil Rights Act, Sexual Harassment, Sex/Gender Discrimination, Retaliation, Failure to Prevent, Wrongful and/or Constructive Discharge, and Intentional Infliction of Emotional Distress.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. The trial has been set for *(date)*:
- b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:
- c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:
See Attachment 6.c.

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. days *(specify number)*: More than 21 days
- b. hours *(short causes) (specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney: Gary A. Dordick, Esq.; Keith D. Griffin, Esq.
- b. Firm: Dordick Law Corporation
- c. Address: 509 South Beverly Drive, Beverly Hills, CA 90212
- d. Telephone number: (310) 551-0949
- e. E-mail address:
- f. Fax number: (855) 299-4444
- g. Party represented: Plaintiff, Jane Doe

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

- a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.
 - (1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
 - (2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.
- b. **Referral to judicial arbitration or civil action mediation** *(if available)*.
 - (1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
 - (2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
 - (3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

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PLAINTIFF/PETITIONER: Jane Doe DEFENDANT/RESPONDENT: Alkiviades David, et al.,	CASE NUMBER: 20STCV37498
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input type="checkbox"/> Mediation completed on (<i>date</i>):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

Document received by the CA 2nd District Court of Appeal.

PLAINTIFF/PETITIONER: Jane Doe	CASE NUMBER: 20STCV37498
DEFENDANT/RESPONDENT: Alkiviades David, et al.,	

11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Plaintiff	Written Discovery	30 Days Before Trial
Plaintiff	Depositions	30 Days Before Trial
Plaintiff	Expert Discovery	Per statute

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER: Jane Doe	CASE NUMBER: 20STCV37498
DEFENDANT/RESPONDENT: Alkiviades David, et al.,	

17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):
Plaintiff requests a court order in order to publish the first amended complaint on the remaining entities that were unable to be served.

19. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):


20. Total number of pages attached (if any): 3

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: January 31, 2022

Francis J. Flynn, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

SHORT TITLE: Jane Doe v. Alkiviades David, et al.	CASE NUMBER: 20STCV37498
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ATTACHMENT (Number): 3.b. (1)

(This Attachment may be used with any Judicial Council form.)

The following parties named in the first amended complaint have not been served despite Plaintiff's efforts to personally serve for the following reasons below:

- 1) Hologram USA, Inc., a California Corporation a.k.a Hologram USA Productions, Inc. - Defendant's counsel originally stated that they would accept service, but, at the time of service for the first amended complaint, counsel stated "we will look into it, but we cannot accept service at this time".
- 2) Hologram USA Entertainment, Inc.
- Plaintiff has received two Non-Service Reports from service company. Corporation is listed as "FTB Forfeited".
- 3) Filmon.TV., Inc.
- Plaintiff has received two Non-Service Reports from service company. Corporation is listed as "FTB Forfeited".
- 4) Filmon.TV Networks, Inc.
-Plaintiff has received two Non-Service Reports from service company. Corporation is listed as "FTB Forfeited".
- 5) Filmon.TV LA, Inc.
- Plaintiff received has received two Non-Service Reports from service company. Corporation is listed as "Dissolved".

Due to the inability to personally serve the above entities, Plaintiff will be requesting a court order to publish the first amended complaint on the above entities.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1
(Add pages as required)

Document received by the CA 2nd District Court of Appeal.

SHORT TITLE: Jane Doe v. Alkiviades David, et al.	CASE NUMBER: 20STCV37498
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ATTACHMENT (Number): 2.a.

(This Attachment may be used with any Judicial Council form.)

The original complaint was filed on: September 30, 2020.

The first amended complaint was filed on: October 1, 2021.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1
(Add pages as required)

SHORT TITLE: Jane Doe v. Alkiviades David, et al.	CASE NUMBER: 20STCV37498
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ATTACHMENT (Number): 6.c.

(This Attachment may be used with any Judicial Council form.)

Dates on which Plaintiff will not be available for trial:

1/31/2022; 2/1/2022; 2/4/2022; 2/5/2022; 2/7/2022; 2/14/2022; 2/22/2022; 2/25/2022; 2/28/2022; 3/7/2022;
 3/8/2022; 3/10/2022; 3/11/2022; 3/14/2022; 3/18/2022; 3/22/2022; 3/23/2022; 3/25/2022; 3/28/2022; 4/1/2022;
 4/5/2022; 4/8/2022; 4/11/2022; 4/12/2022; 4/14/2022; 4/18/2022; 4/25/2022; 5/3/2022; 5/11/2022; 5/12/2022;
 5/13/2022; 5/23/2022; 5/24/2022; 6/2/2022; 6/6/2022; 6/8/2022; 6/13/2022; 6/14/2022; 6/20/2022; 6/21/2022;
 6/22/2022; 6/28/2022; 7/6/2022; 7/7/2022; 7/12/2022; 7/15/2022; 7/20/2022; 7/21/2022; 7/28/2022; 8/01/22;
 8/2/2022; 8/3/2022; 8/10/2022; 8/18/2022; 8/19/2022; 8/26/2022; 10/3/22; 10/11/22; 11/30/22; 12/05/22;
 12/12/2022; 12/19/2022; 12/21/2022; 1/23/2023; 1/30/2023; 2/17/2023; 2/21/2023; 2/22/2023; 3/3/2023;
 3/6/2023; 3/9/2023; 3/13/2023; 3/27/2023; 4/4/2023; 4/6/2023; 4/18/2023; 4/24/2023; 6/06/23; 7/10/2023;
 7/31/2023; and 9/18/23

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1
(Add pages as required)

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2 PROOF OF SERVICE
1013A (3) CCP Revised 1/1/88

3
4 STATE OF CALIFORNIA)
5) ss
6 COUNTY OF LOS ANGELES)

7 I am employed in the County of Los Angeles, State of California. I am over the age of 18
and not a party to the within action. My business address is 3435 Wilshire Boulevard, Suite 1669,
Los Angeles, California 90010.

8
9 On **January 31, 2022**, I served the forgoing documents described as: **CASE**
MANAGEMENT STATEMENT true copy thereof enclosed in a sealed envelop(s) addressed as
follows:

10 [SEE ATTACHED SERVICE LIST]
11

12 **BY MAIL:** I caused such envelope to be deposited in the mail at Los Angeles, California. The
13 envelope was mailed with postage thereon fully pre-paid. I am readily familiar with the firm's
14 practice of collection and processing of correspondence for mailing. Under that practice, the
15 correspondence is deposited with the U.S. Postal Service on that same day in the ordinary course of
business. I am aware that on motion of the party served, service is presumed invalid if postal
cancellation date or postage meter date is more than one day after the date of deposit for mailing
contained in the affidavit.

16 **BY FACSIMILE:** I served a true copy of the document(s) described on all parties to this action
17 by facsimile transmission, and the transmission was reported as complete and without error.
Facsimile transmissions were sent and addressed as listed above.

18 **BY E-MAIL SERVICE:** Pursuant to an agreement between the parties, I served a true copy
19 of the document(s) described above on the party listed above by E-Mail transmission to the E-Mail
address listed above and I did not receive a rejection of transmission notification therefor.

20 **BY PERSONAL SERVICE:** I hand delivered such envelope to the addressee(s) listed above.

21 I declare under penalty of perjury, under the law of the State of California, that the foregoing
22 is true and correct.

23 Executed on **January 31, 2022**, at Los Angeles, California.

24
25 
26 **Douglas Garcia**
DECLARANT

Document received by the CA 2nd District Court of Appeal.

27
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AA0081

1 **SERVICE LIST**

2 **JANE DOE V. ALKIVIADES DAVID, ET AL.**

3 **CASE NO.: 20STCV37498**

4 **ATTORNEY FOR DEFENDANT**
5 **ALKIVIADES DAVID**

6 Aaron Allan, Esq.
7 Jill Harris, Esq.
8 Glaser Weil Fink Howard Avchen & Shapiro LLP
9 10250 Constellation Blvd., 19th Floor
10 Los Angeles, CA 90067

aallan@glaserweil.com
jharris@glaserweil.com

11 **CO-COUNSEL FOR PLAINTIFF**

12 Keith Griffin, Esq.
13 Michelle J. Dordick, Esq.
14 Dordick Law Corporation
15 1122 Wilshire Blvd.
16 Los Angeles, CA 90017

keith@dordicklaw.com
michelle@dordicklaw.com
karen@dordicklaw.com
crisitna@dordicklaw.com
alex@dordicklaw.com

17 **Hologram USA, Inc.**

18 6566 Hollywood Blvd.,
19 Los Angeles, CA 90028

20 **Hologram USA Entertainment, Inc.**

21 16530 Ventura Blvd., Ste. 305
22 Encino, CA 91436

23 **Filmon.TV, Inc.**

24 16530 Ventura Blvd., Ste. 305
25 Encino, CA 91436

26 **Filmon.TV Networks, Inc.**

27 16530 Ventura Blvd., Ste. 305
28 Encino, CA 91436

Filmon. TV LA, Inc.

301 N Canon Dr Ste 208,
Beverly Hills, CA 902104721

Swissx Labs AG, Inc., a California Corporation a.k.a. Swlssx Lounge and FilmonTV UK, Ltd.

C/O CT Corporation System
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

Document received by the CA 2nd District Court of Appeal.

TAB 5

AA0083

Document received by the CA 2nd District Court of Appeal.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Fred Heather, SBN 110605, Aaron Allen, SBN 144406, Jillian Harris, SBN 300119 Glaser Weil, LLP 10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067 TELEPHONE NO.: 310-282-6207 FAX NO. (Optional): E-MAIL ADDRESS (Optional): jharris@glaserweil.com ATTORNEY FOR (Name): Defendant	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles - Central District STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse	
PLAINTIFF/PETITIONER: Jane Doe DEFENDANT/RESPONDENT: Alkiviades David et al.	
CASE MANAGEMENT STATEMENT (Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)	CASE NUMBER: 20STCV37498
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: 02/10/2022 Time: 8:30 Dept.: 76 Div.: Room: Address of court (if different from the address above): <input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name):	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties** (answer one):
 - a. This statement is submitted by party (name): Defendant Alkiviades David
 - b. This statement is submitted **jointly** by parties (names):

2. **Complaint and cross-complaint** (to be answered by plaintiffs and cross-complainants only)
 - a. The complaint was filed on (date):
 - b. The cross-complaint, if any, was filed on (date):

3. **Service** (to be answered by plaintiffs and cross-complainants only)
 - a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**
 - a. Type of case in complaint cross-complaint (Describe, including causes of action):
 Plaintiff alleges claims for employment discrimination, retaliation, emotional distress, sexual battery and related statutory violations.

Document received by the CA 2nd District Court of Appeal.

PLAINTIFF/PETITIONER: Jane Doe DEFENDANT/RESPONDENT: Alkiviades David et al.	CASE NUMBER: 20STCV37498
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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

Plaintiff alleges that she was employed by Defendants and wrongfully terminated for speaking up about payment of wages. Plaintiff further alleges that she was sexually assaulted by Defendant. Plaintiff seeks damages for loss of job benefits, emotional distress, general damages, and attorney's fees.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. The trial has been set for *(date)*:
 b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:
 January 3-7, 2022 Vacation, January 10-21, 2022 Trial
 August 8 - October 1, 2022 Trials; November 1-11, 2022 Trial

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. days *(specify number)*: 10 days
 b. hours (short causes) *(specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. E-mail address:
- f. Fax number:
- g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

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PLAINTIFF/PETITIONER: Jane Doe DEFENDANT/RESPONDENT: Alkiviades David et al.	CASE NUMBER: 20STCV37498
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input type="checkbox"/> Mediation completed on (<i>date</i>):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

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PLAINTIFF/PETITIONER: Jane Doe	CASE NUMBER: 20STCV37498
DEFENDANT/RESPONDENT: Alkiviades David et al.	

11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Plaintiff	Written Discovery	30 Days Before Trial
Plaintiff	Depositions	30 Days Before Trial
Plaintiff	Expert Discovery	Per statue

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

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PLAINTIFF/PETITIONER: Jane Doe	CASE NUMBER: 20STCV37498
DEFENDANT/RESPONDENT: Alkiviades David et al.	

17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

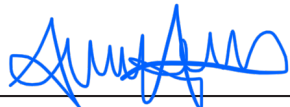
20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: February 1, 2022

Jillian Harris

(TYPE OR PRINT NAME)

▶ 

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 10250 Constellation Boulevard, 19th Floor, Los Angeles, California 90067.

On February 1, 2022 I served the foregoing document(s) described as **CASE MANAGEMENT STATEMENT** on the interested parties to this action by delivering thereof in a sealed envelope addressed to each of said interested parties at the following address(es):

SEE ATTACHED LIST

(BY MAIL) I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in Los Angeles, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

(BY E-MAIL SERVICE) I caused such document to be delivered electronically via e-mail to the e-mail address of the addressee(s) set forth in the attached service list.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on Feruary 1, 2022, at Los Angeles, California.



Joanna Rivera

Glaser Weil

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ESB@Livingston Bakhtiar.com

Co-Counsel for Plaintiff, JANE DOE

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TAB 6

AA0091

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 76

20STCV37498

JANE DOE vs ALKIVIADES DAVID, et al.

February 10, 2022

8:30 AM

Judge: Honorable Christopher K. Lui

CSR: None

Judicial Assistant: T. Le

ERM: None

Courtroom Assistant: S. Sato

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Dustin Moaven (via Audio) for Gary A. Dordick

For Defendant(s): Jill Harris and Aaron Allen (via Video) for Fred D. Heather

NATURE OF PROCEEDINGS: Case Management Conference

The matter is called for hearing.

The Court and counsel confer regarding the status of the case.

Counsel for plaintiff states that they have exhausted known addresses for unserved defendants and will proceed with an application for publication.

The parties have complied with California Rules of Court, rule 3.720 et seq., and have filed case management statements.

There is not a cross-complaint in this matter. All named Defendants/Cross-Defendants have been served and have appeared, been defaulted or dismissed.

Both sides have demanded jury trial and must post jury fees within ten (10) days or right to a jury trial is deemed waived. Both sides have posted advance jury fees.

After conferring with the parties, the Court sets the following dates:

An Order to Show Cause Re: Dismissal as to unserved defendants is scheduled for 05/12/2022 at 08:30 AM in Department 76 at Stanley Mosk Courthouse.

Order to Show Cause Re: Long Cause Determination is scheduled for 04/24/2023 at 08:30 AM in Department 76 at Stanley Mosk Courthouse.

Final Status Conference is scheduled for 07/24/2023 at 08:30 AM in Department 76 at Stanley Mosk Courthouse.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 76

20STCV37498

JANE DOE vs ALKIVIADES DAVID, et al.

February 10, 2022

8:30 AM

Judge: Honorable Christopher K. Lui

Judicial Assistant: T. Le

Courtroom Assistant: S. Sato

CSR: None

ERM: None

Deputy Sheriff: None

Jury Trial (10 Days) is scheduled for 08/07/2023 at 08:30 AM in Department 76 at Stanley Mosk Courthouse.

A Case Management Order and Order regarding Final Status Conference and Trial procedure are signed, filed and issued this date. The Judicial Assistant is to serve copies the orders to the parties via U.S. mail.

The parties are to comply with Local Rules 3.25(f)(2) and 3.25(g): including in-person meet and confer re joint trial documents (joint statement of case; joint witness and exhibit lists); jury instructions and special verdict form.

Notice is waived.

TAB 7

AA0094

Document received by the CA 2nd District Court of Appeal.

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Stanley Mosk Courthouse 111 North Hill Street, Los Angeles, CA 90012	FILED Superior Court of California County of Los Angeles 02/10/2022
PLAINTIFF/PETITIONER: Jane Doe	Sherri R. Carter, Executive Officer / Clerk of Court By: _____ T. Le _____ Deputy
DEFENDANT/RESPONDENT: Alkiviades David et al	
CERTIFICATE OF MAILING	CASE NUMBER: 20STCV37498

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Case Management Order, Order Regarding Final Status Conference and Trial Procedure upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Ebby S. Bakhtiar
Livingston * Bakhtiar
3435 Wilshire Blvd.
Ste 1669
Los Angeles, CA 90010

Fred D. Heather
Glaser Weil, LLP
10250 Constellation Blvd.
19th Floor
Los Angeles, CA 90067

Gary A. Dordick
Dordick Law Corporation
509 South Beverly Drive
Beverly Hills, CA 90212

Sherri R. Carter, Executive Officer / Clerk of Court

Dated: 02/10/2022

By: T. Le
Deputy Clerk

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TAB 8

AA0096

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

Reserved for Clerk's File Stamp

COURTHOUSE ADDRESS:
111 North Hill Street, Los Angeles, CA 90012

FILED
Superior Court of California
County of Los Angeles

PLAINTIFF:
JANE DOE

FEB 10 2022

Sherril R. Carter, Executive Officer/Clerk
By T. Le Deputy
T. Le

DEFENDANT:
ALKIVIADES DAVID, ET AL

CASE MANAGEMENT ORDER

DEPT.
76

CASE NUMBER:
20STCV37498

1. CASE MANAGEMENT CONFERENCE

The parties have complied with California Rules of Court, rule 3.720 et seq., and have filed case management statements on Judicial Council form CM-110.

2. Parties

- There is/are a Cross-Complaint(s) in this matter. There is not a Cross-Complaint in this matter.
- All named Defendants/Cross-Defendants have been served and have appeared, been defaulted or dismissed.
- Plaintiff/Cross-Complainant is ordered to show cause on _____ at 8:30 a.m. why sanctions, including dismissal, should not be imposed for failure to cause entry of Default/Default Judgment.
- Plaintiff/Cross-Complainant is ordered to show cause on _____ at 8:30 a.m. why sanctions, including dismissal, should not be imposed for failure to serve defendant(s)/cross-defendant(s) in compliance with California Rules of Court, rule 3.720.

3. Trial Setting Conference

- Plaintiff has Defendant has Both parties have demanded jury and will post jury fees. (C.C.P. § 631)
- Post jury fees within 10 days or deemed waived. Plaintiff/Defendant waive(s) jury trial
- A Final Status Conference is set for 07-24-2023 at 8:30 a.m. in this department.
- The case is set for Jury Court Trial on 08-07-2023 at 8:30 a.m. in this department
- Time estimate for trial is 10 days.

4. Other Issues

- Parties are ordered to complete Mediation. A Post-Mediation Status Conference is set for _____ at 8:30 a.m. in this department.
- Parties are ordered to participate in the Judicial Mandatory Settlement Conference (MSC) Program at the Spring Street Courthouse. The parties are ordered to comply with California Rules of Court, rule 3.1380. A Post-Settlement Status Conference (Post-MS) is set for _____ at 8:30 a.m. in this department.
- A Status Conference Re: MSC Scheduling is set for _____ at 8:30 a.m. in this department.
- The court further orders as follows: Parties are to comply with Local Rules 3.25(f)(2) and 3.25(f)(g); including in-person meet and confer re: Joint trial documents (joint statement of case; joint witness and exhibit lists), jury instructions and special verdict form(s).

Notice is waived Notice shall be given by Plaintiff / Defendant Notice has been given to counsel in open court

Dated: FEB 10 2022


Honorable Christopher K. Lui
AA0097

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TAB 9

AA0098

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FEB 10 2022

Sherri R. Carter, Executive Officer/Clerk
By T. Le Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

Jane Doe, Case No.: 20STCV37498

Plaintiff(s),

vs.

ORDER REGARDING FINAL STATUS
CONFERENCE AND TRIAL PROCEDURE

Alkiviades David, et al,

Defendant(s)

TO THE PARTIES AND THEIR COUNSEL OF RECORD:

1. The purpose of the following order is to ensure the efficient and orderly administration of trials in Department 76. Absent the Court's granting of an exception or modification to this order, counsel are ordered to follow all of the following procedures during trial preparations and trial. Provisions of this order that apply to "counsel" shall also apply to self-represented litigants who are representing themselves at a Final Status Conference ("FSC") and/or trial. **An attorney or party who repeatedly or willfully violates the provisions of this order may be subject to sanctions, including but not limited to monetary sanctions, exclusion of evidence, issue preclusion, denial of a claim or defense, dismissal, or contempt.** (CCP §§ 128, 128.7, 177.5, 575.2, 583.10, 583.410; Cal. R. Ct. 2.30).

2. As of the date of this order, the Los Angeles Superior Court remains subject to certain General Orders of the Presiding Judge regarding COVID-19 pandemic mitigation,

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1 including the June 28, 2021 General Order regarding Mandatory Use of Face Masks (General
2 Order 2021-GEN-023-00.). Counsel shall advise their clients and witnesses of the applicable
3 face mask requirements before the Final Status Conference. Until General Order 2021-GEN-
4 023-00 is withdrawn or modified, all persons present in Department 76 will be required to wear
5 a face mask covering their nose and mouth at all times, unless authorization is granted by the
6 Court in advance of the hearing. Any person, including an attorney or witness, who repeatedly
7 fails to comply with the face mask requirement after being warned to do so, will be excluded
8 from the courtroom pursuant to General Order 2021-GEN-023-00.

9 3. As of the date of this order, the Los Angeles Superior Court has vacated many of
10 the COVID-19 mitigation rules that were in effect for much of 2020 and early 2021, including
11 capacity limits and social distancing requirements. No later than 30 days before the FSC,
12 counsel should review the "Notices to Attorneys" section of the Los Angeles Superior Court
13 website, located at <http://lacourt.org> for any General Orders regarding the COVID-19 pandemic
14 that may be issued after the date of this order.

15 **I. FINAL STATUS CONFERENCES**

16 4. The purpose of an FSC is to verify that the parties/counsel are completely ready
17 to proceed with trial continuously and efficiently, from day to day, until verdict.

18 5. **TRIAL COUNSEL ARE REQUIRED TO APPEAR AT THE FINAL**
19 **STATUS CONFERENCE.** Counsel are ordered to meet and confer in advance of the FSC
20 regarding (1) the preparation of Trial Readiness Documents as discussed herein, (2) the
21 potential for stipulations to ultimate facts, legal issues, motions *in limine*, and (3) issues
22 affecting the authentication and admissibility of exhibits, including any objections.

23 6. A failure to comply with the Court's FSC requirements may result in the Court
24 continuing the Final Status Conference and/or the trial in order to avoid unnecessary delays
25 once trial begins.

26 7. The Court has discretion to require any party/counsel who fails or refuses to
27 comply with this Order to show cause why the Court should not impose monetary, evidentiary
28

1 and/or issue sanctions (including the entry of a default or the striking of an answer), or order
2 that the jury demand of a noncompliant party be stricken.

3 **A. TRIAL READINESS DOCUMENTS TO BE FILED**

4 8. Prior to the Final Status Conference, counsel shall serve and file the following
5 Trial Readiness Documents. **Pursuant to Local Rule 3.25(g)(3), the Court orders that all**
6 **Trial Readiness Documents must be filed no later than ten days before the FSC.** Failure to
7 file a complete and timely set of Trial Readiness Documents in a jury trial may result in the
8 Court striking the jury demand to avoid undue delays and/or waste of jurors' time.

9 9. For the joint Trial Readiness Documents specified below, counsel are ordered to
10 meet and confer regarding the preparation of joint documents sufficiently in advance of the FSC
11 to allow the filing of joint documents. If counsel is unable to secure the participation of another
12 party/counsel in meet and confer discussions, counsel must file a declaration of counsel
13 detailing the efforts taken to initiate meet and confer discussions, and must file a separate set of
14 Trial Readiness Documents.

15 10. Counsel shall jointly prepare a set of Trial Readiness Documents and deliver
16 them to Department 76 **at least three court days before the FSC.** The Court prefers that the
17 Trial Readiness Documents be submitted electronically on a USB flash drive using the
18 following section/folder titles, but if counsel are unable to prepare a flash drive, the documents
19 may be submitted in three-ring binders with a table of contents, organized into the following
20 section titles with tabs for each section:

- 21 Section A: Trial Briefs
- 22 Section B: Motions *in Limine*
- 23 Section C: Joint Witness List
- 24 Section D: Joint Exhibit List
- 25 Section E: Joint Chart of Page and Line Designation(s) for Depositions and
26 Former Testimony
- 27 Section F: Joint Statement To Be Read To the Jury (if applicable)
- 28 Section G: Joint List of Proposed Jury Instructions (if applicable)

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1 Section H: Full Text of Joint and Contested Jury Instructions (if applicable)

2 Section I: Joint and/or Contested Verdict Forms (if applicable)

3 11. If counsel submit the Trial Readiness Documents on a flash drive, the documents
4 should be saved in the .pdf file format using filenames that generally correspond to the titles of
5 the documents as captioned on the face pages of the documents.

6 **1. TRIAL BRIEFS**

7 12. Trial briefs are **required in all cases**. The parties may file a joint trial brief if
8 they wish, but must file separate trial briefs if they do not agree to prepare a joint brief.
9 Whether jointly filed by multiple parties, or separately filed by individual parties, each party
10 **must** provide a trial brief succinctly identifying:

- 11 (a) A brief description of the claims and defenses to be presented at trial;
- 12 (b) All contested issues of fact;
- 13 (c) All contested issues of law, together with points and authorities supporting
14 the party's position;
- 15 (d) A list of major evidentiary issues anticipated, along with any relevant points
16 and authorities supporting the party's position;
- 17 (e) A detailed statement of the relief claimed, including a breakdown of the
18 elements of damages sought;
- 19 (f) Any other information that may assist the Court at trial.

20 Trial briefs shall be filed no later than ten days before the FSC. Except in extraordinary cases,
21 trial briefs should not exceed twenty pages in length.

22 **2. MOTIONS *IN LIMINE***

23 13. Boilerplate or form motions *in limine* are disfavored. Conversely, substantive
24 motions *in limine* on genuine disputes regarding admissibility of evidence can often prevent
25 substantial delays during trial, minimizing waste of court resources, including the jurors' time.
26 Counsel must meet and confer regarding the subject of a contemplated motion *in limine* before
27 filing such motion in an effort to reach a stipulation or to narrow and focus the subject of the
28 evidentiary dispute.

1 14. When filing motions *in limine*, counsel shall comply with the statutory notice
2 provisions of Code of Civil Procedure (“C.C.P.”) Section 10C5 and the motion requirements of
3 Los Angeles Superior Court Local Rule (“Local Rule”) 3.57(a). A failure to comply with
4 applicable notice provisions and deadlines may result in the Court continuing the Final Status
5 Conference and/or the trial in order to ensure that motions *in limine* may be ruled upon before
6 trial begins.

7 15. The caption of each motion *in limine* shall concisely identify the evidence that
8 the moving party seeks to preclude. Parties filing more than one motion *in limine* shall number
9 them consecutively. Parties filing opposition and reply papers shall identify the corresponding
10 motion number in the caption of their papers.

11 **3. JOINT WITNESS LIST**

12 16. Counsel shall work together to prepare and file a joint list of all witnesses that
13 each party intends to call (excluding impeachment and rebuttal witnesses). (Local Rule
14 3.25(g)(5).) The joint witness list shall be filed **no later than ten days before the FSC**. The
15 joint witness list shall identify each witness by name, specify which witnesses are experts,
16 provide time estimates for the direct, cross examination and re-direct examination (if any) of
17 each witness, and provide a calculation of the total estimated time for all witnesses. The joint
18 witness list shall also include time estimates for any witnesses whose testimony is intended to
19 be presented by playing video deposition excerpts or the readback of transcripts. The joint
20 witness list must also identify all potential witness scheduling issues and special requirements,
21 including whether any interpreters will be used and whether any ADA accommodations are
22 anticipated. Counsel who seeks to elicit testimony from a witness not identified on the witness
23 list must make a showing of good cause why the witness should be allowed to testify.

24 **4. JOINT EXHIBIT LIST**

25 17. Counsel shall prepare and file a joint exhibit list organized with columns
26 identifying each exhibit and specifying each party's evidentiary objections, if any, to admission
27 of each exhibit. Before submitting their joint exhibit list, counsel shall meet and confer in an
28

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1 effort to resolve objections to the admissibility of each exhibit. Objections not stated in writing
2 on the exhibit list shall be deemed waived except upon a showing of good cause.

3 **5. PAGE AND LINE DESIGNATION FOR DEPOSITION AND**
4 **FORMER TESTIMONY**

5 18. If counsel intend to use deposition testimony or other former testimony in lieu of
6 any witness's live testimony, counsel shall meet and confer and jointly prepare and file a chart
7 with columns for each of the following: (1) the page and line designations of the deposition or
8 former testimony requested, (2) objections to designated testimony, (3) the Court's ruling on
9 objections to the designations, (4) counter-designations, (4) objections to counter-designated
10 testimony, and (5) the Court's ruling on objections to counter-designations. If deposition
11 testimony will be presented to the jury through video recordings of the deposition, counsel must
12 edit their recorded excerpts in accordance with the Court's rulings before playing the recordings
13 to the jury.

14 19. A party seeking to use deposition testimony or other qualifying prior testimony
15 at trial must bring transcripts of such testimony to the FSC so that the Court can review the
16 relevant testimony to rule upon any objections. A failure to provide the Court with transcripts
17 at the FSC may result in a continuance of the FSC and/or trial, or the exclusion of the prior
18 testimony.

19 20. In addition to preparing a chart of designations and counter-designations, counsel
20 must ensure that the joint witness list (described above) includes the identification and time
21 estimates for all witnesses counsel intends to present through prior testimony.

22 **6. JOINT STATEMENT TO BE READ TO THE JURY**

23 21. For jury trials, counsel shall work together to prepare and file a joint written
24 statement of the case for the Court to read to the jury. (Local Rule 3.25(g)(4).) The purpose of
25 the joint statement is to inform prospective jurors of the identities of the parties and the general
26 subject matter of the trial; as such, it should be brief and should not be argumentative. If, after
27 efforts to meet and confer, the parties cannot agree on a written joint statement, each party shall
28

1 file a separate statement of the case. The joint written statement, or separate written statements
2 if no joint statement is agreed upon, must be filed no later than five court days before the FSC.

3 **7. LIST OF PROPOSED JURY INSTRUCTIONS (JOINT AND**
4 **CONTESTED)**

5 22. For all jury trials, counsel shall jointly prepare and file a list of proposed jury
6 instructions, organized in numerical order, specifying the instructions upon which all sides
7 agree and the contested instructions, if any. The List of Proposed Jury Instructions must be
8 prepared in the index format required by California Rule of Court 2.1055(b)(3), including a
9 checklist for the Court to indicate the disposition of the proposed instructions.

10 **8. FULL TEXT OF JURY INSTRUCTIONS (JOINT AND CONTESTED)**

11 23. For all jury trials, counsel shall file a complete set of full-text proposed jury
12 instructions, editing all proposed California Civil Jury Instructions ("CACI"), including the
13 insertion of party name(s) and eliminating any blanks and inapplicable bracketed portions of the
14 instructions. Any special instructions must include citations to the authority on which the
15 instructions are based. California Rule of Court 2.1055 governs the form in which the jury
16 instructions must be prepared.

17 **9. VERDICT FORM(S)**

18 24. For all jury trials, counsel shall prepare and jointly file a proposed general
19 verdict form or special verdict form (with interrogatories) acceptable to all sides. (Local Rule
20 3.25(g)(8).) If the parties/counsel cannot agree on a joint verdict form, each party must
21 separately file a proposed verdict form.

22 **II. TRIAL PROCEDURES**

23 **A. OPENING STATEMENTS**

24 25. The Court generally prohibits the use of exhibits during opening statements,
25 absent a stipulation of counsel.

26 26. If counsel wishes to use exhibits, including audio or video recordings, during an
27 opening statement, they must meet and confer with their opposing counsel regarding the request
28 to use such exhibits. If there is disagreement among counsel about whether the exhibits may be

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1 used, the proponent of the exhibits must bring the dispute to the Court's attention at the earliest
2 opportunity before opening statements are held. A failure to raise such disputes in a timely
3 fashion may result in a prohibition on the use of exhibits during opening statements.

4 **B. EXHIBITS**

5 27. As of the date of this order, the SARS-CoV-2 pandemic remains a threat to
6 public health and safety. The use of paper exhibits increases the amount of movement
7 throughout the courtroom and requires multiple people to handle physical binders or papers. To
8 reduce the need for handling physical exhibits, the Court will allow counsel to prepare the trial
9 exhibits electronically on USB flash drives or portable hard drives.

10 28. Counsel shall jointly prepare three sets (for the Court, the Judicial Assistant, and
11 the witnesses) of tabbed, internally paginated by document, and properly-marked exhibits,
12 organized numerically in three-ring binders (if paper copies are to be used) or USB flash drives
13 or portable hard drives (if electronic copies are to be used).

14 29. Counsel are responsible for preparing their exhibits outside of trial hours. The
15 Court will not permit delays during trial for counsel to prepare exhibits. Counsel shall not ask
16 the Court's staff to print or photocopy their exhibits.

17 30. Counsel must move exhibits into evidence before publishing them to the jury.
18 No exhibit (other than a demonstrative exhibit) may be published to the jury before the Court
19 receives the exhibit into evidence.

20 31. An exhibit used to refresh the recollection of a witness shall not be published to
21 the jury unless the exhibit has been received as evidence. If attempting to refresh the
22 recollection of a witness using an exhibit contained on electronic media, counsel are responsible
23 for bringing their own means of showing the exhibit directly to the witness outside the view and
24 hearing of the jury. The Court will not permit delays during trial if counsel do not have their
25 own equipment for this purpose.

26 32. California Rule of Court 2.1040 requires the parties to prepare transcripts of all
27 exhibits that consist of recordings that contain audio. For any exhibits that consist of an audio
28 recording or a video recording that includes audio, the media containing the recording should be

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1 listed on the exhibit list using an exhibit number, and the transcript of the recording should be
2 listed using the same number followed by a letter (*e.g.*, the transcripts corresponding to a DVD
3 listed as Exhibit 1 would be listed as Exhibit 1-A, 1-B, and so forth). Counsel must meet and
4 confer regarding the content of any such transcripts prior to the FSC in an effort to resolve any
5 objections. The proponent of the recording must bring their transcripts to the FSC so that the
6 Court may rule on any unresolved objections to the transcripts. Unless otherwise ordered, the
7 transcripts themselves will not be admitted as evidence at trial. (*See* CACI 5018.)

8 33. When exhibits consist of material stored on electronic media, counsel should
9 prepare the exhibits on a USB flash drive, DVD-ROM, or other form of readily accessible
10 electronic media. In order to ensure clarity of the record, counsel may wish to consider either
11 using separate pieces of media for each individual electronic exhibit, or marking the media as a
12 single exhibit with individual electronic files marked as sub-exhibits (*e.g.*, a flash drive that
13 contains three files may be marked as Exhibit 1, with the files marked as Exhibits 1-1, 1-2, and
14 1-3; if those files are recordings that contain audio, the corresponding transcripts would be
15 marked as 1-1-A, 1-2-A, and 1-3-A).

16 34. If a party seeks the admission of individual portions of a longer audio or video
17 recording, whether in lieu of or in addition to admission of the entire recording, the party must
18 prepare each segment of the recording as a separate exhibit, so that the record will accurately
19 reflect objections to, and admission as evidence of, the individual segments. Dividing the
20 segments of the recording into separate exhibits will also allow expeditious access to the
21 materials by the jury during deliberations.

22 **C. DIGITAL EVIDENCE PRESENTATION SYSTEM**

23 35. Counsel who wish to use the Court's Digital Evidence Presentation System
24 ("DEPS") are responsible for learning how to use the system, and for ensuring that their own
25 computers or audiovisual equipment are compatible with the Court's system. The Court is
26 unable to provide the parties with cables or adapters, so counsel should ensure that they have
27 their own equipment. The Court will make its equipment available to counsel before the trial
28 day starts, during breaks, or during the lunch hour so that counsel may test the equipment.

1 Instructions for the use of DEPS can be found on the website of the Los Angeles Superior
2 Court, at <http://www.lacourt.org/pdf/DEPS-AttorneyInstructions.pdf>.

3 **D. EXAMINATION OF WITNESSES**

4 36. Counsel are ordered to advise each of their witnesses (1) of any rulings
5 governing the admissibility of the witness' proposed testimony, (2) not to have any form of
6 contact with any of the jurors while the case is pending, and (3) not to have any conversations
7 regarding matter connected with the case within hearing distance of the jurors.

8 37. Speaking objections and argumentative responses are **not permitted**. When
9 objecting to questions or requesting that testimony be stricken, counsel must make a concise
10 statement of the legal basis for the objection. Unless invited by the Court, the attorney whose
11 question has been objected to may not respond in the presence of the jury.

12 38. Because sidebar arguments concerning exhibits or anticipated testimony
13 inevitably disrupt the flow of testimony and complicate the task of the court reporter (if the
14 proceedings are being reported), and often result in an inordinate waste of the jury's time,
15 sidebars are greatly disfavored. Moreover, COVID-19 pandemic mitigation procedures may
16 require that jurors be excused from the courtroom if a sidebar is held. Therefore, counsel
17 should make every effort to avoid the need for sidebars by meeting and conferring with their
18 opposing counsel outside trial hours, and bringing unresolved issues to the Court's attention
19 before or after trial session.

20 **E. JURY INSTRUCTIONS AND VERDICT FORMS**

21 39. Counsel are jointly responsible for the preparation of a final set of jury
22 instructions and verdict forms after the Court rules on any disputed instructions or verdict
23 forms. The final set of jury instructions and verdict forms shall be in a format suitable for
24 submission to the jury during deliberations, and **shall not include any citations to authority,**
25 **identification of the party requesting the instruction or verdict, or any letterhead or**
26 **markings identifying the attorney or attorneys who prepared or printed them.** (Local Rule
27 3.174.). Counsel shall not ask the staff of the Court to print or photocopy the jury instructions or
28 verdict forms.

1 40. The Court will read instructions to the jury, except for concluding instructions,
2 before closing arguments.

3 **F. CLOSING ARGUMENTS**

4 41. If an attorney wishes to use graphics, demonstrative exhibits, or other visual aids
5 during their closing arguments, **including presentations created with PowerPoint or other**
6 **presentation software**, they must disclose such material to their opposing counsel no later than
7 8:30 am on the day that closing arguments are scheduled, so that any objections may be
8 identified and resolved. (Local Rule 3.180.) Failure to comply with this requirement may result
9 in the Court prohibiting the use of such material.

10 **G. CONDUCT OF COUNSEL**

11 42. At all times in Department 76, the conduct of counsel and the parties before the
12 Court and with each other shall be professional, polite, courteous, and respectful. Disrespectful
13 conduct or violation of the Court's orders may be punishable by sanctions, including contempt.
14 (Code Civ. Proc. §§ 128, 177.5; Penal Code § 166.)

15 DATED: FEB 10 2022



16 THE HONORABLE CHRISTOPHER K. LUI
17 JUDGE OF THE SUPERIOR COURT

18 rev. 12/8/2021

02/14/2022

TAB 10

AA0110

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AMENDED SUMMONS (CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO): ALKIVIADES DAVID, an Individual, a.k.a. ALKI DAVID; HOLOGRAM USA, INC., a California Corporation, a.k.a. HOLOGRAM USA PRODUCTIONS, INC., HOLOGRAM USA ENTERTAINMENT, INC., FILMON.TV, INC., FILMON.TV NETWORKS, INC. and FILMON.TV LA, INC.; SWISSX LABS AG, INC., a California Corporation, a.k.a. SWISSX LOUNGE and FILMONTV UK, LTD.; and DOES 1 through 150, Inclusive.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): JANE DOE, an Adult Individual Suing Under Anonymity Due to Privacy and Safety Concerns.

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Los Angeles Superior Court - Central Div.: Stanley Mosk
Courthouse, 111 North Hill Street, Los Angeles , CA 90012

CASE NUMBER:
(Número del Caso):
20STCV37498

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gary A. Dordick, Esq. SBN: 128008, Keith D. Griffin, Esq. SBN: 204388, Dustin Z. Moaven, Esq. SBN: 320939
DORDICK LAW CORPORATION 1122 Wilshire Blvd Los Angeles, CA 90017 TEL: (310) 551-0949, FAX: (855) 299-4444

DATE: Sherri R. Carter Executive Officer / Clerk of Court Clerk, by V. Delgadillo, Deputy (Fecha) 09/09/2022 (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

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TAB 11

AA0112

Document received by the CA 2nd District Court of Appeal.

TAB 12

AA0123

Document received by the CA 2nd District Court of Appeal.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 76

20STCV37498

JANE DOE vs ALKIVIADES DAVID, et al.

June 6, 2023

1:00 PM

Judge: Honorable Christopher K. Lui

Judicial Assistant: T. Le

Courtroom Assistant: S. Sato

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Dustin Moaven (conferenced in by Judicial Assistant) for Gary A. Dordick

For Defendant(s): Jillian P. Harris (via Teams) and Aaron Allan (via Teams) for Fred D. Heather

NATURE OF PROCEEDINGS: Informal Discovery Conference (IDC); Status Conference (General)

The matters are called for hearing.

The Informal Discovery Conference is held.

The Court gives guidance and recommendations to counsel.

The Court finds that the result of the conference is not resolved.

The parties are to meet and confer regarding potential dates for trial continuance.

If another Informal Discovery Conference is necessary, the parties may file a stipulation and [proposed] order requesting that one be set.

Notice is deemed waived.

TAB 13

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AA0125

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 76

20STCV37498

JANE DOE vs ALKIVIADES DAVID, et al.

June 16, 2023

8:30 AM

Judge: Honorable Christopher K. Lui

CSR: None

Judicial Assistant: T. Le

ERM: None

Courtroom Assistant: S. Sato

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Dustin Moaven (via Teams) for Gary A. Dordick

For Defendant(s): Jillian P. Harris (via Teams) for Fred D. Heather

NATURE OF PROCEEDINGS: Hearing on Ex Parte Application of Defendant, Alkiviades David, to Continue Trial

The matter is called for hearing.

After reviewing and considering the parties' Joint Ex Parte Application to Continue Trial, the Court issues the following ruling:

The Ex Parte Application to Continue Trial filed by Alkiviades David on 06/14/2023 is Granted.

Pursuant to oral stipulation, the Final Status Conference scheduled for 07/24/2023 is advanced to this date and continued to 05/13/2024 at 08:30 AM in Department 76 at Stanley Mosk Courthouse.

Pursuant to oral stipulation, the Jury Trial (10 Days) scheduled for 08/07/2023 is advanced to this date and continued to 05/28/2024 at 08:30 AM in Department 76 at Stanley Mosk Courthouse.

All discovery and motion cut-off dates shall be extended based on the new trial date.

Notice is waived.

TAB 14

AA0127

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 76

20STCV37498

JANE DOE vs ALKIVIADES DAVID, et al.

August 4, 2023

8:30 AM

Judge: Honorable Christopher K. Lui

CSR: None

Judicial Assistant: T. Le

ERM: None

Courtroom Assistant: S. Sato

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Brittney Ghadoushi (via Teams) for Gary A. Dordick

For Defendant(s): Jill Harris (via Teams) for Fred D. Heather

Other Appearance Notes:

NATURE OF PROCEEDINGS: Hearing on Ex Parte Application for an Order Advancing the Hearing on Plaintiff's Motion to Compel Deposition of Defendant Alkiviades David

The Court finds the matter suitable for decision in chambers without argument.

The matter is NOT called for hearing.

The Court has reviewed the ex parte application of Plaintiff Jane Doe for an order advancing the hearing on Plaintiff's motion to compel the deposition of Defendant Alkiviades David.

The ex parte application is DENIED for insufficient showing of irreparable harm or other exigent circumstances that require relief on an ex parte basis.

To the extent that Plaintiff's motion might be construed as a counterpart or reciprocal motion to Defendant's motion to compel set for hearing on August 23, 2023, the Court will consider at that time whether additional case management orders or procedures governing discovery are necessary.

On the Court's own motion, the time for the August 23, 2023 hearing on Defendant's motion to compel Plaintiff's deposition is moved from 8:30 a.m. to 10:00 a.m.

Also, the Court on its own motion orders a hearing on August 23, 2003 at 10:00 a.m. in Department 76 pursuant to Vesco v Superior Court of Ventura (2013) 221 Cal.App.4th 275.

Clerk to give notice.

Certificate of Mailing is attached.

TAB 15

AA0129

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1 FRED D. HEATHER - State Bar No. 110650
fheather@glaserweil.com
2 AARON P. ALLAN - State Bar No. 144406
aallan@glaserweil.com
3 JILLIAN P. HARRIS - State Bar No. 300119
jharris@glaserweil.com
4 GLASER WEIL FINK HOWARD
JORDAN & SHAPIRO LLP
5 10250 Constellation Boulevard, 19th Floor
Los Angeles, California 90067
6 Telephone: (310) 553-3000
Facsimile: (310) 556-2920
7

Electronically FILED by
Superior Court of California,
County of Los Angeles
8/21/2023 2:57 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By K. Hung, Deputy Clerk

8 Attorneys for Defendant
ALKIVIADES DAVID a.k.a. ALKI DAVID
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT
12

13 JANE DOE, an Adult Individual Suing Under
Anonymity Due to Privacy and Safety Concerns,
14

15 Plaintiffs,
16

17 v.
18

19 ALKIVIADES DAVID, an Individual, a.k.a.
20 ALKI DAVID; HOLOGRAM USA, INC., a
California Corporation, a.k.a. HOLOGRAM
21 USA PRODUCTIONS, INC., HOLOGRAM
USA ENTERTAINMENT, INC., FILMON.TV,
22 INC., FILMON.TV NETWORKS, INC. and
FILMON.TV LA, INC.; SWISSX LABS AG,
23 INC., a California Corporation, a.k.a. SWISSX
LOUNGE and FILMONTV UK, LTD.; and
24 DOES 1 through 150, Inclusive,
25
26
27
28

29 Defendants.

Case No. 20STCV37498
Unlimited Jurisdiction

Assigned to the Honorable Christopher K. L.
Department: 76

**DECLARATION OF DR. RICHARD
ROMANOFF**

Action Filed: September 30, 2020
Trial Date: August 7, 2023

DECLARATION OF DR. RICHARD ROMANOFF

I, RICHARD ROMANOFF, declare as follows:

1. I am a psychologist licensed by the California Board of Psychology [License No. PSY 9589]. I make this declaration in support of Defendant Alkiviades David’s (“Defendant”) Motion to Compel Further Responses relating to Plaintiff’s primary care doctors. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. I have been a licensed psychologist since 1986. I currently work as a forensic and clinical psychologist in private practice. I served as an Assistant and Associate Clinical Professor in the Departments of Psychiatry and/or Psychology at UCLA from 1987 through 2017. A true and correct copy of my current curriculum vitae is attached hereto as **Exhibit A**.

3. I may be retained by Defendant as an expert witness in the above-entitled action. As an expert witness, I would perform an independent mental examination of Plaintiff Jane Doe (“Plaintiff”) pursuant to Code of Civil Procedure § 2019.010. I have conducted in excess of 2800 forensic psychological evaluations in a wide variety of criminal and civil cases. One area of specialization involves the assessment of cases stemming from alleged sexual offenses. From 1999 through 2013 I served as a member of the California Department of Mental Health Sexually Violent Predator Panel. As a member of this Panel I conducted in excess of 350 evaluations pursuant to WIC 6600 et. seq. Approximately 100 of these cases involved individuals convicted of rape offenses. I have regularly reviewed transcripts and videotaped interviews provided by victims in these cases. I have testified in excess of 100 times as an expert witness in connection with evaluations I have conducted.

4. As part of my forensic psychological evaluations I regularly review records relevant to each particular case. Relevant contemporaneous records for past events are especially important including any records documenting medical and/or psychological evaluations or treatment from the relevant time period. These records can provide independent objective evidence of the presence or absence of medical and/or psychological conditions and difficulties that can facilitate a more accurate reconstruction of a particular person’s condition at that time. They can also facilitate the

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development of a more accurate and clearer understanding of a person’s current medical and/or psychological difficulties in the event that such difficulties are present.

5. Based on my education and experience in the field, a primary care physician’s records often contain important information directly relevant to a particular patient’s medical and or psychological response to a traumatic or psychologically stressful experience that occurred during that relevant time frame. For these reasons, if available, I would always request such records - along with other relevant records – in pursuit of conducting a maximally objective current evaluation effort.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on August 18, 2023, at Los Angeles, California.



RICHARD ROMANOFF

Document received by the CA 2nd District Court of Appeal.

EXHIBIT A

AA0133

Document received by the CA 2nd District Court of Appeal.

CURRICULUM VITA

Name: RICHARD ROMANOFF, Ph.D.
Office Address: 10780 Santa Monica Boulevard, Suite 460, Los Angeles, CA 90025-4749
Office Telephone: (310) 443-1570
Office Facsimile: (310) 443-1569
Date and Place of Birth: May 5, 1956, New York City
California License Number: PSY 9589

Academic Degrees

Ph.D. University of Illinois at Chicago; Clinical and Cognitive Psychology, 1981-1984.
NIMH Clinical Traineeship Grant
M.S. University of Illinois at Chicago; Clinical and Cognitive Psychology, 1978-1981.
NIMH Clinical Traineeship Grant
B.A. State University at New York at Stony Brook; Psychology and Biology, 1974-1978.

Positions

1988-present **Clinical and Forensic Psychologist;** Private Practice, Los Angeles, CA.
Responsibilities: Forensic psychological assessments in criminal and civil matters.
Member Los Angeles County Superior Court Psychiatric/Psychological Panel, Member California Department of Mental Health, Sexually Violent Predator Panel (1997-2013).
Expert Testimony. Individual psychotherapy.

1987-2017 **Associate Clinical Professor;** Department of Psychology, University of California at Los Angeles, Los Angeles, CA.
Responsibilities: Supervision and teaching of trainees in Clinical Psychology.

1988-2000 **Director, Student Counseling Service;** University of Judaism, Los Angeles, CA.
Responsibilities: Coordination of all psychological services to undergraduate and graduate students; consultation with administration, faculty and students on issues related to mental health; provision of direct psychological services.

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- 1987-1988 **Clinical Psychologist**; Family and Child Therapeutic Services, Torrance, CA.
Responsibilities: Inpatient and outpatient individual, family and group psychotherapy for adult and adolescent patients; psychological assessment.
- 1985-1987 **Community Mental Health Psychologist**; Conditional Release Program, Los Angeles, County Department of Mental Health, Los Angeles, CA.
Responsibilities: Evaluation of adults found to be Incompetent to Stand Trial, Not Guilty by Reason of Insanity and Mentally Disordered Sex Offenders; court testimony as expert witness.
- 1986-1987 **Computer Consultant**; Los Angeles, County Department of Mental Health, Los Angeles, CA.
Responsibilities: Development and implementation of multiple data base management and word processing applications on microcomputers. Staff training.
- 1983-1984 **Postdoctoral Fellow in Clinical Psychology**; Harbor/UCLA Medical Center, Department of Psychiatry.
Responsibilities: Assessment, diagnosis and treatment of adults in an acute care inpatient unit; adult, family, group and child outpatient psychotherapy; psychological assessment; consultation/liaison to medical clinics.
- 1982-1983 **Predoctoral Resident in Clinical Psychology**; Northwestern University Medical Center, Chicago, IL. Full APA Approval.
Responsibilities: Individual, family and group outpatient psychotherapy; individual and group therapy in the Northwestern Memorial Hospital Partial Hospitalization Program; psychological assessment; psychotherapy supervision.
- 1981-1982 **Psychotherapy Trainee**; University of Illinois Student Counseling Service, University of Illinois at Chicago, Chicago, IL.
Responsibilities: Individual and couples psychotherapy; academic counseling.
- 1980-1982 **Research Assistant**; University of Illinois at Chicago, Chicago, IL.
Responsibilities: Development and administration of materials and analysis of data in a twenty-year follow-up study on the development of aggression.
- 1980-1981 **Psychology Trainee**; Michael Reese Medical Center, Chicago, IL.
Responsibilities: Individual and group psychotherapy; psychological assessment.
- 1980 **Teaching Assistant**; University of Illinois at Chicago, Chicago, IL.
Responsibilities: Planning and teaching of undergraduate course titled, "Introduction to Psychometrics."
- 1979-1980 **Psychology Trainee**; Illinois Masonic Medical Center, Chicago, IL.
Responsibilities: Psychological assessment of adults and children.

- 1979-1980 **NIMH Clinical Trainee**; Illinois Institute for Developmental Disabilities, Chicago, IL.
Responsibilities: Psychological assessment of adults and children.
- 1979-1980 **Research Assistant**; University of Illinois at Chicago, Chicago, IL.
Responsibilities: Administration of materials and analysis of data in a six-nation cross-cultural study on the development of aggression.

Organizational Memberships

American Psychological Association (member Division 41)
National Register of Health Service Providers in Psychology
Past Member California Psychological Association (Past Vice-Chair, Ethics Committee)

Professional Activities

- February 2002 **Presenter**: What Does the Mental Health Expert Need to Conduct an Evaluation in a Capital Case and What Do we Give Him or Her? Presented at the CACJ/CPDA Capital Case Defense Seminar, Monterey, CA
- March 1998 **Presenter**: The Role of Skepticism in Reconstructing Mental States. Presented at the California Psychological Association Annual Convention, Pasadena, CA
- April 1997 **Presenter**: Ethical Issues in Criminal Forensic Evaluations. Presented at the California Psychological Association Annual Convention, San Jose, CA.
- March 1997 **Invited Workshop**: Introduction to the MMPI-2; Basic Interpretation Issues. Presented at the Office of the State Bar of California, Los Angeles, CA.
- March 1996 **Presenter**: Avoiding Ethical Errors in Forensic Psychology: Can a Forensic Psychologist Ever “Tell It Like It Really Is?” Presented at the California Psychological Association Annual Convention, San Diego, CA.
- August 1995 **Workshop Leader**: Guidelines for Assessment and Evaluation in Cases of Abuse and Neglect. Presented at the American Psychological Association Convention, New York, NY.
- February 1995 **Invited Address**: The Psychotherapist as Percipient Witness. Presented at the California Psychological Association Annual Convention, La Jolla, CA.
- June 1993 **Presenter**: Understanding Child Psychological Testing. Presented at the Eighteenth Annual Review in Child and Adolescent Psychiatry for the American Academy of Child and Adolescent Psychiatry, Beverly Hills, CA

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- 1986-1993 **Lecturer:** Lectures and advanced training of the evaluation and treatment of child sex-offenders. Audiences include psychiatrists, psychologists and social workers in various clinical settings.
- January 1987 **Workshop Leader:** Confrontive Psychotherapy with Character Disordered Patients. Presented at Gateways Satellite Mentally Disordered Offender's Program, Los Angeles, CA.
- September 1986 **Workshop Leader:** Interpretation of the MMPI with Forensic Populations. Presented at the Conditional Release Program, Los Angeles County.

Publications

- Romanoff, R. (In Press) Criminal Forensic Assessment. In S.F. Bucky (Ed.) The Comprehensive Textbook of Ethics and Law in the Practice of Psychology. New York: Plenum Publishing
- Romanoff, R. (1995) Telephone Therapy. The California Psychologist, 28 (10), 10.
- Eron, L.D., Huesmann, L.R., Dubow, E., Romanoff, R., & Warnick-Yarmell, P. (1987) Aggression and its correlates over 22 years. In D.H. Crowell, I.M. Evans, & C.R. O'Donnell (Eds.), Childhood Aggression and Violence; Sources of Influence, Prevention and Control. New York: Plenum Publishing.

Areas of Specialization

- 1) The evaluation and treatment of adults who manifest disturbances in effective impulse control and that often involve the abuse of alcohol and drugs, involvement in antisocial activities, interpersonal conflict, and frequent life crises.
- 2) Forensic evaluations and expert testimony in court (e.g., assessment of current and past mental states in criminal and civil matters, assessment of dangerousness, applications of psychological expertise to the legal setting).

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 10250 Constellation Boulevard, 19th Floor, Los Angeles, California 90067.

On August 21, 2023, I served the foregoing document(s) described as:

DECLARATION OF DR. RICHARD ROMANOFF

on the interested parties to this action by delivering thereof in a sealed envelope addressed to each of said interested parties at the following address(es):

SEE ATTACHED LIST

- (BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the above named addressee(s).
- (BY ELECTRONIC SERVICE)** by causing the foregoing document(s) to be electronically filed using the Court’s Electronic Filing System which constitutes service of the filed document(s) on the individual(s) listed on the attached mailing list.
- (BY E-MAIL SERVICE)** I caused such document to be delivered electronically via e-mail to the e-mail address of the addressee(s) set forth in the attached service list.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on August 21, 2023, at Los Angeles, California.



Veronica Shnayder

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SERVICE LIST

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Attorneys for Plaintiff JANE DOE

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TAB 16

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7

Electronically FILED by
Superior Court of California,
County of Los Angeles
8/21/2023 2:57 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By K. Hung, Deputy Clerk

8 Attorneys for Defendant
ALKIVIADES DAVID a.k.a. ALKI DAVID
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT
12

13 JANE DOE, an Adult Individual Suing Under
Anonymity Due to Privacy and Safety Concerns,
14

15 Plaintiffs,
16

17 v.
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19 ALKIVIADES DAVID, an Individual, a.k.a.
20 ALKI DAVID; HOLOGRAM USA, INC., a
California Corporation, a.k.a. HOLOGRAM
21 USA PRODUCTIONS, INC., HOLOGRAM
USA ENTERTAINMENT, INC., FILMON.TV,
INC., FILMON.TV NETWORKS, INC. and
FILMON.TV LA, INC.; SWISSX LABS AG,
INC., a California Corporation, a.k.a. SWISSX
LOUNGE and FILMONTV UK, LTD.; and
DOES 1 through 150, Inclusive,
22

23 Defendants.
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27
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Case No. 20STCV37498
Unlimited Jurisdiction

Assigned to the Honorable Christopher K. L.
Department: 76

**NOTICE OF MOTION AND MOTION TO
COMPEL FURTHER RESPONSES TO
INTERROGATORIES AND REQUEST
FOR SANCTIONS IN THE AMOUNT OF
\$6,525; DECLARATION OF JILLIAN P.
HARRIS**

*[Declaration of Dr. Richard Romanoff;
Separate Statement; Proposed Order filed
concurrently herewith]*

Reservation No. 258401690947
Date: September 13, 2023
Time: 8:30 a.m.

Action Filed: September 30, 2020
Trial Date: August 7, 2023

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE that on September 13, 2023, at 8:30 a.m., or as soon thereafter
3 as the matter may be heard in Department 76 of the above-mentioned Court, located at 111 North
4 Hill Street, Los Angeles, California 90012, Defendant Alkiviades David (“Defendant”) will and
5 hereby does move the court for an order compelling Plaintiff Jane Doe (“Plaintiff”) provide further
6 responses to Special Interrogatories, Set One, specifically Nos. 34-35 regarding Plaintiff’s medical
7 providers and related institutions. This motion is made pursuant to Code of Civil Procedure (“CCP”)
8 § 2030.300 on the grounds that Plaintiff has failed, without justification, to serve proper responses
9 to these interrogatories. To the extent the Court finds that Plaintiff has waived her right to privacy
10 with respect to her primary care records, Defendant requests guidance from the Court to avoid
11 further unnecessary motion practice based on this issue.

12 Notice is additionally given that Defendant will request that the Court award monetary
13 sanctions against Plaintiff and in favor of Defendant in the sum of \$6,525 pursuant to CCP §§
14 2023.010 *et seq.*, and CCP § 2030.300.

15 This motion is further based upon this notice, the attached Memorandum of Points and
16 Authorities, the Declarations of Jillian P. Harris and Dr. Richard Romanoff filed herewith, the
17 concurrently filed Separate Statement, the records and files in this action, and such further evidence
18 and argument as may be presented prior to or at the time of hearing on the motion.

19
20 DATED: August 21, 2023

GLASER WEIL FINK HOWARD
JORDAN & SHAPIRO LLP

21
22 By: /s/ Jillian P. Harris
23 FRED D. HEATHER
24 AARON P. ALLAN
25 JILLIAN P. HARRIS
26 Attorneys for Defendant
27 ALKIVIADES DAVID a.k.a. ALKI DAVID
28

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Jane Doe (“Plaintiff”) has haled Defendant Alkiviades David (“Defendant”) into court accusing him of causing her various mental and emotional ailments, placing her mental state in dispute. Plaintiff cannot now deprive Defendant of routine discovery—the identification of witnesses with potentially relevant information about her mental state. This Motion seeks an order compelling Plaintiff to provide the names of her primary care physicians and institutions in response to Special Interrogatories. Despite a prior agreement to amend her responses and provide this information, and despite ample efforts to meet and confer, Plaintiff ultimately refused to provide this essential discovery on privacy grounds.

Plaintiff seeks emotional distress damages from Defendant in connection with each of her ten claims for rape, sexual harassment, discrimination, retaliation, intentional infliction of emotional distress, false imprisonment, violation of the Ralph Act, violation of the Bane Act, failure to prevent, and wrongful termination. Plaintiff describes her injuries as “extreme emotional distress, mental anguish and discomfort, as well as severe anxiety, trepidation, apprehension, panic, dread, fear, worry, embarrassment, humiliation and shame” as well as “loss, extreme shame, mortification . . . severe mental and emotional distress as well as substantial anguish and a high level of anxiety.” First Amended Complaint (“FAC”) ¶¶ 73, 78, 84, 90, 96, 102, 107, 112, 118, 123.

Plaintiff should be ordered to provide the contact information for her family doctors and treating institutions because Plaintiff put her mental state squarely at issue in this case. Because Plaintiff’s counsel has represented that Plaintiff did not seek any mental health treatment, Plaintiff’s primary care doctors provide the only available source of contemporaneous medical information corroborating the existence and extent of Plaintiff’s allegedly severe emotional distress. Harris Dec. ¶ Basic information like the identity of witnesses with potentially relevant information is a fundamental component of civil discovery and all doubts as to relevance should generally be resolved in favor of permitting the discovery. Code of Civil Procedure (“CCP”) § 2017.010. Additionally, Defendant’s expert will need the records from Plaintiff’s primary care providers to complete his independent mental examination of Plaintiff.

1 As a result of Plaintiff’s willful refusal to serve full and complete verified answers to these
 2 interrogatories, Defendant is unable to proceed with all meaningful discovery, proceed with mental
 3 examinations, or effectively defend this action and prepare for trial. Plaintiff should be compelled to
 4 provide the contact information for her family doctors and related medical institutions. Because this
 5 basic information about witness identities is a routine aspect of discovery, Plaintiff’s failure to
 6 provide it justifies the imposition of sanctions to compensate Defendant for the time spent on this
 7 unnecessary motion.

8 To the extent the Court finds that Plaintiff has waived her right to privacy with respect to her
 9 primary care records, Defendant requests guidance from the Court to avoid further unnecessary
 10 motion practice based on this issue.

11 **II. RELEVANT FACTS**

12 On April 28, 2023, Plaintiff served responses to Defendant’s Special Interrogatories, Set
 13 One. Harris Dec. ¶ 2, Exh. A. On June 30, 2023, the parties had a meet and confer call regarding
 14 Plaintiff’s deficient responses. *Id.* at ¶ 3. During that discussion, Plaintiff’s counsel agreed to
 15 provide amended responses to various interrogatories, including Nos. 34-35. *Id.* These
 16 interrogatories seek the identity of all of Plaintiff’s medical care providers and associated medical
 17 care institutions during the relevant time period during which she alleges emotional and physical
 18 injuries from April 1, 2015 to the present. *Id.*; *see also id.* at Exh. A. Plaintiff identified Planned
 19 Parenthood as the only medical care provider or institution that Plaintiff visited during the relevant
 20 8-year period. *Id.* During subsequent meet and confer efforts, Plaintiff’s counsel revealed that there
 21 were other providers but indicated Plaintiff would likely move to quash any subpoenas to Plaintiff’s
 22 medical providers absent a “first look” agreement whereby Plaintiff’s counsel would have the
 23 opportunity to redact any medical records before they were provided to Defendant. *Id.* Counsel for
 24 the parties discussed this potential procedure but did not reach an agreement at that time. *Id.*; *see*
 25 *also id.* at Exh. C.

26 On July 20, 2023, Plaintiff served her amended responses to Defendant’s Special
 27 Interrogatories, Set One but Plaintiff did not amend Nos. 34-35 to identify the other medical
 28 providers, despite her previous agreement to do so. *Id.* at ¶ 4, Exh. D. Plaintiff also served

1 verifications to her initial set of responses on July 20, 2023. *Id.* at ¶ 5, Exh. E. On August 7, 2023
 2 the parties had further meet and confer calls to discuss Plaintiff’s refusal to amend. *Id.* at ¶ 7.
 3 Plaintiff’s counsel represented that, in addition to the previously identified Planned Parenthood,
 4 Plaintiff visited three other medical providers but she did not visit any mental health professionals
 5 during the relevant time period. *Id.* Plaintiff visited one doctor in connection with a sinus issue and
 6 second doctor in connection with a gastrointestinal issue. *Id.* Plaintiff’s counsel also explained that
 7 Plaintiff visited with her family doctor for “regular” issues but did not elaborate. *Id.* Plaintiff’s
 8 counsel refused to provide the names of any of these medical providers. *Id.* In a good faith effort to
 9 compromise, Defendant agreed to limit the scope of the interrogatories to Plaintiff’s primary care or
 10 family doctors. *Id.* Plaintiff’s counsel refused to amend Plaintiff’s responses to provide the identities
 11 of these witnesses on privacy grounds. *Id.* Defendant’s counsel also inquired as to whether Plaintiff
 12 would be open to a “first look” agreement with respect to records from Plaintiff’s family doctors.
 13 Plaintiff’s counsel flatly rejected this request and stated that Plaintiff would not provide even the
 14 identity of Plaintiff’s family doctors on privacy grounds. *Id.*

15 **III. PLAINTIFF SHOULD BE REQUIRED TO IDENTIFY HER FAMILY DOCTOR**

16 **A. The Identity of Witnesses Is Routine Discovery**

17 Proper discovery includes that which “might possibly lead to the discovery of admissible
 18 evidence or information which would be helpful in preparing for the trial of a particular cause.”
 19 *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 781 (1978). “California’s pretrial discovery procedures are
 20 designed to minimize the opportunities for fabrication and forgetfulness, and to eliminate the need
 21 for guesswork about the other side’s evidence, with all doubts about discoverability resolved in
 22 favor of disclosure.” *Glenfed Dev. Corp. v. Sup. Ct.*, 53 Cal. App. 4th 1113, 1119 (1997).

23 Discovery is permitted regarding any matter, not privileged, that is relevant to the subject
 24 matter of the action or appears reasonably calculated to lead to the discovery of admissible evidence.
 25 CCP § 2017.010. More specifically, **a party may discover the identity and location of witnesses**
 26 **having knowledge of any discoverable matter.** *Id.*

27 The identity and contact information of potential witnesses is within the scope of discovery
 28 and not subject to privacy protection here. As stated in *Puerto v. Sup. Ct.*, 158 Cal. App. 4th 1242

1 1249-1250 (2008), “[c]entral to the discovery process is the identification of potential witnesses.
 2 The disclosure of the names and addresses of potential witnesses is a routine and essential part of
 3 pretrial discovery. Indeed, our discovery system is founded on the understanding that parties use
 4 discovery to obtain names and contact information for possible witnesses as the starting point for
 5 further investigations.”

6 Defendant seeks routine discovery that does not impair Plaintiff’s right to privacy. *Id.* at
 7 1253-54 (“the requested information, while personal, is not particularly sensitive, as it is merely
 8 contact information, not medical or financial details, political affiliations, sexual relationships, or
 9 personnel information”). Accordingly, the information requested in Defendant’s Special
 10 Interrogatory Nos. 34-35 is both relevant and discoverable.

11 **B. The Identity of Plaintiff’s Family Doctor Is Not Private Information Because**
 12 **Plaintiff Waived Any Right to Privacy with Respect to This Information**

13 Even assuming *arguendo* that Plaintiff had a potential right of privacy with respect to the
 14 identity of her family doctors, any such right was waived when she filed this action seeking
 15 damages for severe emotional distress. While a party may have a right of privacy under the
 16 California Constitution (Cal. Const. Art 1, § 1) in some instances, the protection is qualified and not
 17 absolute: The court may order disclosure to the extent necessary to serve a “compelling state
 18 interest.” *Britt v. Sup. Ct.*, 20 Cal. 3d 844, 855-856 (1978).

19 Particularly, a party that sues for personal injuries implicitly waives her right of privacy with
 20 respect to discovery that is directly relevant to the claims and essential to the fair resolution of the
 21 lawsuit. *Vinson v. Sup. Ct.*, 43 Cal. 3d 833, 842 (1987) (by claiming emotional distress from sexual
 22 harassment, plaintiff may waive her privacy as to present mental or emotional condition).
 23 Additionally, medical records pertaining to an unrelated condition are discoverable on a showing of
 24 good cause if the condition is relevant to the issue of proximate causation. Evi. Code § 999; *Slagle*
 25 *v. Sup. Ct.*, 211 Cal. App. 3d 1309, 1314-1315 (1989) (plaintiff’s history of eye treatment was
 26 discoverable because it was relevant to the cause of an auto accident with good cause shown by
 27 information that plaintiff was blind six months before the accident).

28 In *Vinson*, an employee sued her employer for sexual harassment. 43 Cal. 3d at 836. When

1 the employer moved to compel a mental examination, the employee opposed the motion on privacy
2 grounds. *Id.* The Supreme Court ruled that the employee’s right of privacy did not prevent her from
3 appearing for a mental examination because she put her mental state directly at issue:

4 In the case at bar, plaintiff haled defendants into court and accused them of causing
5 her various mental and emotional ailments. Defendants deny her charges. As a result,
6 the existence and extent of her mental injuries is indubitably in dispute. In addition,
7 by asserting a causal link between her mental distress and defendants' conduct,
8 plaintiff implicitly claims it was not caused by a preexisting mental condition,
9 thereby raising the question of alternative sources for the distress. We thus conclude
10 that her mental state is in controversy.

11 *Id.* at 841. Similarly here, Plaintiff’s right of privacy does not protect the name of her family
12 doctor. Defendant is entitled to explore whether other unrelated conditions are the proximate cause
13 of her emotional distress. The reasonably likely source of this information is Plaintiff’s primary care
14 physician given that she did not see any mental health professionals. Moreover, Plaintiff is seeking
15 emotional distress damages in connection with events that occurred over a four-year period.

16 Defendant is entitled to test the sufficiency of her claims. A primary care physician would be the
17 first place, and the only place, that Plaintiff would report things like sleeplessness or anxiety and
18 obtain prescriptions for such conditions. Thus, if Plaintiff did not report any symptoms consistent
19 with extreme and severe emotional distress during the four-year period, that fact would also be
20 directly relevant to Defendant’s defense.

21 Additionally, Defendant will seek a mental examination of Plaintiff pursuant to CCP §
22 2019.010. Harris Dec. ¶ 11. Plaintiff’s primary care physician records are necessary for Defendant’s
23 expert to complete this examination because relevant contemporaneous records for past events are
24 especially important, including any records documenting medical and/or psychological evaluation
25 or treatment from the relevant time period. *See* Romanoff Dec. ¶ 4. These records can provide
26 independent objective evidence of the presence or absence of medical and/or psychological
27 conditions and difficulties that can facilitate a more accurate reconstruction of Plaintiff’s condition
28 at that time. *See id.* They can also facilitate the development of a more accurate and clearer
understanding of Plaintiff’s current medical and/or psychological difficulties in the event that such
difficulties are present. *See id.* A primary care physician’s records often contain important
information directly relevant to a particular patient’s medical and or psychological response to a

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1 traumatic or psychologically stressful experience that occurred during that relevant time frame. *Id.*
 2 at ¶ 5. For these reasons, Defendant’s expert needs the records from Plaintiff’s primary care
 3 physician—along with other relevant records—in pursuit of conducting a maximally objective
 4 current evaluation effort. *Id.* Defendant cannot obtain these necessary records without first learning
 5 the name of Plaintiff’s primary care physicians.

6 Defendant recognizes that Plaintiff does not waive her right to privacy for her lifetime of
 7 medical records unrelated to her injury. Harris Dec. ¶ 8. It is for that reason that Defendant has
 8 limited the information sought by this Motion to Plaintiff’s primary care physician or “family”
 9 doctor. *Id.* During the meet and confer process, Plaintiff’s counsel explained that Plaintiff also
 10 obtained treatment from doctors in connection with sinus and gastrointestinal issues. *Id.* at ¶ 7.
 11 Defendant is not seeking disclosure of these witnesses because those conditions are not directly
 12 relevant to Plaintiff’s claims in this lawsuit.

13 The names of Plaintiff’s primary care providers and treating institutions are reasonably
 14 likely to lead to the discovery of admissible evidence because Plaintiff put her mental state at issue
 15 in this case. Because Plaintiff has not obtained any mental health-related treatment during the
 16 relevant time period, her primary care physician is a reasonably likely location for evidence of
 17 Plaintiff’s mental state.

18 **IV. DEFENDANT IS ENTITLED TO SANCTIONS FOR PLAINTIFF’S REFUSAL TO**
 19 **PROVIDE ROUTINE WITNESS INFORMATION**

20 This Court is authorized to order sanctions against a party that misuses the discovery process
 21 by making an unmeritorious objection to discovery and unsuccessfully opposing a motion to
 22 compel, without substantial justification. CCP § § 2023.010, § 2023.030. Additionally, “[t]he court
 23 shall impose a monetary sanction . . . against any party, person, or attorney who unsuccessfully
 24 makes or opposes a motion to compel a further response to interrogatories, unless it finds that the
 25 one subject to the sanction acted with substantial justification or that other circumstances make the
 26 imposition of the sanction unjust.” CCP § 2030.300(d) (emphasis added).

27 Here, Plaintiff has refused to provide basic information regarding the identity of potential
 28 witnesses, which is information expressly discoverable under the Discovery Act. Plaintiff contends

1 that her medical information is private, but she offers no legal support for her unreasonable position
 2 that the names of her medical providers are private. The heart of the dispute is whether Defendant is
 3 entitled to Plaintiff’s primary care medical *records*. As a result of Plaintiff’s unjustified resistance to
 4 providing the names of her medical care providers, Defendant has been forced to file this
 5 unnecessary motion, which will undoubtedly be followed by another motion that actually seeks the
 6 production of those records, once Defendant serves subpoenas to the identified providers. Harris
 7 Dec. ¶ 9. A motion to quash or protective order motion related to the records themselves should be
 8 the only law and motion on this topic. It is not reasonable to refuse to provide the names of the
 9 doctors where Plaintiff has no reasonable expectation of privacy in the names of her physicians, and
 10 where providing those names of primary care or family doctors would not reveal anything in
 11 particular about Plaintiff’s medical conditions. *See Cnty. of Alameda v. Sup. Ct.*, 194 Cal. App. 3d
 12 254, 258-261 (1987) (in context of revealing patient’s identity). For that reason, Defendant seeks
 13 sanctions against Plaintiff in the amount of \$6,525, which represents the amount of time spent
 14 preparing these papers, replying to the opposing papers, and attending the hearing. Harris Dec. ¶

15 **V. THIS MOTION IS TIMELY**

16 A motion to compel further responses to interrogatories must be made within 45 days after
 17 service of *verified* responses. CCP § 2030.300(c). When a party does not provide verifications
 18 signed under oath as required, the answers in the response are considered no response at all or as
 19 they were served after the deadline to respond. *See, e.g., Steven M. Garber & Assocs. v.*
 20 *Eskandarian*, 150 Cal. App. 4th 813, 817 n.4 (2007) (unverified answers to interrogatories).

21 This Motion is timely because Plaintiff served her verification to Special Interrogatories,
 22 One on July 20, 2023 via email. Harris Dec. ¶ 5, Exh. E. Thus, the deadline to file this motion to
 23 compel is September 6, 2023, including the additional statutory time based on email service.

24 **VI. CONCLUSION**

25 Defendant respectfully requests that this Court compel Plaintiff to provide further responses
 26 to Special Interrogatory Nos. 34-35 and award sanctions in favor of Defendant and against Plaintiff
 27 in the amount of \$6,525.

28 To the extent the Court finds that Plaintiff has waived her right to privacy with respect to her

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primary care records, Defendant requests guidance from the Court to avoid further unnecessary motion practice based on this issue.

DATED: August 21, 2023

GLASER WEIL FINK HOWARD
JORDAN & SHAPIRO LLP

By: /s/ Jillian P. Harris
FRED D. HEATHER
AARON P. ALLAN
JILLIAN P. HARRIS
Attorneys for Defendant ALKIVIADES DAVID

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DECLARATION OF JILLIAN P. HARRIS

I, JILLIAN P. HARRIS, declare as follows:

1. I am an attorney licensed to practice before all of the courts in the State of California I am an individual and an associate of in the above-entitled action. I am an attorney at Glaser Weil Fink Howard Jordan & Shapiro, LLP, counsel for Defendant Alkiviades David (“Defendant”). I make this declaration in support of Defendant’s Motion to Compel Further Responses to Special Interrogatories, Set One. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. On April 28, 2023, Plaintiff served responses to Defendant’s Special Interrogatories, Set One. A true and correct copy of Plaintiff’s relevant responses is attached hereto as **Exhibit A**. Because Plaintiff’s response were deficient and she did not serve verifications, I sent Plaintiff’s counsel a meet and confer letter on June 23, 2023. A true and correct copy of the meet and confer letter is attached hereto as **Exhibit B**.

3. On June 30, 2023, the parties met and conferred regarding Plaintiff’s deficient responses and missing verifications. During that discussion, Plaintiff’s counsel agreed to provide amended responses to various interrogatories, including Nos. 34-35. These interrogatories seek the identity of all of Plaintiff’s medical care providers and associated medical care institutions during the relevant time period during which she alleges emotional and physical injuries from April 1, 2015 to the present. Plaintiff identified Planned Parenthood as the only medical care provider or institution that Plaintiff visited during the relevant 8-year period. Plaintiff’s counsel revealed that there were other providers but indicated Plaintiff would likely move to quash any subpoenas to Plaintiff’s medical providers absent a “first look” agreement whereby Plaintiff’s counsel would have the opportunity to redact any medical records before they were provided to Defendant. Counsel for the parties discussed this potential procedure but did not reach an agreement at that time. A true and correct copy of the confirmatory emails exchanged between the parties, with relevant highlighting is attached hereto as **Exhibit C**.

4. On July 20, 2023, Plaintiff served her amended or “further” responses to Defendant’s Special Interrogatories, Set One but Plaintiff did not amend Nos. 34-35, despite her previous

1 agreement to do so. A true and correct copy of Plaintiff’s amended responses is attached hereto as
2 **Exhibit D.**

3 5. On July 20, 2023, Plaintiff also served the verification to her initial responses to
4 Special Interrogatories, Set One for the first time. A true and correct copy of Plaintiff’s relevant
5 verification is attached hereto as **Exhibit E.**

6 6. On August 4-7, 2023, the parties meet and conferred via email regarding Plaintiff’s
7 refusal to provide her family doctors’ information. A true and correct copy of the parties’ email
8 exchange is attached hereto as **Exhibit F.**

9 7. On August 7, 2023, the parties had multiple meet and confer calls to discuss
10 Plaintiff’s refusal to amend. Plaintiff’s counsel, Justin Kirk, represented that, in addition to the
11 previously identified Planned Parenthood, Plaintiff visited three other medical providers but
12 Plaintiff did not visit any mental health professionals during the relevant time period. Plaintiff
13 visited one doctor in connection with a sinus issue and second doctor in connection with a
14 gastrointestinal issue. Plaintiff’s counsel also explained that Plaintiff visited with her family doctor
15 for “regular” issues but did not elaborate. Plaintiff’s counsel refused to provide the names of any of
16 these medical providers. In a good faith effort to compromise, Defendant agreed to limit the scope
17 of the interrogatories to Plaintiff’s primary care or family doctors. Plaintiff’s counsel refused to
18 amend Plaintiff’s responses to provide the identities of these witnesses on privacy grounds.
19 Defendant’s counsel also inquired as to whether Plaintiff would be open to a “first look” agreement
20 with respect to records from Plaintiff’s family doctors. Plaintiff’s counsel flatly rejected this request
21 and stated that Plaintiff would not provide even the identity of Plaintiff’s family doctors on privacy
22 grounds. A true and correct copy of the parties’ follow up email exchange is attached hereto as
23 **Exhibit G.**

24 8. Defendant recognizes that Plaintiff does not waive her right to privacy for her
25 lifetime of medical records unrelated to her injury. It is for that reason that Defendant has limited the
26 information sought by this motion to Plaintiff’s primary care physician or “family” doctor.

27 9. Plaintiff has refused to provide basic information regarding the identity of potential
28 witnesses, which is information expressly discoverable under the Discovery Act. The heart of the

1 dispute is whether Defendant is entitled to Plaintiff’s primary care medical records. As a result of
2 Plaintiff’s unjustified resistance to providing the names of her medical care providers, Defendant
3 has been forced to file this unnecessary motion, which will undoubtedly be followed by another
4 motion that actually seeks the production of those records, once Defendant serves subpoenas to the
5 identified providers. A motion to quash or protective order motion related to the records themselves
6 should be the only law and motion on this topic. It is not reasonable to refuse to provide the names
7 of the doctors where Plaintiff has no reasonable expectation of privacy in the names of her
8 physicians and providing those names of primary care or family doctors would not reveal anything
9 in particular about Plaintiff’s medical conditions.

10 10. As the result of Plaintiff’s refusal to provide further answers to Defendant’s Special
11 Interrogatories, Set One, which further responses are necessary in order to proceed with mental
12 examinations and effectively prepare for trial, I have had to write letters and make phone calls in
13 attempts to resolve these issues. I have also been compelled to make the instant motion. I have
14 expended approximately 5 hours drafting of this motion. I expect to spend another 4 hours drafting
15 any reply that might be necessitated and appearing at the hearing of this motion. My hourly billing
16 rate for this matter is \$725. Therefore, Defendant requests that Plaintiff be ordered to pay monetary
17 sanctions to in the sum of \$6,525.

18 11. Defendant will seek a mental examination of Plaintiff pursuant to CCP § 2019.010
19 Defendant may engage Dr. Richard Romanoff as his expert to conduct the examination. A
20 declaration from Dr. Romanoff is filed concurrently herewith.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct, and that this declaration is executed on August 21, 2023, at Los Angeles,
23 California.

24 /s/Jillian P. Harris
25 JILLIAN P. HARRIS
26
27
28

Document received by the Court of Appeal. 2nd District Court of Appeal.

EXHIBIT A

AA0154

Document received by the CA 2nd District Court of Appeal.

1 **EBBY S. BAKHTIAR, ESQ.** (SBN: 215032)
LIVINGSTON • BAKHTIAR
2 3435 WILSHIRE BOULEVARD, SUITE 1669
LOS ANGELES, CALIFORNIA 90010
3 **TEL:** (213) 632-1550 • **FAX:** (213) 632-3100
4 **GARY A. DORDICK, ESQ.** (SBN: 128008)
DORDICK LAW CORPORATION
5 1122 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90017
6 **TEL:** (310) 551-0949 • **FAX:** (855) 299-4444

7 Attorneys for Plaintiff

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

11 JANE DOE, an Adult Individual Suing Under)
Anonymity Due to Privacy and Safety Concerns)

12)
13 **PLAINTIFF,**)

14 vs.)

15 ALKIVIADES DAVID, an Individual, a.k.a.)
16 ALKI DAVID; HOLOGRAM USA, INC., a)
California Corporation, a.k.a. HOLOGRAM)
17 USA PRODUCTIONS, INC., HOLOGRAM)
USA ENTERTAINMENT, INC., FILMON.TV,)
18 INC., FILMON.TV NETWORKS, INC. and)
FILMON.TV LA, INC.; SWISSX LABS AG,)
19 INC., a California Corporation, a.le.a. SWISSX)
LOUNGE and FILMONTV UK, LTD.; and)
DOES 1 through 150, Inclusive,)

20 **DEFENDANTS.**)
21)

CASE No.: 20STCV37498

**PLAINTIFF’S RESPONSES TO
DEFENDANT ALKIVIADES
DAVID’S SPECIAL
INTERROGATORIES**

SET NUMBER ONE (1)

22 **PROPOUNDING PARTY : DEFENDANT ALKIVIADES DAVID**

23 **RESPONDING PARTY : PLAINTIFF JANE DOE**

24 **SET NUMBER : ONE (1)**

25 COMES NOW PLAINTIFF AND RESPONDS AS FOLLOWS:

26 ///

27 ///

28 ///

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 33:**

2 **OBJECTION.** This Interrogatory seeks information which is properly the subject of expert
3 legal opinion as to which this Responding Party is not qualified or competent to render, thereby
4 constituting premature discovery of expert witness opinion in violation of *Cal Code of Civ. Proc.*
5 §§ 2034.210 - 2034.310. As it is well known, contention interrogatories, such as the instant
6 Interrogatory, cannot be used to require a layperson, such as this Responding Party, to furnish
7 responses to matters involving standard of care, causation, special skill, special knowledge, or
8 special expertise on which expert testimony may be required at trial. (*See Bockrath v. Aldrich Chem.*
9 *Co., Inc.* (1999) 21 Cal.4th 71, 84.) Finally, this Interrogatory is also compound, complex,
10 conjunctive and/or disjunctive, containing multiple sub-parts in violation of *Cal Code of Civ. Proc.*
11 § 2030.060(f). Nevertheless, subject to, and without waiving the foregoing objections, and based
12 on Responding Party's understanding of the discovery, Responding Party responds as follows: The
13 rape she was subjected to has caused Responding Party to suffer a great deal of emotional distress
14 and anguish, humiliation, post-traumatic stress, depression, loss of appetite, nightmares, turbulent
15 bouts of anger and rage, anxiety, sadness, fear and other forms of emotional distress, depending on
16 the triggers that remind her of what she endured. This "injury" was extremely severe and continues
17 past the present day. However, since this Responding Party's investigation and discovery are
18 continuing, this Responding Party does not have sufficient facts available to her, at this time, to
19 furnish a complete response to this Interrogatory; therefore, this Responding Party hereby reserves
20 the right to amend this response in the future, once additional information/facts have been
21 discovered.

22 **SPECIAL INTERROGATORY NO. 34:**

23 IDENTIFY every MEDICAL CARE PROVIDER (The term "MEDICAL CARE
24 PROVIDER" includes all persons who provide any type of health care, mental health care, or
25 rehabilitation care on a professional basis, such as physicians, surgeons, nurses, paramedics, physical
26 therapists, rehabilitation therapists, chiropractors, podiatrists, psychiatrists, psychologists, and mental
27 health counselors and therapists) who examined, diagnosed, treated, or otherwise provided
28 MEDICAL CARE (The term "MEDICAL CARE" includes any medical care, aid, treatment,

1 comfort, diagnosis, prognosis, or examination by any medical care provider or other person for any
2 INJURY, including any mental, emotional, or psychological illness) to YOU for the period April 1,
3 2015 to the present.

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 34:**

5 **OBJECTION.** Responding Party objects that the term “Medical Care Provider” is vague
6 and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead to an improper
7 response due to its ambiguity and vagueness. Responding Party further objects to this Interrogatory
8 on the ground that it seeks the disclosure of information protected by Responding Party’s
9 Constitutional Right to Privacy contained in Article 1, § 1 of the Constitution of the State of
10 California. In this regard, California case authority proscribes fishing expeditions into a plaintiff’s
11 medical records solely on the basis of speculation that something of interest may surface. (*See*
12 *Vinson v. Sup.Ct.* (1987) 43 Cal.3d 833, 840; *Mendez v. Sup.Ct.* (1988) 206 Cal.App.3d 557, 571;
13 *Tylo v. Sup.Ct.* (1997) 55 Cal.App.4th 1379, 1387.) In this regard, simply because this Responding
14 Party has filed a lawsuit does not signal the his waiver of his right to privacy or the physician-patient
15 privilege regarding unrelated matters. (*See, e.g., In Re Lifschutz* (1970) 2 Cal.3d 415, 435; *see also*
16 *Britt vs. Sup.Ct.* (1978) 20 Cal.3d 844, 864; and *Vinson*, 43 Cal.3d at 841-842.) In fact, it has been
17 concluded that the “[d]iscovery of constitutionally protected information is on a par with discovery
18 of privileged information **and is more narrowly proscribed than traditional discovery.**” (*Tylo*,
19 55 Cal.App.4th at 1387.) (Emphasis added.) Moreover, this Interrogatory also appears to
20 impermissibly and prematurely seeks the identities of expert witnesses and expert witness materials.
21 Accordingly, since the information sought by this Request is governed by *Code of Civ. Proc.* §§
22 2034.210 - 2034.310, it is presently protected by the attorney work-product privilege. (*See*
23 *Rodriguez v. McDonnell Douglas Corp.* (1978) 87 Cal.App.3d 626, 647-648; *Scotsman Mfg. v.*
24 *Sup.Ct.* (1966) 242 Cal.App.2d 527, 530; *Williamson v. Sup.Ct.* (1978) 21 Cal.3d 829, 834; *Mack*
25 *v. Sup.Ct.* (1968) 259 Cal.App.2d 7,10; *Nacht & Lewis Arch. vs. Sup.Ct.* (1996) 47 Cal.App.4th 214.)
26 Nevertheless, subject to, and without waiving the foregoing objections, and assuming this
27 Interrogatory is seeking non-expert witness related information and relating to the injuries
28 Responding Party sustained, Responding Party responds as follows: Planned Parenthood, 1014 ½

1 N Vermont Ave, Los Angeles, CA 90029, (800) 576-5544. However, since this Responding Party's
2 investigation and discovery are continuing, this Responding Party does not have sufficient facts
3 available to her, at this time, to furnish a complete response to this Interrogatory; therefore, this
4 Responding Party hereby reserves the right to amend this response in the future, once additional
5 information/facts have been discovered.

6 **SPECIAL INTERROGATORY NO. 35:**

7 IDENTIFY each MEDICAL CARE INSTITUTION (The term "MEDICAL CARE
8 INSTITUTION" includes hospitals, health care centers, rape crisis clinics, counseling centers,
9 trauma centers, health maintenance organizations, rehabilitation facilities, medical clinics, and
10 associations of MEDICAL CARE PROVIDERS in any form) in which or from which YOU received
11 MEDICAL CARE for the INJURY.

12 **RESPONSE TO SPECIAL INTERROGATORY NO. 35:**

13 **OBJECTION.** Responding Party objects that the term "Medical Care Institution" is vague
14 and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead to an improper
15 response due to its ambiguity and vagueness. Moreover, this Interrogatory also appears to
16 impermissibly and prematurely seeks the identities of expert witnesses and expert witness materials.
17 Accordingly, since the information sought by this Request is governed by *Code of Civ. Proc.* §§
18 2034.210 - 2034.310, it is presently protected by the attorney work-product privilege. (*See*
19 *Rodriguez v. McDonnell Douglas Corp.* (1978) 87 Cal.App.3d 626, 647-648; *Scotsman Mfg. v.*
20 *Sup.Ct.* (1966) 242 Cal.App.2d 527, 530; *Williamson v. Sup.Ct.* (1978) 21 Cal.3d 829, 834; *Mack*
21 *v. Sup.Ct.* (1968) 259 Cal.App.2d 7,10; *Nacht & Lewis Arch. vs. Sup.Ct.* (1996) 47 Cal.App.4th 214.)
22 Nevertheless, subject to, and without waiving the foregoing objections, and assuming this
23 Interrogatory is seeking non-expert witness related information and relating to the injuries
24 Responding Party sustained, Responding Party responds as follows: Planned Parenthood, 1014 1/2
25 N Vermont Ave, Los Angeles, CA 90029, (800) 576-5544. However, since this Responding Party's
26 investigation and discovery are continuing, this Responding Party does not have sufficient facts
27 available to her, at this time, to furnish a complete response to this Interrogatory; therefore, this
28 Responding Party hereby reserves the right to amend this response in the future, once additional

1 information/facts have been discovered.

2

3

LIVINGSTON • BAKHTIAR

4

5 Dated: 4/28/23

6

EBBY S. BAKHTIAR
ATTORNEY FOR PLAINTIFF,
JANE DOE

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L•B 27
LAW 28

Document received by the CA 2nd District Court of Appeal.

1 PROOF OF SERVICE
2 1013A (3) CCP Revised 1/1/88

3
4 STATE OF CALIFORNIA)
5 COUNTY OF LOS ANGELES) ss

6 I am employed in the County of Los Angeles, State of California. I am over the age of 18
7 and not a party to the within action. My business address is 3435 Wilshire Boulevard, Suite 1669,
8 Los Angeles, California 90010.

9 On April 28, 2023, I served the forgoing documents described as: **PLAINTIFF'S
10 RESPONSES TO DEFENDANT ALKIVIADES DAVID'S SPECIAL INTERROGATORIES,
11 SET NUMBER ONE (1)** a true copy thereof enclosed in a sealed envelop(s) addressed as follows:

12 Attorneys for Defendants

13 **Aaron Allan, Esq.**
14 **Jill Harris, Esq.**
15 **Glaser Weil Fink Howard Avchen & Shapiro LLP**
16 **10250 Constellation Blvd., 19th Floor**
17 **Los Angeles, CA 90067**

aallan@glaserweil.com
jharris@glaserweil.com

18 Co-Counsel for Plaintiff

19 **Dustin Z. Moaven, Esq.**
20 **Dordick Law Corporation**
21 **1122 Wilshire Blvd.**
22 **Los Angeles, CA 90017**

dustin@dordicklaw.com
cristina@dordicklaw.com
alex@dordicklaw.com

23 **[X] BY MAIL:** I caused such envelope to be deposited in the mail at Los Angeles, California. The
24 envelope was mailed with postage thereon fully pre-paid. I am readily familiar with the firm's
25 practice of collection and processing of correspondence for mailing. Under that practice, the
26 correspondence is deposited with the U.S. Postal Service on that same day in the ordinary course of
27 business. I am aware that on motion of the party served, service is presumed invalid if postal
28 cancellation date or postage meter date is more than one day after the date of deposit for mailing
contained in the affidavit.

I declare under penalty of perjury, under the law of the State of California, that the foregoing
is true and correct.

Executed on April 28, 2023, at Los Angeles, California.

Douglas Garcia
DECLARANT

AA0160

Document received by the CA 2nd District Court of Appeal.

EXHIBIT B

AA0161

Document received by the CA 2nd District Court of Appeal.

June 23, 2023

Direct Dial
310.282.6207

Direct Fax
310.785.3507

Email
jharris@glaserweil.com

VIA EMAIL

Justin Kirk
LIVINGSTON BAKHTIAR
3435 Wilshire Boulevard, Suite 1669
Los Angeles, California 90010
jmk@lb-lawyers.com

Re: *Jane Doe v. Alkiviades David, et al.*
Los Angeles Superior Court Case No. 20STCV37498
Meet and Confer re Plaintiff's Responses to Alkiviades David's Discovery Requests (Set One)

Dear Counsel,

This letter is sent as part of our good faith effort to meet and confer regarding the deficiencies in Plaintiff Jane Doe's ("Plaintiff") **unverified** responses and objections to Alkiviades David's ("David") Special Interrogatories (Set One), Form Interrogatories - Employment (Set One), and Request for Production of Documents (Set One). Plaintiff's responses do not comply the discovery rules set forth in the California Code of Civil Procedure, as identified more specifically below.

As a preliminary matter, Plaintiff's unverified responses "are tantamount to no responses at all." *Steven M. Garber & Assocs. v. Eskandarian*, 150 Cal. App. 4th 813, 817 (2007). Plaintiff served unverified responses on or about April 28, 2023 via mail. Plaintiff has not served verifications to date. Plaintiff has indicated her intent to serve verified supplemental responses with her document production on June 29. We raise the issues below, in advance, with the hope that Plaintiff's supplemental responses will address them and minimize the need for further meeting and conferring.

I. **Special Interrogatories (Set One)**

A. **Special Interrogatory Nos. 1-14**

Special Interrogatory Nos. 1-14 are based on paragraphs 20, 26, 35, 37, 39, 40, 41, 49, and 57 of the original Complaint and are standard, "full and complete in and of [themselves]" (Civ. Proc. Code § 2030.060 (d)), and must be answered based on

what was alleged in the original Complaint Plaintiff filed on September 30, 2020. The term “COMPLAINT” was properly defined in these Interrogatories as “the Complaint filed in the above-captioned action *Doe v. Alkiviades David et al.* LASC Case No. 20STCV37498.” Mr. David served his first set of special interrogatories on or about July 12, 2021. Plaintiff did not file her First Amended Complaint (“FAC”) until October 1, 2021, over two months after service of Mr. David’s first set of special interrogatories. Accordingly, these Interrogatories do not refer to the “operative Complaint,” as Plaintiff incorrectly states in her responses, but rather the only complaint that had been filed at the time of service, which was the original Complaint.

Los Angeles County Local Rules Appendix 3A(g)(3) provide, “Objections to interrogatories should be based on a good faith belief in their merit and not be made for the purpose of withholding relevant information. If an interrogatory is objectionable only in part, the unobjectionable portion should be answered.”

The fact that the Complaint was amended after service of the interrogatories does not affect the duty to respond, ***as the allegations are identical with only differing paragraph numbers***. Because the allegations are substantively identical, the factual issues that are the subject of the interrogatories remain at issue in the “operative Complaint.” Additionally, because only the numbering changed between the initial complaint and the FAC, Plaintiff cannot reasonably suggest that she does not understand the substance of the interrogatory such that she incapable of responding.

For the avoidance of doubt, the corresponding paragraph numbers are as follows:

- Special Interrogatory No. 1: Complaint ¶ 20 = Amended Complaint ¶ 29
- Special Interrogatory Nos. 2, 3, 5: Complaint ¶ 26 = Amended Complaint ¶ 35
- Special Interrogatory No. 4: Complaint ¶ 35 = Amended Complaint ¶ 44
- Special Interrogatory No. 6: Complaint ¶ 37 = Amended Complaint ¶ 46
- Special Interrogatory No. 7: Complaint ¶ 39 = Amended Complaint ¶ 48
- Special Interrogatory Nos. 8 and 9: Complaint ¶ 40 = Amended Complaint ¶ 49
- Special Interrogatory Nos. 10 and 12: Complaint ¶ 41 = Amended Complaint ¶ 50
- Special Interrogatory No. 13: Complaint ¶ 49 = Amended Complaint ¶ 58
- Special Interrogatory No. 14: Complaint ¶ 57 = Amended Complaint ¶ 66

Please serve substantive responses to each of the foregoing interrogatories in accordance with the accompanying paragraph number in the Amended Complaint.

B. Special Interrogatory No. 10

Special Interrogatory No. 10 asks Plaintiff “IDENTIFY the co-workers to whom DEFENDANT owed unpaid wages and commissions as alleged in paragraph 41 of YOUR COMPLAINT.” Although Plaintiff argues that “paragraph 41 of the operative Complaint does not contain any such reference,” she nonetheless responds to the substance of the Interrogatory.

However, Plaintiff’s response is inadequate because it is not tied to the allegation in paragraph 41 of the Complaint, which is paragraph 50 in the Amended Complaint. Specifically, the term “IDENTIFY” was defined in Mr. David’s Special Interrogatories (Set One) as requiring the person’s full name, address, and telephone number. Plaintiff’s response merely states, “she is also aware of Defendant owing unpaid wages and commissions to at least Mark (last name unknown); Mickey Vaca; Jennifer Gomez; Liz (last name unknown); Andie Channel; and Jay (last name unknown); Divinity (last name unknown); Dylan (last name unknown).” This response is incomplete and not code-complaint because it does not identify the full name, address, or telephone number of the co-workers to whom Mr. David allegedly owed unpaid wages and commissions. See Cal. Civ. Proc. Code § 2030.220(a) (responses to interrogatories must be “complete and straightforward”).

C. Special Interrogatory No. 12

Special Interrogatory No. 12 asks Plaintiff to “describe the nature of the work performed and the approximate amount of unpaid wages and commissions due as alleged in paragraph 41 of YOUR COMPLAINT.” Once again, while Plaintiff argues that “paragraph 41 of the operative Complaint does not contain any such reference,” she nonetheless responds to the substance of this Interrogatory. However, Plaintiff’s response is entirely devoid of information the interrogatory seeks, which is the nature of the work performed and the amount of unpaid wages and commissions allegedly due. Instead, Plaintiff provides a number of allegations, none of which describe the nature of the work performed, and states “the amount of unpaid wages and commissions owed to her exceeds \$10,000,” which is evasive and incomplete. Answers to interrogatories “must be complete and responsive” and must be “fully responsive to the question.” *Deyo v. Kilbourne*, 84 Cal. App. 3d 771, 783-784 (1978). Plaintiff must amend her response to clearly describe the nature of the work performed and the amount of unpaid wages and commissions alleged owed to her.

D. Special Interrogatory No. 16

Special Interrogatory No. 16 asks Plaintiff to describe any method or type of account she used to backup any cellphone she used during the period of September 1,

2015 to the present. Plaintiff’s response that she “believes the iCloud” is inadequate because Plaintiff is required to provide a response “as complete and straightforward as the information reasonably available to [her] permits.” Code Civ. Proc. § 2030.220(a). If Plaintiff does not have “personal knowledge sufficient to respond fully,” then Plaintiff must state so *and* that she made “a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations.” Code Civ. Proc. § 2030.220(c).

Plaintiff must amend her response to this Interrogatory to provide a full and complete response.

E. Special Interrogatory Nos. 34 and 35

Special Interrogatory No. 34 asks Plaintiff to identify every *medical care provider* who examined, diagnosed, treated, or otherwise provided medical care to Plaintiff from April 1, 2015 to the present—this means Plaintiff must provide the names of her doctors. Similarly, Special Interrogatory No. 35 asks Plaintiff to identify each *medical care institution* from which she received medical care for her alleged injury.

Plaintiff’s objections to these Interrogatories on the grounds that they are vague and ambiguous and invade Plaintiff’s right to privacy are meritless. These Interrogatories are straightforward and seek information related to Plaintiff’s claims and alleged damages for sexual assault and battery and intentional infliction of emotional distress. Mr. David is entitled to the identity of any treating medical care provider and any medical care institution that Plaintiff saw during the relevant time period. *See Kalaba v. Gray*, 95 Cal. App. 4th 1416, 1422 (2002) (holding that the identity and opinions of treating physicians *are not subject to* any special discovery restrictions because the information that forms the factual basis for their opinions is acquired independently of the litigation and is therefore not privileged). Plaintiff has identified “Planned Parenthood” as the sole provider and medial institution she visited during the past 8 years. If Plaintiff has visited any other provider or institution over this time period she must amend her responses accordingly. Please do so.

II. Form Interrogatories - Employment (Set One)

A. Form Interrogatory Nos. 200.1, 200.2, 200.3, and 200.4

Form Interrogatory Nos. 200.1, 200.2, and 200.3 ask Plaintiff (i) whether she contends that the employment relationship was “at will,” (ii) whether she contends that it was not, (iii) whether the employment relationship was governed by any agreement - written, oral, or implied, and (iv) whether the employment relationship was governed by any rules, polices, or procedures and if so, to (a) state all facts upon which Plaintiff bases this contention, (b) state the name, address, and telephone

number of each person with knowledge of those facts, and (c) identify all documents that support Plaintiff's contention.

After stating various boilerplate objections, Plaintiff's response to Form Interrogatory No. 200.1 states that her employment with FilmOn TV was not at will, but that her employment with Swiss X was at will. However, Plaintiff's response in subpart (a) states, "To the best of Responding Party's knowledge, she was an at will employee while working for Defendant at Swiss X." Because Plaintiff's response fails to state any facts in support of her contention, and instead merely restates her allegation, it is evasive and non-responsive, which are grounds to seek an order compelling further responses. See Civ. Proc. Code § 2030.300(a)(1) ("the propounding party may move for an order compelling a further response if the propounding party deems . . . [a]n answer to a particular request is evasive or incomplete.").

Answers to interrogatories "must be complete and responsive" and must be "fully responsive to the question." *Deyo*, 84 Cal.App.3d at 783-784. Plaintiff's responses to Form Interrogatory Nos. 200.1, 200.2, and 200.3 completely fail to respond as to Mr. David—who is defined as "EMPLOYER" for the purposes of this set of Form Interrogatories. If Plaintiff contends that FilmonTV and SwissX were her employer and not Mr. David, then she should amend her responses to reflect that. If not, then please amend and respond as to Mr. David.

Similarly. Plaintiff's response to Form Interrogatory No. 200.4 only responds as to her employment with FilmOn TV. Plaintiff does not indicate whether any part of her alleged employment relationship with Mr. David or Swiss X was governed in whole or in part by any written rules, guidelines, policies, or procedures. Answers to interrogatories "must be complete and responsive" and must be "fully responsive to the question." *Deyo*, 84 Cal.App.3d at 783-784. Indeed, sanctions are authorized where "answers supplied were evasive and incomplete[.]" *Id.* at 797. If Plaintiff's alleged employment relationship with Mr. David or Swiss X was not governed in whole or in part by and written rules, guidelines, policies, or procedures, then she should amend her response to reflect as such.

B. Form Interrogatory No. 210.6

Form Interrogatory No. 210.6 seeks information related to other employment Plaintiff has obtained since any alleged ADVERSE EMPLOYMENT ACTION, and for each new employment, to state: (a) when the new employment commenced, (b) the hourly rate or monthly salary for the new employment, and (c) the benefits available from the new employment.

Plaintiff's response provides nothing more than the identification of the new employment, and fails to provide dates each new employment commenced, the wages

paid, and the benefits secured. Plaintiff's additional statement, "Responding Party is in the process of compiling the record of her employment history since her termination and will update this response when necessary" is unacceptable. Plaintiff's whims do not dictate "when [it is] necessary" to respond to discovery nor relieve Plaintiff of her obligations under the discovery code. Plaintiff has sufficient personal knowledge to provide a fulsome response to this Interrogatory. Please amend accordingly.

III. Requests for Production

A. Attorney-Client or Work-Product Privilege

Each of Plaintiff's responses to the Requests for Production Nos. 2-4, 8,10-12, 14, 18, 19, 21, 22, 25-34, 47, 48 includes an objection based on attorney-client privilege. If Plaintiff is withholding any documents on the basis of privilege, she must produce a privilege log. *See* Civ. Proc. Code § 2031.240(c)(1) ("If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log."). **Please provide a privilege log or confirm that Plaintiff is not withholding any responsive documents on the basis of privilege.**

B. Request for Production Nos. 2-11

Request for Production No. 2 seeks all communications between Plaintiff and third parties related to or about Mr. David during September 1, 2015 to the present. Plaintiff has artificially limited her response to only those communications with her co-workers about Mr. David. Plaintiff has accused Mr. David of rape and intentional infliction of emotional distress, among various other things. Any communications she had with **any** third party, not just her co-workers, about Mr. David are relevant evidence of her mental state and the alleged factual events alleged in the pleadings. Please offer a rational reason that supports the co-worker limitation or provide an amended response and produce communications about Mr. David with all third parties.

Request for Production No. 3 seeks **all** communications between Plaintiff and **any** third person regarding her alleged employment as described in the Complaint during September 1, 2015 to the present. Again, Plaintiff's response unilaterally limits the response to communications between herself and her co-workers. Plaintiff has accused Mr. David of sexual harassment and discrimination, among other things. Mr. David is entitled to **all** potentially relevant communications, not just those with Plaintiff's co-workers. Please offer a rational reason that supports the co-worker

limitation or provide an amended response and produce communications with *all* third parties.

C. Request for Production Nos. 1, 4-50

After reciting various boilerplate objections, Plaintiff's responses to Request for Production Nos. 1, 4-50 indicate that she "will produce documents in her possession." This fails to comply with Code of Civil Procedure section 2031.220, which requires "[a] statement that the party to whom a demand for inspection, copying, testing, or sampling has been directed will comply with the particular demand shall state that the production, inspection, copying, testing, or sampling, and related activity demanded, will be allowed either in whole or in part, and that *all documents or things* in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made *will be included in the production.*" (Emphasis added). If Plaintiff is only producing some of the responsive documents, as suggested by her existing responses, then please provide an explanation as to why Plaintiff is not producing all of the responsive documents and what she is withholding. If Plaintiff does intend to produce all responsive documents, please amend her responses to reflect as much.

IV. Conclusion

We hope to resolve these matters in good faith without the need for court intervention. Please let us know by June 29, 2023 whether Plaintiff has addressed the issues raised above in the supplemental responses she serves on that date along with her documents. If necessary, please contact me directly to schedule a conference call to discuss any remaining issues.

Sincerely yours,

/s/

JILLIAN P. HARRIS
for GLASER WEIL FINK HOWARD JORDAN & SHAPIRO LLP

JPH:jh

CC: Gary A. Dordick
DORDICK LAW CORPORATION
1122 Wilshire Boulevard
Los Angeles, California 90017
Dordicklaw@aol.com

Document received by the CA 2nd District Court of Appeal.

AA0168

EXHIBIT C

AA0169

Document received by the CA 2nd District Court of Appeal.

From: [Justin M. Kirk](#)
To: [Jill Harris](#)
Cc: [Aaron Allan](#); [Fred Heather](#); ["Sandra Jimenez"](#); ["Dustin Moaven"](#); ["Kim Anglin"](#); ["Jessica Huerta"](#); ["ESB"](#); ["Sandy"](#); ["Douglas Garcia"](#); ["Alex Munoz"](#); ["Celine Adran"](#)
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Date: Tuesday, July 11, 2023 12:07:04 PM
Attachments: [image007.png](#)
[image010.png](#)

Hi Jill,

When you referenced "SROG No. 6 and the related documents to be produced," I believe you meant Empl Form Rog No. 210.6? Please confirm.

Also, you cited both July 20th and July 25th as the due date. Please confirm which one you meant. You know which one I'd choose.

Yes, we will be supplementing SROG Nos. 34-35 as well, thank you for catching my mistake.

Lastly, I will be speaking with our team to discuss what information we can share about Plaintiff's medical conditions and getting back to you.

Sincerely,
Justin M. Kirk
Attorney At Law

Livingston · Bakhtiar
Equitable Plaza
3435 Wilshire Boulevard, Suite 1669
Los Angeles, California 90010
Tel: 213-632-1550
Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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From: Jill Harris <jharris@glaserweil.com>
Sent: Tuesday, July 11, 2023 10:02 AM
To: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia'

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AA0170

<dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Justin,

Thank you for the below recap. With respect to FROG Nos. 200.1, 200.2, 200.3, 200.4, Plaintiff need not supplement the responses. With respect to SROG No. 6 and the related documents to be produced, during our call, you mentioned that Plaintiff has not filed her taxes for the last several years and that she was in the process of gathering documents to do so. You explained that, as a result, she would be unable to produce documents related to her income for another 4-6 months. I explained that such a lengthy timeline would not be acceptable given the need for discovery in this case—a case filed by Plaintiff not Mr. David. You offered to provide the information she currently has in her possession within 2 months. Your offer is not acceptable in light of Plaintiff's obligations under the discovery code and her ample notice of the relevance of the requested documents and information. Please provide all documents currently in Plaintiff's possession, custody or control by July 25. Plaintiff can and should produce the additional documents she obtains while preparing her taxes when she receives them. We reserve our right to move to compel if we have not received the existing documents by July 25.

Additionally, when we discussed the list of Plaintiff's medical professionals (SROG 34-35 - which was omitted from your list below but you indicated Plaintiff would supplement), you previewed your intention to request a "first look" agreement in connection with our future subpoenas to the identified professionals. Such a proposed agreement would allow your office to review and redact the medical records prior to production to my office. I appreciate you raising this issue to facilitate the meet and confer process.

During our discussion, it sounded like there was some type of incident or ailment that occurred during the relevant time period that you felt was not relevant and need to be redacted. I asked you to provide some basic information about this. To that end, please provide a list of ailments and/or incidents that occurred April 2019-present that you believe should not be discoverable. For example, if Plaintiff broke her arm in a car accident, we could better evaluate whether we would be amenable to a "first look" agreement allowing you to redact that information. If you have some authority that supports the use of "first look" agreements, please pass that along as well.

Feel free to give me a call to discuss. We look forward to receiving Plaintiff's amended responses on July 20. Please be sure to include amended responses to SROG 34-35.

Best,

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067

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AA0171

Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507

E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Sent: Friday, June 30, 2023 1:59 PM
To: Jill Harris <jharris@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Gwendolyn Edwards <gedwards@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

Good speaking with you today. The following is a summary of what we discussed. Please let me know if I've missed anything:

1. SPROGS No. 1-10, 12-14: we will be supplementing our responses to address the issue you raised regarding the paragraph numbers that you identified in your letter.
2. SPROG No. 10: we will be supplementing our responses to include the known addresses and telephone numbers of the people identified.
3. SPROG No. 12: we will be supplementing our response to state the nature of the work performed, as well as a dollar-range of the amount of unpaid wages.
4. SPROG No. 16: we will be supplementing our response to remove the word "believes" in "believes the iCloud."
5. EFROG Nos. 200.1, 200.2, 200.3, 200.4: Please let us know if we need to provide supplemental responses after our meet and confer phone call.
6. EFROG No. 210.6: Please let us know if, after you've reviewed the documents we send later today, if you will extend our deadline to provide responses to August 31st.
7. RFP – Attorney-Client and Work Product Privilege: this confirms that we are not withholding documents based on this privilege in our responses to RFP Nos. 4, 10-12, 14, 18-19, 21-22, or 47-48. We are, however, withholding documents with regards to RFP Nos. 2-3, 8, 25-34, namely communications Plaintiff had with us, her counsel.)
8. RFP Nos. 2-11: we will be supplementing our response to state that she is producing all communications she had about Alkiviades David with anyone, regardless of whether the person was a coworker.

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AA0172

9. RFP Nos. 1, 4-50: we will be supplementing our response to state that “all” documents.

Plaintiff agrees to produce the aforementioned supplemental responses on July 10.

[@Dustin Moaven](#), Jill will be contacting you about scheduling a date to meet and confer next week regarding your letter.

Sincerely,
Justin M. Kirk
Attorney At Law

Livingston · Bakhtiar
Equitable Plaza
3435 Wilshire Boulevard, Suite 1669
Los Angeles, California 90010
Tel: 213-632-1550
Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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From: Jill Harris <jharris@glaserweil.com>
Sent: Thursday, June 29, 2023 3:07 PM
To: Sandra Jimenez <sandra@dordicklaw.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Gwendolyn Edwards <gedwards@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; Dustin Moaven <dustin@dordicklaw.com>; Kim Anglin <kim.anglin@dordicklaw.com>; Jessica Huerta <jessica.huerta@dordicklaw.com>; ESB <esb@livingstonbakhtiar.com>; jmk@livingstonbakhtiar.com; Sandy <sb@livingstonbakhtiar.com>; Douglas Garcia <dag@livingstonbakhtiar.com>; Alex Munoz <alex@dordicklaw.com>; Celine Adran <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Importance: High

Hi Sandra,

I will not be able to review in time for a discussion tomorrow on the letter. During the call, we can discuss a time to talk about it next week.

Additionally, we would like to push our document exchange back to tomorrow. We anticipate being ready to produce tomorrow after our call.

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AA0173

Best,

Glaser Weil

Jill Harris | Attorney

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From: Sandra Jimenez <sandra@dordicklaw.com>
Sent: Wednesday, June 28, 2023 5:18 PM
To: Aaron Allan <aallan@glaserweil.com>; Jill Harris <jharris@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; vshaydner@glaserweil.com; Gwendolyn Edwards <gedwards@glaserweil.com>
Cc: Dustin Moaven <dustin@dordicklaw.com>; Kim Anglin <kim.anglin@dordicklaw.com>; Jessica Huerta <jessica.huerta@dordicklaw.com>; ESB <esb@livingstonbakhtiar.com>; jmk@livingstonbakhtiar.com; Sandy <sb@livingstonbakhtiar.com>; Douglas Garcia <dag@livingstonbakhtiar.com>; Alex Munoz <alex@dordicklaw.com>; Celine Adran <celine@dordicklaw.com>
Subject: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Dear Counsel,

Attached please find Plaintiff's meet and confer letter regarding Defendant's responses to first set of discovery.

Please advise if your office would like to discuss the issues raised in this letter during the call scheduled for Friday, June 30th.

Kind regards,

Sandra Jimenez

Paralegal

DORDICK LAW CORPORATION

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AA0174

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EXHIBIT D

AA0176

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1 **EBBY S. BAKHTIAR, ESQ.** (SBN: 215032)
LIVINGSTON • BAKHTIAR
2 3435 WILSHIRE BOULEVARD, SUITE 1669
LOS ANGELES, CALIFORNIA 90010

3 **TEL:** (213) 632-1550 • **FAX:** (213) 632-3100
4 **GARY A. DORDICK, ESQ.** (SBN: 128008)
DORDICK LAW CORPORATION
5 1122 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90017
6 **TEL:** (310) 551-0949 • **FAX:** (855) 299-4444

7 Attorneys for Plaintiff

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

11 JANE DOE, an Adult Individual Suing Under)
Anonymity Due to Privacy and Safety Concerns)

12)
13 **PLAINTIFF,**)

14 vs.)

15 ALKIVIADES DAVID, an Individual, a.k.a.)
16 ALKI DAVID; HOLOGRAM USA, INC., a)
California Corporation, a.k.a. HOLOGRAM)
17 USA PRODUCTIONS, INC., HOLOGRAM)
USA ENTERTAINMENT, INC., FILMON.TV,)
18 INC., FILMON.TV NETWORKS, INC. and)
FILMON.TV LA, INC.; SWISSX LABS AG,)
19 INC., a California Corporation, a.le.a. SWISSX)
LOUNGE and FILMONTV UK, LTD.; and)
20 DOES 1 through 150, Inclusive,)

21 **DEFENDANTS.**)
_____)

CASE No.: 20STCV37498

**PLAINTIFF'S FURTHER
RESPONSES TO DEFENDANT
ALKIVIADES DAVID'S SPECIAL
INTERROGATORIES**

SET NUMBER ONE (1)

22 **PROPOUNDING PARTY : DEFENDANT ALKIVIADES DAVID**

23 **RESPONDING PARTY : PLAINTIFF JANE DOE**

24 **SET NUMBER : ONE (1)**

25 COMES NOW PLAINTIFF AND RESPONDS AS FOLLOWS:

26 ///

27 ///

28 ///

1 5. This Responding Party objects to the propounded Special Interrogatories on the
2 grounds that they call for the disclosure of information protected by third parties' rights to privacy.
3 This Responding Party is not authorized to and cannot waive these privacy rights by the disclosure
4 of such information.

5 6. This Responding Party objects to the propounded Special Interrogatories on the
6 grounds that discovery is continuing in this action and that this Responding Party has not yet
7 completed her factual investigation. These responses are made in good faith and after diligent
8 inquiry into the facts and information now known by this Responding Party. Information that may
9 be responsive to said Special Interrogatories may not yet have been discovered, however.
10 Accordingly, without asserting an obligation to do so and without waiving the objections asserted
11 in these Responses, this Responding Party hereby reserves the right to amend and/or supplement
12 these Responses and/or produce additional responses as, and when, such additional information
13 and/or documents are discovered. Additionally, because this Responding Party's Responses are
14 based upon information which has been identified to date, they do not preclude this Responding
15 Party from relying on facts or documents discovered or created after additional investigation and
16 discovery.

17 7. This Responding Party objects to the propounded Special Interrogatories to the extent
18 that they seek information that is neither relevant to this action, nor reasonably calculated to lead to
19 the discovery of admissible evidence.

20 8. This Responding Party objects to the propounded Special Interrogatories to the extent
21 that they seek responses as to information that is equally available to the Propounding Party(ies).

22 9. This Responding Party objects to the propounded Special Interrogatories to the extent
23 that they are not full and complete in and of themselves, but require reference to external information
24 to understand their meaning and are thus not in conformity with *Cal. Code of Civ. Proc.* § 2030.060.

25 10. This Responding Party objects to the propounded Special Interrogatories because they
26 bear a preface and/or instruction and are thus not in conformity with *Cal. Code of Civ. Proc.* §
27 2030.060(d).

28 ///

1 11. This Responding Party objects to the propounded Special Interrogatories to the extent
2 that they are compound, conjunctive or disjunctive.

3 **SPECIFIC OBJECTIONS AND RESPONSES**

4 This Responding Party incorporates fully the “Preliminary Statement” and the “General
5 Objections” into each of the following specific Responses. No specific Response shall be construed
6 to waive any of the “General Objections” or any of the statements contained in the “Preliminary
7 Statement.”

8 **SPECIAL INTERROGATORY NO. 1:**

9 Please IDENTIFY the “co-worker” referred to in paragraph 20 of YOU (The terms “YOU”
10 and “YOUR” mean or refer to Plaintiff Jane Doe in this action, including and all other persons acting
11 or purporting to act on behalf of any of them) COMPLAINT (The term “COMPLAINT” shall refer
12 to the Complaint filed in the above-captioned action *Doe v. Alkiviades David et al.* LASC Case No.
13 20STCV37498).

14 **RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

15 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
16 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
17 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
18 complete in and of itself” is violated where resort must necessarily be made to other materials in
19 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
20 Additionally, paragraph 20 of Plaintiff operative Complaint does not refer to any “co-workers,”
21 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
22 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
23 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
24 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
25 way of this Interrogatory since it would or should have a records reflecting, and information
26 regarding, the information sought through this interrogatory. Nevertheless, subject to, and without
27 waiving the foregoing objections, and based on Responding Party’s understanding of the discovery,
28 Responding Party responds as follows: Not applicable since paragraph 20 of the operative Complaint

1 does not contain any such reference.

2 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

3 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
4 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
5 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
6 complete in and of itself” is violated where resort must necessarily be made to other materials in
7 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
8 Additionally, paragraph 20 of Plaintiff operative Complaint does not refer to any “co-workers,”
9 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
10 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
11 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
12 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
13 way of this Interrogatory since it would or should have a records reflecting, and information
14 regarding, the information sought through this interrogatory. Nevertheless, subject to, and without
15 waiving the foregoing objections, and based on Responding Party’s understanding of the discovery,
16 Responding Party responds as follows: Vivienne Mitra, (310) 873-8135, address unknown. However,
17 since this Responding Party’s investigation and discovery are continuing, this Responding Party does
18 not have sufficient facts available to her, at this time, to furnish a complete response to this
19 Interrogatory; therefore, this Responding Party hereby reserves the right to amend this response in
20 the future, once additional information/facts have been discovered.

21 **SPECIAL INTERROGATORY NO. 2:**

22 Please IDENTIFY (The term “IDENTIFY” is defined as the person’s full name, address, and
23 telephone number) the “supervisor” referred to in paragraph 26 of YOUR COMPLAINT.

24 **RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

25 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
26 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
27 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
28 complete in and of itself” is violated where resort must necessarily be made to other materials in

1 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
2 Additionally, paragraph 26 of Plaintiff operative Complaint does not refer to any “supervisor,”
3 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
4 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
5 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
6 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
7 way of this Interrogatory since it would or should have a records reflecting, and information
8 regarding, the information sought through this interrogatory. Nevertheless, subject to, and without
9 waiving the foregoing objections, and based on Responding Party’s understanding of the discovery,
10 Responding Party responds as follows: Not applicable since paragraph 26 of the operative Complaint
11 does not contain any such reference.

12 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

13 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
14 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
15 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
16 complete in and of itself” is violated where resort must necessarily be made to other materials in
17 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
18 Additionally, paragraph 26 of Plaintiff operative Complaint does not refer to any “supervisor,”
19 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
20 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
21 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
22 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
23 way of this Interrogatory since it would or should have a records reflecting, and information
24 regarding, the information sought through this interrogatory. Nevertheless, subject to, and without
25 waiving the foregoing objections, and based on Responding Party’s understanding of the discovery,
26 Responding Party responds as follows: Carl Dawson, (818) 581-9803, address unknown. However,
27 since this Responding Party’s investigation and discovery are continuing, this Responding Party does
28 not have sufficient facts available to her, at this time, to furnish a complete response to this

1 Interrogatory; therefore, this Responding Party hereby reserves the right to amend this response in
2 the future, once additional information/facts have been discovered.

3 **SPECIAL INTERROGATORY NO. 3:**

4 Please IDENTIFY the “other employees” referred to in paragraph 26 of YOUR
5 COMPLAINT.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 3:**

7 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
8 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
9 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
10 complete in and of itself” is violated where resort must necessarily be made to other materials in
11 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
12 Additionally, paragraph 26 of Plaintiff operative Complaint does not refer to any “other employees,”
13 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
14 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
15 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
16 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
17 way of this Interrogatory since it would or should have a records reflecting, and information
18 regarding, the information sought through this interrogatory. Nevertheless, subject to, and without
19 waiving the foregoing objections, and based on Responding Party’s understanding of the discovery,
20 Responding Party responds as follows: Not applicable since paragraph 26 of the operative Complaint
21 does not contain any such reference.

22 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 3:**

23 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
24 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
25 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
26 complete in and of itself” is violated where resort must necessarily be made to other materials in
27 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
28 Additionally, paragraph 26 of Plaintiff operative Complaint does not refer to any “other employees,”

1 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
2 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
3 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
4 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
5 way of this Interrogatory since it would or should have a records reflecting, and information
6 regarding, the information sought through this interrogatory. Nevertheless, subject to, and without
7 waiving the foregoing objections, and based on Responding Party's understanding of the discovery,
8 Responding Party responds as follows: Wil Master, (310) 597-2454, address unknown; Ben Reiss,
9 phone number and address unknown; Hengi Hawk, phone number and address unknown; Henry
10 Evans, phone number and address unknown; Tim Hunter, (747) 252-9855, address unknown;
11 Edmond (last name unknown), (310) 279-6453, address unknown; Mark Sheinbaum, (310) 804-
12 86312, address unknown; Martha Ruiz, (310) 606-9188, address unknown; Cory Weissman, (310)
13 738-4917, address unknown; Andrew Bynum, phone number and address unknown; Brian Miler,
14 phone number and address unknown; Matt Renny, (818) 510-7541, address unknown; Chastity
15 Jones, (323) 613-4566, address unknown; Christina Bustos, phone number and address unknown;
16 Alicia Blanco, phone number and address unknown; Arianna Goralija, (310) 983-4691, address
17 unknown; Sol Santiago, phone number and address unknown. However, since this Responding
18 Party's investigation and discovery are continuing, this Responding Party does not have sufficient
19 facts available to her, at this time, to furnish a complete response to this Interrogatory; therefore, this
20 Responding Party hereby reserves the right to amend this response in the future, once additional
21 information/facts have been discovered.

22 **SPECIAL INTERROGATORY NO. 4:**

23 Please IDENTIFY the "prospective supervisor" referred to in paragraph 35 of YOUR
24 COMPLAINT.

25 **RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

26 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
27 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
28 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be "full and

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1-15
LAW

1 complete in and of itself” is violated where resort must necessarily be made to other materials in
2 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
3 Additionally, paragraph 35 of Plaintiff operative Complaint does not refer to any “prospective
4 supervisor,” rendering this Interrogatories exceptionally vague and ambiguous. As such, said
5 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
6 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
7 propounding Defendant. Defendant is in a far more superior position to ascertain the information it
8 now seeks by way of this Interrogatory since it would or should have a records reflecting, and
9 information regarding, the information sought through this interrogatory. Nevertheless, subject to,
10 and without waiving the foregoing objections, and based on Responding Party’s understanding of
11 the discovery, Responding Party responds as follows: Not applicable since paragraph 35 of the
12 operative Complaint does not contain any such reference.

13 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

14 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
15 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
16 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
17 complete in and of itself” is violated where resort must necessarily be made to other materials in
18 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
19 Additionally, paragraph 35 of Plaintiff operative Complaint does not refer to any “prospective
20 supervisor,” rendering this Interrogatories exceptionally vague and ambiguous. As such, said
21 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
22 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
23 propounding Defendant. Defendant is in a far more superior position to ascertain the information it
24 now seeks by way of this Interrogatory since it would or should have a records reflecting, and
25 information regarding, the information sought through this interrogatory. Nevertheless, subject to,
26 and without waiving the foregoing objections, and based on Responding Party’s understanding of
27 the discovery, Responding Party responds as follows: Matt Gerloch, (818) 510-7541, address
28 unknown. However, since this Responding Party’s investigation and discovery are continuing, this

1 Responding Party does not have sufficient facts available to her, at this time, to furnish a complete
2 response to this Interrogatory; therefore, this Responding Party hereby reserves the right to amend
3 this response in the future, once additional information/facts have been discovered.

4 **SPECIAL INTERROGATORY NO. 5:**

5 Please IDENTIFY the “supervisor” referred to in paragraph 26 of YOUR COMPLAINT.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

7 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
8 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
9 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be “full and
10 complete in and of itself” is violated where resort must necessarily be made to other materials in
11 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
12 Additionally, paragraph 26 of Plaintiff operative Complaint does not refer to any “supervisor,”
13 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
14 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
15 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
16 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
17 way of this Interrogatory since it would or should have a records reflecting, and information
18 regarding, the information sought through this interrogatory. Finally, this Interrogatory is duplicative
19 of Special Interrogatory number 2, rendering it harassing and oppressive. Nevertheless, subject to,
20 and without waiving the foregoing objections, and based on Responding Party’s understanding of
21 the discovery, Responding Party responds as follows: Not applicable since paragraph 26 of the
22 operative Complaint does not contain any such reference.

23 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

24 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
25 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
26 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be “full and
27 complete in and of itself” is violated where resort must necessarily be made to other materials in
28 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)

1 Additionally, paragraph 26 of Plaintiff operative Complaint does not refer to any "supervisor,"
2 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
3 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
4 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
5 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
6 way of this Interrogatory since it would or should have a records reflecting, and information
7 regarding, the information sought through this interrogatory. Finally, this Interrogatory is duplicative
8 of Special Interrogatory number 2, rendering it harassing and oppressive. Nevertheless, subject to,
9 and without waiving the foregoing objections, and based on Responding Party's understanding of
10 the discovery, Responding Party responds as follows: Carl Dawson, (818) 581-9803, address
11 unknown. However, since this Responding Party's investigation and discovery are continuing, this
12 Responding Party does not have sufficient facts available to her, at this time, to furnish a complete
13 response to this Interrogatory; therefore, this Responding Party hereby reserves the right to amend
14 this response in the future, once additional information/facts have been discovered.

15 **SPECIAL INTERROGATORY NO. 6:**

16 Please IDENTIFY the "former supervisor" referred to in paragraph 37 of YOUR
17 COMPLAINT.

18 **RESPONSE TO SPECIAL INTERROGATORY NO. 6:**

19 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
20 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
21 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be "full and
22 complete in and of itself" is violated where resort must necessarily be made to other materials in
23 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
24 Additionally, paragraph 37 of Plaintiff operative Complaint does not refer to any "former
25 supervisor," rendering this Interrogatories exceptionally vague and ambiguous. As such, said
26 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
27 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
28 propounding Defendant. Defendant is in a far more superior position to ascertain the information it

1 now seeks by way of this Interrogatory since it would or should have a records reflecting, and
2 information regarding, the information sought through this interrogatory. Nevertheless, subject to,
3 and without waiving the foregoing objections, and based on Responding Party's understanding of
4 the discovery, Responding Party responds as follows: Not applicable since paragraph 37 of the
5 operative Complaint does not contain any such reference.

6 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 6:**

7 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
8 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
9 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be "full and
10 complete in and of itself" is violated where resort must necessarily be made to other materials in
11 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
12 Additionally, paragraph 37 of Plaintiff operative Complaint does not refer to any "former
13 supervisor," rendering this Interrogatories exceptionally vague and ambiguous. As such, said
14 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
15 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
16 propounding Defendant. Defendant is in a far more superior position to ascertain the information it
17 now seeks by way of this Interrogatory since it would or should have a records reflecting, and
18 information regarding, the information sought through this interrogatory. Nevertheless, subject to,
19 and without waiving the foregoing objections, and based on Responding Party's understanding of
20 the discovery, Responding Party responds as follows: Matt Gerloch, (818) 510-7541, address
21 unknown. However, since this Responding Party's investigation and discovery are continuing, this
22 Responding Party does not have sufficient facts available to her, at this time, to furnish a complete
23 response to this Interrogatory; therefore, this Responding Party hereby reserves the right to amend
24 this response in the future, once additional information/facts have been discovered.

25 **SPECIAL INTERROGATORY NO. 7:**

26 Please IDENTIFY the co-workers YOU supervised as alleged in paragraph 39 of YOUR
27 COMPLAINT.

28 ///

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

2 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
3 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
4 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
5 complete in and of itself” is violated where resort must necessarily be made to other materials in
6 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
7 Additionally, paragraph 39 of Plaintiff operative Complaint does not refer to any “co-workers,”
8 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
9 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
10 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
11 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
12 way of this Interrogatory since it would or should have a records reflecting, and information
13 regarding, the information sought through this interrogatory. Nevertheless, subject to, and without
14 waiving the foregoing objections, and based on Responding Party’s understanding of the discovery,
15 Responding Party responds as follows: Not applicable since paragraph 39 of the operative Complaint
16 does not contain any such reference.

17 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

18 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
19 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
20 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
21 complete in and of itself” is violated where resort must necessarily be made to other materials in
22 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
23 Additionally, paragraph 39 of Plaintiff operative Complaint does not refer to any “co-workers,”
24 rendering this Interrogatories exceptionally vague and ambiguous. As such, said Interrogatory is
25 sufficiently unclear so as to lead to an improper response due to its ambiguity and vagueness.
26 Furthermore, this Interrogatory seeks information that is already in the possession of the propounding
27 Defendant. Defendant is in a far more superior position to ascertain the information it now seeks by
28 way of this Interrogatory since it would or should have a records reflecting, and information

1 regarding, the information sought through this interrogatory. Nevertheless, subject to, and without
2 waiving the foregoing objections, and based on Responding Party's understanding of the discovery,
3 Responding Party responds as follows: Ranim Ishac, (909) 993-7316, address unknown; Abed (last
4 name unknown), address and phone number unknown; Shamir Foster, (323) 251-9438; Brook Haag,
5 phone number and address unknown; Krystal Bartosik, phone number and address unknown; Divine
6 Dylan, phone number and address unknown; Angie Daysia, phone number and address unknown;
7 Marshawn (last name unknown), phone number and address unknown; Tatyana (last name
8 unknown), phone number and address unknown; Jay (last name unknown), (562) 279-3580, address
9 unknown; Ashlee (last name unknown), phone number and address unknown; Chad Davis, (323)
10 610-2277; Dylan (last name unknown), (650) 996-9559, address unknown; Jerone (last name
11 unknown), (626) 409-0694, address unknown; Tee (last name unknown), (916) 430-1204, address
12 unknown. However, since this Responding Party's investigation and discovery are continuing, this
13 Responding Party does not have sufficient facts available to her, at this time, to furnish a complete
14 response to this Interrogatory; therefore, this Responding Party hereby reserves the right to amend
15 this response in the future, once additional information/facts have been discovered.

16 **SPECIAL INTERROGATORY NO. 8:**

17 Please IDENTIFY the female co-workers towards whom DEFENDANT (The term
18 "DEFENDANT" means Propounding Party Alkiviades David) behaved inappropriately as alleged
19 in paragraph 40 of YOUR COMPLAINT.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 8:**

21 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
22 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
23 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be "full and
24 complete in and of itself" is violated where resort must necessarily be made to other materials in
25 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
26 Additionally, paragraph 40 of Plaintiff operative Complaint does not refer to any "female co-
27 workers," to whom Defendant "behaved inappropriately," rendering this Interrogatories
28 exceptionally vague and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead

1 to an improper response due to its ambiguity and vagueness. Furthermore, this Interrogatory seeks
2 information that is already in the possession of the propounding Defendant. Nevertheless, subject
3 to, and without waiving the foregoing objections, and based on Responding Party's understanding
4 of the discovery, Responding Party responds as follows: Not applicable since paragraph 40 of the
5 operative Complaint does not contain any such reference.

6 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 8:**

7 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
8 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
9 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be "full and
10 complete in and of itself" is violated where resort must necessarily be made to other materials in
11 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
12 Additionally, paragraph 40 of Plaintiff operative Complaint does not refer to any "female co-
13 workers," to whom Defendant "behaved inappropriately," rendering this Interrogatories
14 exceptionally vague and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead
15 to an improper response due to its ambiguity and vagueness. Furthermore, this Interrogatory seeks
16 information that is already in the possession of the propounding Defendant. Nevertheless, subject
17 to, and without waiving the foregoing objections, and based on Responding Party's understanding
18 of the discovery, Responding Party responds as follows: Kim Beavers, (417) 773-2983, address
19 unknown. However, since this Responding Party's investigation and discovery are continuing, this
20 Responding Party does not have sufficient facts available to her, at this time, to furnish a complete
21 response to this Interrogatory; therefore, this Responding Party hereby reserves the right to amend
22 this response in the future, once additional information/facts have been discovered.

23 **SPECIAL INTERROGATORY NO. 9:**

24 Please describe the inappropriate behavior alleged in paragraph 40 of YOUR COMPLAINT.

25 **RESPONSE TO SPECIAL INTERROGATORY NO. 9:**

26 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
27 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
28 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be "full and

1 complete in and of itself” is violated where resort must necessarily be made to other materials in
2 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
3 Nevertheless, subject to, and without waiving the foregoing objections, and based on Responding
4 Party’s understanding of the discovery, Responding Party responds as follows: As stated in
5 paragraph 40, Defendant Alkiviades David began masturbating next to Plaintiff after drugging her,
6 and then, when she attempted to leave, he grabbed her hand and started pulling it toward his penis,
7 while repeatedly saying: “hold on; hold on” and “help me out” or words to that effect. However,
8 since this Responding Party’s investigation and discovery are continuing, this Responding Party does
9 not have sufficient facts available to her, at this time, to furnish a complete response to this
10 Interrogatory; therefore, this Responding Party hereby reserves the right to amend this response in
11 the future, once additional information/facts have been discovered.

12 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 9:**

13 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
14 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
15 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
16 complete in and of itself” is violated where resort must necessarily be made to other materials in
17 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
18 Nevertheless, subject to, and without waiving the foregoing objections, and based on Responding
19 Party’s understanding of the discovery, Responding Party responds as follows: While Kim Beavers
20 was alone with Alkiviades David in the Swiss X production room on or about April 2019, Alkiviades
21 David snuck up behind her and masturbated over her right-hand shoulder as she was ordering
22 products online for the business. Kim Beavers was shocked and frozen. Shortly thereafter, she asked
23 for time away from the office. However, since this Responding Party’s investigation and discovery
24 are continuing, this Responding Party does not have sufficient facts available to her, at this time, to
25 furnish a complete response to this Interrogatory; therefore, this Responding Party hereby reserves
26 the right to amend this response in the future, once additional information/facts have been
27 discovered.

28 ///

1 **SPECIAL INTERROGATORY NO. 10:**

2 Please IDENTIFY the co-workers to whom DEFENDANT owed unpaid wages and
3 commissions as alleged in paragraph 41 of YOUR COMPLAINT.

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

5 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
6 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
7 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be “full and
8 complete in and of itself” is violated where resort must necessarily be made to other materials in
9 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
10 Additionally, paragraph 41 of Plaintiff operative Complaint does not refer to any “co-workers,” to
11 whom Defendant “owed unpaid wages and commissions,” rendering this Interrogatories
12 exceptionally vague and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead
13 to an improper response due to its ambiguity and vagueness. Furthermore, this Interrogatory seeks
14 information that is already in the possession of the propounding Defendant. Nevertheless, subject
15 to, and without waiving the foregoing objections, and based on Responding Party’s understanding
16 of the discovery, Responding Party responds as follows: Not applicable since paragraph 41 of the
17 operative Complaint does not contain any such reference. Notwithstanding, Defendant owed unpaid
18 wages and commissions to Responding Party and she is also aware of Defendant owing unpaid
19 wages and commissions to at least Mark (last name unknown); Mickey Vaca; Jennifer Gomez; Liz
20 (last name unknown); Andie Channel; and Jay (last name unknown); Divinity (last name unknown);
21 Dylan (last name unknown). However, since this Responding Party’s investigation and discovery
22 are continuing, this Responding Party does not have sufficient facts available to her, at this time, to
23 furnish a complete response to this Interrogatory; therefore, this Responding Party hereby reserves
24 the right to amend this response in the future, once additional information/facts have been
25 discovered.

26 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

27 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
28 and of itself and it also contains a preface and/or instruction thereby violating the requirements of

1 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
2 complete in and of itself” is violated where resort must necessarily be made to other materials in
3 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
4 Additionally, paragraph 41 of Plaintiff operative Complaint does not refer to any “co-workers,” to
5 whom Defendant “owed unpaid wages and commissions,” rendering this Interrogatories
6 exceptionally vague and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead
7 to an improper response due to its ambiguity and vagueness. Furthermore, this Interrogatory seeks
8 information that is already in the possession of the propounding Defendant. Nevertheless, subject
9 to, and without waiving the foregoing objections, and based on Responding Party’s understanding
10 of the discovery, Responding Party responds as follows: Defendant owed unpaid wages and
11 commissions to Responding Party and she is also aware of Defendant owing unpaid wages and
12 commissions to at least Mark (last name unknown), (310) 499-6343, address unknown; Mickey
13 Vaca, (415) 755-7935, 200 S. Clark Dr., Beverly Hills, CA 90211; Jennifer Gomez, (310) 567-4581,
14 address unknown; Liz (last name unknown), (818) 274-8983, address unknown; Andie Channel,
15 (323) 610-2277, address unknown; and Jay (last name unknown), (562) 279-3580, address unknown;
16 Divinity (last name unknown), (213) 915-9704, address unknown; Dylan (last name unknown), (650)
17 996-9559, address unknown. However, since this Responding Party’s investigation and discovery
18 are continuing, this Responding Party does not have sufficient facts available to her, at this time, to
19 furnish a complete response to this Interrogatory; therefore, this Responding Party hereby reserves
20 the right to amend this response in the future, once additional information/facts have been
21 discovered.

22 **SPECIAL INTERROGATORY NO. 12:**

23 Please describe the nature of the work performed and the approximate amount of unpaid
24 wages and commissions due as alleged in paragraph 41 of YOUR COMPLAINT.

25 **RESPONSE TO SPECIAL INTERROGATORY NO. 12:**

26 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
27 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
28 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and

1 complete in and of itself” is violated where resort must necessarily be made to other materials in
2 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
3 Additionally, paragraph 41 of Plaintiff operative Complaint does not refer to any “unpaid wages and
4 commissions,” rendering this Interrogatories exceptionally vague and ambiguous. As such, said
5 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
6 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
7 propounding Defendant. Nevertheless, subject to, and without waiving the foregoing objections, and
8 based on Responding Party’s understanding of the discovery, Responding Party responds as follows:
9 Not applicable since paragraph 41 of the operative Complaint does not contain any such reference.
10 Notwithstanding, however, Alkiviades David became highly erratic and by or about mid-April 2019,
11 he owed her and her co-workers, a substantial amount of unpaid wages and/or commissions. In fact,
12 Responding Party regularly received complaints from various vendors who were owed money.
13 Responding Party’s co-workers also complained to her on a routine basis about Alkiviades David
14 ignoring them whenever they asked him about their pay. By or about April 21, 2019, Responding
15 Party had made numerous efforts to schedule a meeting to speak with Alkiviades David about the
16 money he owed her and his staff to no avail. By or about late June 2019, Alkiviades David had
17 become even more unpredictable with relation to his business decisions. At one point in time in or
18 about late-May 2019, Alkiviades David summarily terminated a number of employees without
19 warning or reason. Responding Party estimates that the amount of unpaid wages and commissions
20 owed to her exceeds \$10,000. Additionally, Alkiviades David had also made several promises to
21 Responding Party that he later refused to honor, including, but not limited to, promising to furnishing
22 her with a company car for her employment-related travel needs. However, since this Responding
23 Party’s investigation and discovery are continuing, this Responding Party does not have sufficient
24 facts available to her, at this time, to furnish a complete response to this Interrogatory; therefore, this
25 Responding Party hereby reserves the right to amend this response in the future, once additional
26 information/facts have been discovered.

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28 ///

1 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 12:**

2 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
3 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
4 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be “full and
5 complete in and of itself” is violated where resort must necessarily be made to other materials in
6 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
7 Additionally, paragraph 41 of Plaintiff operative Complaint does not refer to any “unpaid wages and
8 commissions,” rendering this Interrogatories exceptionally vague and ambiguous. As such, said
9 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
10 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
11 propounding Defendant. Nevertheless, subject to, and without waiving the foregoing objections, and
12 based on Responding Party’s understanding of the discovery, Responding Party responds as follows:
13 Alkiviades David became highly erratic and by or about mid-April 2019, he owed her and her co-
14 workers, a substantial amount of unpaid wages and/or commissions. In fact, Responding Party
15 regularly received complaints from various vendors who were owed money. Responding Party’s co-
16 workers also complained to her on a routine basis about Alkiviades David ignoring them whenever
17 they asked him about their pay. By or about April 21, 2019, Responding Party had made numerous
18 efforts to schedule a meeting to speak with Alkiviades David about the money he owed her and his
19 staff to no avail. By or about late June 2019, Alkiviades David had become even more unpredictable
20 with relation to his business decisions. At one point in time in or about late-May 2019, Alkiviades
21 David summarily terminated a number of employees without warning or reason. Responding Party
22 estimates that the amount of unpaid wages and commissions owed to is between \$10,000 and
23 \$20,000, and was for Responding Party’s work as a cashier, selling memberships to his club, making
24 milkshakes, and other duties assigned to her by Alkiviades David. Additionally, Alkiviades David
25 had also made several promises to Responding Party that he later refused to honor, including, but
26 not limited to, promising to furnishing her with a company car for her employment-related travel
27 needs. However, since this Responding Party’s investigation and discovery are continuing, this
28 Responding Party does not have sufficient facts available to her, at this time, to furnish a complete

1 response to this Interrogatory; therefore, this Responding Party hereby reserves the right to amend
2 this response in the future, once additional information/facts have been discovered.

3 **SPECIAL INTERROGATORY NO. 13:**

4 Please IDENTIFY the co-worker whose voice YOU heard calling for DEFENDANT as
5 alleged in paragraph 49 of YOUR COMPLAINT.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 13:**

7 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
8 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
9 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be “full and
10 complete in and of itself” is violated where resort must necessarily be made to other materials in
11 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
12 Additionally, paragraph 49 of Plaintiff operative Complaint does not refer to the “voice” of any “co-
13 worker,” rendering this Interrogatories exceptionally vague and ambiguous. As such, said
14 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
15 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
16 propounding Defendant. Nevertheless, subject to, and without waiving the foregoing objections, and
17 based on Responding Party’s understanding of the discovery, Responding Party responds as follows:
18 Not applicable since paragraph 49 of the operative Complaint does not contain any such reference.
19 Notwithstanding, however, this Responding Party believes that the voice she her was that of Borac
20 (a.k.a. Mark) Robinson. However, since this Responding Party’s investigation and discovery are
21 continuing, this Responding Party does not have sufficient facts available to her, at this time, to
22 furnish a complete response to this Interrogatory; therefore, this Responding Party hereby reserves
23 the right to amend this response in the future, once additional information/facts have been
24 discovered.

25 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 13:**

26 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
27 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
28 *Cal. Code of Civ. Proc. § 2030.060(d)*. The requirement that each interrogatory be “full and

1 complete in and of itself” is violated where resort must necessarily be made to other materials in
2 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
3 Additionally, paragraph 49 of Plaintiff operative Complaint does not refer to the “voice” of any “co-
4 worker,” rendering this Interrogatories exceptionally vague and ambiguous. As such, said
5 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
6 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
7 propounding Defendant. Nevertheless, subject to, and without waiving the foregoing objections, and
8 based on Responding Party’s understanding of the discovery, Responding Party responds as follows:
9 This Responding Party believes that the voice she heard was that of Borac (a.k.a. Mark) Makonie,
10 (310) 499-6343, address unknown. However, since this Responding Party’s investigation and
11 discovery are continuing, this Responding Party does not have sufficient facts available to her, at this
12 time, to furnish a complete response to this Interrogatory; therefore, this Responding Party hereby
13 reserves the right to amend this response in the future, once additional information/facts have been
14 discovered.

15 **SPECIAL INTERROGATORY NO. 14:**

16 Please state all facts support YOUR contention that DEFENDANT “perceived that [YOU
17 were] intending to report him” to government agencies as alleged in paragraph 57 of YOUR
18 COMPLAINT.

19 **RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

20 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
21 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
22 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be “full and
23 complete in and of itself” is violated where resort must necessarily be made to other materials in
24 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
25 Additionally, paragraph 49 of Plaintiff operative Complaint does not refer to the “voice” of any “co-
26 worker,” rendering this Interrogatories exceptionally vague and ambiguous. As such, said
27 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
28 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the

1 propounding Defendant. Nevertheless, subject to, and without waiving the foregoing objections, and
2 based on Responding Party's understanding of the discovery, Responding Party responds as follows:
3 Not applicable since paragraph 49 of the operative Complaint does not contain any such reference.
4 Notwithstanding, however, this Responding Party had informed Alkiviades David about vendors
5 and/or co-workers threatening civil lawsuits for outstanding wages and pay due. Alkiviades David
6 additionally knew that Responding Party was owed her wages as she had been complaining to him
7 about it, both for herself and her co-workers as well. Also, by or about the first week of July 2019,
8 Responding Party learned from several co-workers that Alkiviades David had paid them the wages
9 he owed, while she was still waiting to be paid for what he owed her. Responding Party thereafter
10 confronted Alkiviades David about the pay he owed her, but he refused to pay her, thereby ending
11 her employment. However, since this Responding Party's investigation and discovery are
12 continuing, this Responding Party does not have sufficient facts available to her, at this time, to
13 furnish a complete response to this Interrogatory; therefore, this Responding Party hereby reserves
14 the right to amend this response in the future, once additional information/facts have been
15 discovered.

16 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

17 **OBJECTION.** This Interrogatory is improper in form since it is not full and complete in
18 and of itself and it also contains a preface and/or instruction thereby violating the requirements of
19 *Cal. Code of Civ. Proc.* § 2030.060(d). The requirement that each interrogatory be "full and
20 complete in and of itself" is violated where resort must necessarily be made to other materials in
21 order to answer the question. (*Catanese v. Sup.Ct. (Ray)* (1996) 46 Cal.App.4th 1159, 1164.)
22 Additionally, paragraph 49 of Plaintiff operative Complaint does not refer to the "voice" of any "co-
23 worker," rendering this Interrogatories exceptionally vague and ambiguous. As such, said
24 Interrogatory is sufficiently unclear so as to lead to an improper response due to its ambiguity and
25 vagueness. Furthermore, this Interrogatory seeks information that is already in the possession of the
26 propounding Defendant. Nevertheless, subject to, and without waiving the foregoing objections, and
27 based on Responding Party's understanding of the discovery, Responding Party responds as follows:
28 This Responding Party had informed Alkiviades David about vendors and/or co-workers threatening

1 civil lawsuits for outstanding wages and pay due. Alkiviades David additionally knew that
2 Responding Party was owed her wages as she had been complaining to him about it, both for herself
3 and her co-workers as well. Also, by or about the first week of July 2019, Responding Party learned
4 from several co-workers that Alkiviades David had paid them the wages he owed, while she was still
5 waiting to be paid for what he owed her. Responding Party thereafter confronted Alkiviades David
6 about the pay he owed her, but he refused to pay her, thereby ending her employment. However,
7 since this Responding Party's investigation and discovery are continuing, this Responding Party does
8 not have sufficient facts available to her, at this time, to furnish a complete response to this
9 Interrogatory; therefore, this Responding Party hereby reserves the right to amend this response in
10 the future, once additional information/facts have been discovered.

11 **SPECIAL INTERROGATORY NO. 16:**

12 Please describe any method or type of account YOU used to backup any cell phone YOU
13 used during the period of September 1, 2015 to the present, including but not limited to icloud,
14 google drive or other similar cloud methods.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

16 **OBJECTION.** This Request seeks information that is subject to this Responding Party's
17 Constitutionally protected right of privacy. Nevertheless, subject to, and without waiving the
18 foregoing objections, and based on Responding Party's understanding of the discovery, Responding
19 Party responds as follows: Responding Party believes the iCloud. However, since this Responding
20 Party's investigation and discovery are continuing, this Responding Party does not have sufficient
21 facts available to her, at this time, to furnish a complete response to this Interrogatory; therefore, this
22 Responding Party hereby reserves the right to amend this response in the future, once additional
23 information/facts have been discovered.

24 **FURTHER RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

25 **OBJECTION.** This Request seeks information that is subject to this Responding Party's
26 Constitutionally protected right of privacy. Nevertheless, subject to, and without waiving the
27 foregoing objections, and based on Responding Party's understanding of the discovery, Responding
28 Party responds as follows: iCloud. However, since this Responding Party's investigation and

1 discovery are continuing. this Responding Party does not have sufficient facts available to her, at this
2 time, to furnish a complete response to this Interrogatory; therefore, this Responding Party hereby
3 reserves the right to amend this response in the future, once additional information/facts have been
4 discovered.

5 **SPECIAL INTERROGATORY NO. 34:**

6 IDENTIFY every MEDICAL CARE PROVIDER (The term “MEDICAL CARE
7 PROVIDER” includes all persons who provide any type of health care, mental health care, or
8 rehabilitation care on a professional basis, such as physicians, surgeons, nurses, paramedics, physical
9 therapists, rehabilitation therapists, chiropractors, podiatrists, psychiatrists, psychologists, and mental
10 health counselors and therapists) who examined, diagnosed, treated, or otherwise provided
11 MEDICAL CARE (The term “MEDICAL CARE” includes any medical care, aid, treatment,
12 comfort, diagnosis, prognosis, or examination by any medical care provider or other person for any
13 INJURY, including any mental, emotional, or psychological illness) to YOU for the period April 1,
14 2015 to the present.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 34:**

16 **OBJECTION.** Responding Party objects that the term “Medical Care Provider” is vague
17 and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead to an improper
18 response due to its ambiguity and vagueness. Responding Party further objects to this Interrogatory
19 on the ground that it seeks the disclosure of information protected by Responding Party’s
20 Constitutional Right to Privacy contained in Article 1, § 1 of the Constitution of the State of
21 California. In this regard, California case authority proscribes fishing expeditions into a plaintiff’s
22 medical records solely on the basis of speculation that something of interest may surface. (*See*
23 *Vinson v. Sup.Ct.* (1987) 43 Cal.3d 833, 840; *Mendez v. Sup.Ct.* (1988) 206 Cal.App.3d 557, 571;
24 *Tylo v. Sup.Ct.* (1997) 55 Cal.App.4th 1379, 1387.) In this regard, simply because this Responding
25 Party has filed a lawsuit does not signal the his waiver of his right to privacy or the physician-patient
26 privilege regarding unrelated matters. (*See, e.g., In Re Lifschutz* (1970) 2 Cal.3d 415, 435; *see also*
27 *Britt vs. Sup.Ct.* (1978) 20 Cal.3d 844, 864; and *Vinson*, 43 Cal.3d at 841-842.) In fact, it has been
28 concluded that the “[d]iscovery of constitutionally protected information is on a par with discovery

1 of privileged information **and is more narrowly proscribed than traditional discovery.**" (*Tylo*,
2 55 Cal.App.4th at 1387.) (Emphasis added.) Moreover, this Interrogatory also appears to
3 impermissibly and prematurely seeks the identities of expert witnesses and expert witness materials.
4 Accordingly, since the information sought by this Request is governed by *Code of Civ. Proc.* §§
5 2034.210 - 2034.310, it is presently protected by the attorney work-product privilege. (See
6 *Rodriguez v. McDonnell Douglas Corp.* (1978) 87 Cal.App.3d 626, 647-648; *Scotsman Mfg. v.*
7 *Sup.Ct.* (1966) 242 Cal.App.2d 527, 530; *Williamson v. Sup.Ct.* (1978) 21 Cal.3d 829, 834; *Mack*
8 *v. Sup.Ct.* (1968) 259 Cal.App.2d 7,10; *Nacht & Lewis Arch. vs. Sup.Ct.* (1996) 47 Cal.App.4th 214.)
9 Nevertheless, subject to, and without waiving the foregoing objections, and assuming this
10 Interrogatory is seeking non-expert witness related information and relating to the injuries
11 Responding Party sustained, Responding Party responds as follows: Planned Parenthood, 1014 ½
12 N Vermont Ave, Los Angeles, CA 90029, (800) 576-5544. However, since this Responding Party's
13 investigation and discovery are continuing, this Responding Party does not have sufficient facts
14 available to her, at this time, to furnish a complete response to this Interrogatory; therefore, this
15 Responding Party hereby reserves the right to amend this response in the future, once additional
16 information/facts have been discovered.

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19 LIVINGSTON • BAKHTIAR

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21 Dated: 7-20-23


22 JUSTIN M. KIRK,
23 ATTORNEY FOR PLAINTIFF,
24 JANE DOE

VERIFICATION

I have read the foregoing PLAINTIFF'S FURTHER RESPONSES TO DEFENDANT ALKIVIADES DAVID'S SPECIAL INTERROGATORIES - SET NUMBER ONE (1) and know its contents.

CHECK APPLICABLE PARAGRAPH

- I am a party to this action. The matters stated in the foregoing document are true of my knowledge except as to those matters that are stated on information and belief, as to those matters I believe them to be true.

Executed on 7/20/2023, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

JANE DOE
Type or Print Name

DocuSigned by:

BEBEB8C877A2A6A
Signature

Document received by the CA 2nd District Court of Appeal.

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2 PROOF OF SERVICE
3 1013A (3) CCP Revised 1/1/88

4 STATE OF CALIFORNIA)
5 COUNTY OF LOS ANGELES) ss

6 I am employed in the County of Los Angeles, State of California. I am over the age of 18
7 and not a party to the within action. My business address is 3435 Wilshire Boulevard, Suite 1669,
8 Los Angeles, California 90010.

9 On July 20, 2023, I served the forgoing documents described as: **PLAINTIFF'S FURTHER**
10 **RESPONSES TO DEFENDANT ALKIVIADES DAVID'S SPECIAL INTERROGATORIES -**
11 **SET NUMBER ONE (1)** a true copy thereof enclosed in a sealed envelop(s) addressed as follows:

12 [SEE ATTACHED SERVICE LIST]

13 **[X] BY MAIL:** I caused such envelope to be deposited in the mail at Los Angeles, California. The
14 envelope was mailed with postage thereon fully pre-paid. I am readily familiar with the firm's
15 practice of collection and processing of correspondence for mailing. Under that practice, the
16 correspondence is deposited with the U.S. Postal Service on that same day in the ordinary course of
17 business. I am aware that on motion of the party served, service is presumed invalid if postal
18 cancellation date or postage meter date is more than one day after the date of deposit for mailing
19 contained in the affidavit.

20 **[] BY EXPRESS MAIL:** I caused such envelope to be deposited in a mailbox, subpost office,
21 substation, or mail chute, or other like facility regularly maintained by the United States Postal
22 Service for receipt of Express Mail, in a sealed envelope/box, with Express Mail postage paid,
23 addressed to the person on whom it is to be served, at the herein above listed office address.

24 **[] BY FACSIMILE:** I served a true copy of the document(s) described on all parties to this action
25 by facsimile transmission, and the transmission was reported as complete and without error.
26 Facsimile transmissions were sent and addressed as listed above.

27 **[X] BY E-MAIL SERVICE:** Pursuant to an agreement between the parties, I served a true copy
28 of the document(s) described above on the party listed above by E-Mail transmission to the E-Mail
address listed above and I did not receive a rejection of transmission notification therefor.

I declare under penalty of perjury, under the law of the State of California, that the foregoing
is true and correct.

Executed on July 20, 2023, at Los Angeles, California.

Douglas Garcia
DECLARANT

Document received by the CA 2nd District Court of Appeal.

AA0204

SERVICE LIST

JANE DOE V. ALKIVIADES DAVID, ET AL.

CASE NO.: 20STCV37498

Attorneys for Defendants

Aaron Allan, Esq.

aallan@glaserweil.com

Jill Harris, Esq.

jharris@glaserweil.com

Glaser Weil Fink Howard Avchen & Shapiro LLP

10250 Constellation Blvd., 19th Floor

Los Angeles, CA 90067

Co-Counsel for Plaintiff

Dustin Z. Moaven, Esq.

dustin@dordicklaw.com

Dordick Law Corporation

celine@dordicklaw.com

1122 Wilshire Blvd.

alex@dordicklaw.com

Los Angeles, CA 90017

sandra@dordicklaw.com

EXHIBIT E

AA0206

Document received by the CA 2nd District Court of Appeal.

VERIFICATION

I have read the foregoing PLAINTIFF'S RESPONSES TO DEFENDANT ALKIVIADES DAVID'S SPECIAL INTERROGATORIES, SET NUMBER ONE (1) and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my knowledge except as to those matters that are stated on information and belief, as to those matters I believe them to be true.

Executed on 7/20/2023, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

JANE DOE
Type or Print Name

DocuSigned by:

BFEB8C8774246A...
Signature

Document received by the CA 2nd District Court of Appeal.

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PROOF OF SERVICE
1013A (3) CCP Revised 1/1/88

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3435 Wilshire Boulevard, Suite 1669, Los Angeles, California 90010.

On **July 20, 2023**, I served the forgoing documents described as:

- **VERIFICATION RE: PLAINTIFF'S RESPONSES TO DEFENDANT ALKIVIADES DAVID'S SPECIAL INTERROGATORIES, SET NUMBER ONE (1)**
- **VERIFICATION RE: PLAINTIFF'S RESPONSES TO DEFENDANT ALKIVIADES DAVID'S DEMAND FOR INSPECTION OF DOCUMENTS, SET NUMBER ONE (1)**
- **PLAINTIFF'S RESPONSES TO DEFENDANT ALKIVIADES DAVID'S FORM INTERROGATORIES - EMPLOYMENT LAW, SET NUMBER ONE (1)**

true copy thereof enclosed in a sealed envelop(s) addressed as follows:

[SEE ATTACHED SERVICE LIST]

[X] BY MAIL: I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully pre-paid. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing contained in the affidavit.

[X] BY E-MAIL SERVICE: Pursuant to an agreement between the parties, I served a true copy of the document(s) described above on the party listed above by E-Mail transmission to the E-Mail address listed above and I did not receive a rejection of transmission notification therefor.

I declare under penalty of perjury, under the law of the State of California, that the foregoing is true and correct.

Executed on **July 20, 2023**, at Los Angeles, California.

Douglas Garcia
DECLARANT

AA0208

Document received by the CA 2nd District Court of Appeal.

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SERVICE LIST

JANE DOE V. ALKIVIADES DAVID, ET AL.

CASE NO.: 20STCV37498

Attorneys for Defendants

Aaron Allan, Esq.
Jill Harris, Esq.
Glaser Weil Fink Howard Avchen & Shapiro LLP
10250 Constellation Blvd., 19th Floor
Los Angeles, CA 90067

aallan@glaserweil.com
jharris@glaserweil.com

Co-Counsel for Plaintiff

Dustin Z. Moaven, Esq.
Dordick Law Corporation
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Los Angeles, CA 90017

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alex@dordicklawn.com
sandra@dordicklawn.com

Document received by the CA 2nd District Court of Appeal.

AA0209

L.B.
LAW

EXHIBIT F

AA0210

Document received by the CA 2nd District Court of Appeal.

From: [Jill Harris](#)
To: [Justin M. Kirk](#)
Cc: [Aaron Allan](#); [Fred Heather](#); ["Sandra Jimenez"](#); ["Dustin Moaven"](#); ["Kim Anglin"](#); ["Jessica Huerta"](#); ["ESB"](#); ["Sandy"](#); ["Douglas Garcia"](#); ["Alex Munoz"](#); ["Celine Adran"](#)
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Date: Monday, August 7, 2023 11:18:00 AM
Attachments: [image002.png](#)
[image005.png](#)

That is all we would like to discuss at this time. I am happy to discuss a compromise during the call.

1pm?

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Sent: Monday, August 7, 2023 11:04 AM
To: Jill Harris <jharris@glaserweil.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

I do have some time available this afternoon. Is Plaintiff's responses to SROG Nos. 34-35 the only item from SROG Set 1, RFP Set 1, and Form Rog Set 1 that Defendant takes issue with? And does Defendant have any potential compromise that it wishes to discuss?

Sincerely,
Justin M. Kirk

Document received by the CA 2nd District Court of Appeal.

AA0211

Attorney At Law

Livingston · Bakhtiar
Equitable Plaza
3435 Wilshire Boulevard, Suite 1669
Los Angeles, California 90010
Tel: 213-632-1550
Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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From: Jill Harris <jharris@glaserweil.com>
Sent: Monday, August 7, 2023 10:53 AM
To: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Importance: High

Hi Justin,

As you can imagine, that is quite a surprising response as already committed to amending those responses and providing this information weeks ago.

Please let me know your availability for a call to further meet and confer on this issue. I am free this afternoon 1-5pm or anytime tomorrow.

Best,



Jill Harris | Attorney
10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com

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AA0212



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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Sent: Friday, August 4, 2023 5:37 PM
To: Jill Harris <jharris@glaserweil.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

Plaintiff does not intend to supplement SROGS Nos. 34-35. We have already responded with Planned Parenthood, which is relevant information. But Defendant is simply not entitled to go fishing around Plaintiff's unrelated medical records solely on the basis of speculation that something of interest may surface. (See *Vinson v. Sup.Ct.* (1987) 43 Cal.3d 833, 840; *Mendez v. Sup.Ct.* (1988) 206 Cal.App.3d 557, 571; *Tylo v. Sup.Ct.* (1997) 55 Cal.App.4th 1379, 1387.)

As for Plaintiff's income-related documents, her production includes all responsive documents in her possession.

Sincerely,
Justin M. Kirk
Attorney At Law

Livingston · Bakhtiar
Equitable Plaza
3435 Wilshire Boulevard, Suite 1669
Los Angeles, California 90010
Tel: 213-632-1550
Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or telephone.

From: Jill Harris <jharris@glaserweil.com>

Sent: Friday, August 4, 2023 2:36 PM

To: Justin M. Kirk <jmk@livingstonbakhtiar.com>

Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Importance: High

Justin,

I notice that you did not supplement SROGS 34-35 per our agreement. These requests seek information about Plaintiff's medical providers during the relevant time period. You indicated that there were, in fact, additional providers not listed in the initial response and that they would be included in the supplemental response. Defendant is entitled to this information.

Please provide supplemental responses no later than Tuesday, August 8. If you would like to discuss this further please feel free to give me a call asap.

Please also confirm that your latest production includes all Plaintiff's existing income-related documents.

Best,

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Jill Harris

Sent: Monday, July 17, 2023 11:30 AM

To: 'Justin M. Kirk' <jmk@livingstonbakhtiar.com>

Document received by the CA 2nd District Court of Appeal.

AA0214

Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Justin,

Apologies, I meant FROG 210.6. We still need the amended written responses by July 20. I was giving some additional time to provide the existing income-related documents by July 25.

Best,

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>

Sent: Tuesday, July 11, 2023 12:07 PM

To: Jill Harris <jharris@glaserweil.com>

Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

When you referenced "SROG No. 6 and the related documents to be produced," I believe you meant

AA0215

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Empl Form Rog No. 210.6? Please confirm.

Also, you cited both July 20th and July 25th as the due date. Please confirm which one you meant. You know which one I'd choose.

Yes, we will be supplementing SROG Nos. 34-35 as well, thank you for catching my mistake.

Lastly, I will be speaking with our team to discuss what information we can share about Plaintiff's medical conditions and getting back to you.

Sincerely,
Justin M. Kirk
Attorney At Law

Livingston · Bakhtiar
Equitable Plaza
3435 Wilshire Boulevard, Suite 1669
Los Angeles, California 90010
Tel: 213-632-1550
Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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From: Jill Harris <jharris@glaserweil.com>
Sent: Tuesday, July 11, 2023 10:02 AM
To: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Justin,

Thank you for the below recap. With respect to FROG Nos. 200.1, 200.2, 200.3, 200.4, Plaintiff need not supplement the responses. With respect to SROG No. 6 and the related documents to be produced, during our call, you mentioned that Plaintiff has not filed her taxes for the last several

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years and that she was in the process of gathering documents to do so. You explained that, as a result, she would be unable to produce documents related to her income for another 4-6 months. I explained that such a lengthy timeline would not be acceptable given the need for discovery in this case—a case filed by Plaintiff not Mr. David. You offered to provide the information she currently has in her possession within 2 months. Your offer is not acceptable in light of Plaintiff’s obligations under the discovery code and her ample notice of the relevance of the requested documents and information. Please provide all documents currently in Plaintiff’s possession, custody or control by July 25. Plaintiff can and should produce the additional documents she obtains while preparing her taxes when she receives them. We reserve our right to move to compel if we have not received the existing documents by July 25.

Additionally, when we discussed the list of Plaintiff's medical professionals (SROG 34-35 - which was omitted from your list below but you indicated Plaintiff would supplement), you previewed your intention to request a “first look” agreement in connection with our future subpoenas to the identified professionals. Such a proposed agreement would allow your office to review and redact the medical records prior to production to my office. I appreciate you raising this issue to facilitate the meet and confer process.

During our discussion, it sounded like there was some type of incident or ailment that occurred during the relevant time period that you felt was not relevant and need to be redacted. I asked you to provide some basic information about this. To that end, please provide a list of ailments and/or incidents that occurred April 2019-present that you believe should not be discoverable. For example, if Plaintiff broke her arm in a car accident, we could better evaluate whether we would be amenable to a “first look” agreement allowing you to redact that information. If you have some authority that supports the use of “first look” agreements, please pass that along as well.

Feel free to give me a call to discuss. We look forward to receiving Plaintiff’s amended responses on July 20. Please be sure to include amended responses to SROG 34-35.

Best,

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>

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AA0217

Sent: Friday, June 30, 2023 1:59 PM

To: Jill Harris <jharris@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>

Cc: Aaron Allan <aallan@glaserweil.com>; Gwendolyn Edwards <gedwards@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

Good speaking with you today. The following is a summary of what we discussed. Please let me know if I've missed anything:

1. SPROGS No. 1-10, 12-14: we will be supplementing our responses to address the issue you raised regarding the paragraph numbers that you identified in your letter.
2. SPROG No. 10: we will be supplementing our responses to include the known addresses and telephone numbers of the people identified.
3. SPROG No. 12: we will be supplementing our response to state the nature of the work performed, as well as a dollar-range of the amount of unpaid wages.
4. SPROG No. 16: we will be supplementing our response to remove the word "believes" in "believes the iCloud."
5. EFROG Nos. 200.1, 200.2, 200.3, 200.4: Please let us know if we need to provide supplemental responses after our meet and confer phone call.
6. EFROG No. 210.6: Please let us know if, after you've reviewed the documents we send later today, if you will extend our deadline to provide responses to August 31st.
7. RFP – Attorney-Client and Work Product Privilege: this confirms that we are not withholding documents based on this privilege in our responses to RFP Nos. 4, 10-12, 14, 18-19, 21-22, or 47-48. We are, however, withholding documents with regards to RFP Nos. 2-3, 8, 25-34, namely communications Plaintiff had with us, her counsel.)
8. RFP Nos. 2-11: we will be supplementing our response to state that she is producing all communications she had about Alkiviades David with anyone, regardless of whether the person was a coworker.
9. RFP Nos. 1, 4-50: we will be supplementing our response to state that "all" documents.

Plaintiff agrees to produce the aforementioned supplemental responses on July 10.

[@Dustin Moaven](#), Jill will be contacting you about scheduling a date to meet and confer next week regarding your letter.

Sincerely,
Justin M. Kirk
Attorney At Law

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AA0218

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From: Jill Harris <jharris@glaserweil.com>
Sent: Thursday, June 29, 2023 3:07 PM
To: Sandra Jimenez <sandra@dordicklaw.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Gwendolyn Edwards <gedwards@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; Dustin Moaven <dustin@dordicklaw.com>; Kim Anglin <kim.anglin@dordicklaw.com>; Jessica Huerta <jessica.huerta@dordicklaw.com>; ESB <esb@livingstonbakhtiar.com>; jmk@livingstonbakhtiar.com; Sandy <sb@livingstonbakhtiar.com>; Douglas Garcia <dag@livingstonbakhtiar.com>; Alex Munoz <alex@dordicklaw.com>; Celine Adran <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Importance: High

Hi Sandra,

I will not be able to review in time for a discussion tomorrow on the letter. During the call, we can discuss a time to talk about it next week.

Additionally, we would like to push our document exchange back to tomorrow. We anticipate being ready to produce tomorrow after our call.

Best,

Glaser Weil

Jill Harris | Attorney
10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Sandra Jimenez <sandra@dordicklaw.com>
Sent: Wednesday, June 28, 2023 5:18 PM
To: Aaron Allan <aallan@glaserweil.com>; Jill Harris <jharris@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; vshaydner@glaserweil.com; Gwendolyn Edwards <gedwards@glaserweil.com>
Cc: Dustin Moaven <dustin@dordicklaw.com>; Kim Anglin <kim.anglin@dordicklaw.com>; Jessica Huerta <jessica.huerta@dordicklaw.com>; ESB <esb@livingstonbakhtiar.com>; jmk@livingstonbakhtiar.com; Sandy <sb@livingstonbakhtiar.com>; Douglas Garcia <dag@livingstonbakhtiar.com>; Alex Munoz <alex@dordicklaw.com>; Celine Adran <celine@dordicklaw.com>
Subject: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Dear Counsel,

Attached please find Plaintiff's meet and confer letter regarding Defendant's responses to first set of discovery.

Please advise if your office would like to discuss the issues raised in this letter during the call scheduled for Friday, June 30th.

Kind regards,

Sandra Jimenez

Paralegal

DORDICK LAW CORPORATION
Beverly Hills • Downtown Los Angeles • Riverside
(800) 555-5595 (310) 551-0949
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All correspondence to: 1122 Wilshire Boulevard, Los Angeles, CA 90017

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AA0221

EXHIBIT G

AA0222

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From: [Justin M. Kirk](#)
To: [Jill Harris](#)
Cc: [Aaron Allan](#); [Fred Heather](#); ["Sandra Jimenez"](#); ["Dustin Moaven"](#); ["Kim Anglin"](#); ["Jessica Huerta"](#); ["ESB"](#); ["Sandy"](#); ["Douglas Garcia"](#); ["Alex Munoz"](#); ["Celine Adran"](#)
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Date: Wednesday, August 9, 2023 3:13:51 PM
Attachments: [image003.png](#)
[image006.png](#)

Hi Jill,

At this time, Plaintiff will not be calling any treating physicians in connection with her emotional/psychological injuries.

Plaintiff will not be providing anything further in regards to SROG Nos. 34-35.

Sincerely,
Justin M. Kirk
Attorney At Law

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Los Angeles, California 90010
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Fax: 213-632-3100
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From: Jill Harris <jharris@glaserweil.com>
Sent: Monday, August 7, 2023 5:20 PM
To: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Justin – I would add one more thing to the amended response:

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With the exception of Planned Parenthood, Plaintiff will not call any other treating medical professionals as witnesses at trial.

Please provide the amended response by Wednesday or let me know your thoughts on the proposed language.

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
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From: Jill Harris

Sent: Monday, August 7, 2023 5:10 PM

To: Justin M. Kirk <jmk@livingstonbakhtiar.com>

Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Justin,

Below is my proposed language for your amended discovery responses:

Plaintiff did not seek any psychological treatment during the period April 1, 2015 to the present. With the exception of Planned Parenthood, Plaintiff is not seeking damages in connection with any treatment she received from any medical professionals, including her family doctor, digestive doctor, or sinus doctor. With the exception of Planned Parenthood, Plaintiff did not speak with any medical professional about the events alleged in her First Amended Complaint.

This also confirms our follow up conversation in which you indicated that Plaintiff would not provide the name of her family doctor based on privacy grounds. Defendant's position remains that, at the very least, the *name* of Plaintiff's doctor is discoverable and should also be included with the above language.

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Feel free to give me a call to discuss further.

Glaser Weil

Jill Harris | Attorney

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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Sent: Monday, August 7, 2023 4:35 PM
To: Jill Harris <jharris@glaserweil.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

Just wanted to memorialize that we did have a telephone conversation regarding the matters you raised below. If you believe that based upon my explanation given over the phone that Plaintiff should further respond to RFP Nos. 34-35, please suggest some language and we can go from there.

Sincerely,
Justin M. Kirk
Attorney At Law

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Fax: 213-632-3100
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Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Justin,

Thanks for taking the time to speak with me this afternoon. This confirms that you agreed to confer with your client about providing information for any psychological providers she has visited. As I explained on the call, given that Plaintiff is seeking damages for intentional infliction of emotional distress, as well as rape and sexual harassment, Plaintiff has put her mental state at issue in this case. Providing this clearly relevant information would reduce the number of issues that would need to be presented to the court.

Additionally, you agreed to speak with your client about providing some basic information that could potentially further reduce the need for court intervention such as: (1) confirming whether or not she obtained treatment from any providers except Planned Parenthood (no sense in arguing over information that does not exist), and (2) whether there are particular incidents or conditions that she feels are wholly irrelevant, such as records related to a car accident.

You agreed to get back to me about these issues by Wednesday. Feel free to give me a call if you would like to discuss further. Our goal is to avoid unnecessary motion practice and hope the parties can keep working together to achieve that.

Best,

Glaser Weil

Jill Harris | Attorney

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Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
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AA0226



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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Sent: Monday, August 7, 2023 11:23 AM
To: Jill Harris <jharris@glaserweil.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Let's do 3:30pm, does that work for you?

Sincerely,
Justin M. Kirk
Attorney At Law

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Los Angeles, California 90010
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Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin'

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<kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

That is all we would like to discuss at this time. I am happy to discuss a compromise during the call.

1pm?

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067

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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>

Sent: Monday, August 7, 2023 11:04 AM

To: Jill Harris <jharris@glaserweil.com>

Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

I do have some time available this afternoon. Is Plaintiff's responses to SROG Nos. 34-35 the only item from SROG Set 1, RFP Set 1, and Form Rog Set 1 that Defendant takes issue with? And does Defendant have any potential compromise that it wishes to discuss?

Sincerely,
Justin M. Kirk
Attorney At Law

Document received by the CA 2nd District Court of Appeal.

AA0228

Livingston · Bakhtiar
Equitable Plaza
3435 Wilshire Boulevard, Suite 1669
Los Angeles, California 90010
Tel: 213-632-1550
Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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From: Jill Harris <jharris@glaserweil.com>
Sent: Monday, August 7, 2023 10:53 AM
To: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Importance: High

Hi Justin,

As you can imagine, that is quite a surprising response as already committed to amending those responses and providing this information weeks ago.

Please let me know your availability for a call to further meet and confer on this issue. I am free this afternoon 1-5pm or anytime tomorrow.

Best,

Glaser Weil

Jill Harris | Attorney
10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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AA0229

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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Sent: Friday, August 4, 2023 5:37 PM
To: Jill Harris <jharris@glaserweil.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

Plaintiff does not intend to supplement SROGS Nos. 34-35. We have already responded with Planned Parenthood, which is relevant information. But Defendant is simply not entitled to go fishing around Plaintiff's unrelated medical records solely on the basis of speculation that something of interest may surface. (See *Vinson v. Sup.Ct.* (1987) 43 Cal.3d 833, 840; *Mendez v. Sup.Ct.* (1988) 206 Cal.App.3d 557, 571; *Tylo v. Sup.Ct.* (1997) 55 Cal.App.4th 1379, 1387.)

As for Plaintiff's income-related documents, her production includes all responsive documents in her possession.

Sincerely,
Justin M. Kirk
Attorney At Law

Livingston · Bakhtiar
Equitable Plaza
3435 Wilshire Boulevard, Suite 1669
Los Angeles, California 90010
Tel: 213-632-1550
Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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immediately by reply email or telephone.

From: Jill Harris <jharris@glaserweil.com>
Sent: Friday, August 4, 2023 2:36 PM
To: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Importance: High

Justin,

I notice that you did not supplement SROGS 34-35 per our agreement. These requests seek information about Plaintiff's medical providers during the relevant time period. You indicated that there were, in fact, additional providers not listed in the initial response and that they would be included in the supplemental response. Defendant is entitled to this information.

Please provide supplemental responses no later than Tuesday, August 8. If you would like to discuss this further please feel free to give me a call asap.

Please also confirm that your latest production includes all Plaintiff's existing income-related documents.

Best,

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
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E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Jill Harris
Sent: Monday, July 17, 2023 11:30 AM
To: 'Justin M. Kirk' <jmk@livingstonbakhtiar.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra

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AA0231

Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Justin,

Apologies, I meant FROG 210.6. We still need the amended written responses by July 20. I was giving some additional time to provide the existing income-related documents by July 25.

Best,

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>

Sent: Tuesday, July 11, 2023 12:07 PM

To: Jill Harris <jharris@glaserweil.com>

Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

When you referenced "SROG No. 6 and the related documents to be produced," I believe you meant Empl Form Rog No. 210.6? Please confirm.

AA0232

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Also, you cited both July 20th and July 25th as the due date. Please confirm which one you meant. You know which one I'd choose.

Yes, we will be supplementing SROG Nos. 34-35 as well, thank you for catching my mistake.

Lastly, I will be speaking with our team to discuss what information we can share about Plaintiff's medical conditions and getting back to you.

Sincerely,
Justin M. Kirk
Attorney At Law

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Tel: 213-632-1550
Fax: 213-632-3100
jmk@LivingstonBakhtiar.com

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From: Jill Harris <jharris@glaserweil.com>
Sent: Tuesday, July 11, 2023 10:02 AM
To: Justin M. Kirk <jmk@livingstonbakhtiar.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Justin,

Thank you for the below recap. With respect to FROG Nos. 200.1, 200.2, 200.3, 200.4, Plaintiff need not supplement the responses. With respect to SROG No. 6 and the related documents to be produced, during our call, you mentioned that Plaintiff has not filed her taxes for the last several years and that she was in the process of gathering documents to do so. You explained that, as a

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result, she would be unable to produce documents related to her income for another 4-6 months. I explained that such a lengthy timeline would not be acceptable given the need for discovery in this case—a case filed by Plaintiff not Mr. David. You offered to provide the information she currently has in her possession within 2 months. Your offer is not acceptable in light of Plaintiff’s obligations under the discovery code and her ample notice of the relevance of the requested documents and information. Please provide all documents currently in Plaintiff’s possession, custody or control by July 25. Plaintiff can and should produce the additional documents she obtains while preparing her taxes when she receives them. We reserve our right to move to compel if we have not received the existing documents by July 25.

Additionally, when we discussed the list of Plaintiff's medical professionals (SROG 34-35 - which was omitted from your list below but you indicated Plaintiff would supplement), you previewed your intention to request a “first look” agreement in connection with our future subpoenas to the identified professionals. Such a proposed agreement would allow your office to review and redact the medical records prior to production to my office. I appreciate you raising this issue to facilitate the meet and confer process.

During our discussion, it sounded like there was some type of incident or ailment that occurred during the relevant time period that you felt was not relevant and need to be redacted. I asked you to provide some basic information about this. To that end, please provide a list of ailments and/or incidents that occurred April 2019-present that you believe should not be discoverable. For example, if Plaintiff broke her arm in a car accident, we could better evaluate whether we would be amenable to a “first look” agreement allowing you to redact that information. If you have some authority that supports the use of “first look” agreements, please pass that along as well.

Feel free to give me a call to discuss. We look forward to receiving Plaintiff’s amended responses on July 20. Please be sure to include amended responses to SROG 34-35.

Best,

Glaser Weil

Jill Harris | Attorney

10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Justin M. Kirk <jmk@livingstonbakhtiar.com>

Sent: Friday, June 30, 2023 1:59 PM

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AA0234

To: Jill Harris <jharris@glaserweil.com>; 'Sandra Jimenez' <sandra@dordicklaw.com>; 'Dustin Moaven' <dustin@dordicklaw.com>

Cc: Aaron Allan <aallan@glaserweil.com>; Gwendolyn Edwards <gedwards@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; 'Kim Anglin' <kim.anglin@dordicklaw.com>; 'Jessica Huerta' <jessica.huerta@dordicklaw.com>; 'ESB' <esb@livingstonbakhtiar.com>; 'Sandy' <sb@livingstonbakhtiar.com>; 'Douglas Garcia' <dag@livingstonbakhtiar.com>; 'Alex Munoz' <alex@dordicklaw.com>; 'Celine Adran' <celine@dordicklaw.com>

Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Hi Jill,

Good speaking with you today. The following is a summary of what we discussed. Please let me know if I've missed anything:

1. SPROGS No. 1-10, 12-14: we will be supplementing our responses to address the issue you raised regarding the paragraph numbers that you identified in your letter.
2. SPROG No. 10: we will be supplementing our responses to include the known addresses and telephone numbers of the people identified.
3. SPROG No. 12: we will be supplementing our response to state the nature of the work performed, as well as a dollar-range of the amount of unpaid wages.
4. SPROG No. 16: we will be supplementing our response to remove the word "believes" in "believes the iCloud."
5. EFROG Nos. 200.1, 200.2, 200.3, 200.4: Please let us know if we need to provide supplemental responses after our meet and confer phone call.
6. EFROG No. 210.6: Please let us know if, after you've reviewed the documents we send later today, if you will extend our deadline to provide responses to August 31st.
7. RFP – Attorney-Client and Work Product Privilege: this confirms that we are not withholding documents based on this privilege in our responses to RFP Nos. 4, 10-12, 14, 18-19, 21-22, or 47-48. We are, however, withholding documents with regards to RFP Nos. 2-3, 8, 25-34, namely communications Plaintiff had with us, her counsel.)
8. RFP Nos. 2-11: we will be supplementing our response to state that she is producing all communications she had about Alkiviades David with anyone, regardless of whether the person was a coworker.
9. RFP Nos. 1, 4-50: we will be supplementing our response to state that "all" documents.

Plaintiff agrees to produce the aforementioned supplemental responses on July 10.

[@Dustin Moaven](mailto:Dustin.Moaven), Jill will be contacting you about scheduling a date to meet and confer next week regarding your letter.

Sincerely,
Justin M. Kirk
Attorney At Law

Livingston · Bakhtiar

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AA0235

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From: Jill Harris <jharris@glaserweil.com>
Sent: Thursday, June 29, 2023 3:07 PM
To: Sandra Jimenez <sandra@dordicklaw.com>
Cc: Aaron Allan <aallan@glaserweil.com>; Gwendolyn Edwards <gedwards@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; Dustin Moaven <dustin@dordicklaw.com>; Kim Anglin <kim.anglin@dordicklaw.com>; Jessica Huerta <jessica.huerta@dordicklaw.com>; ESB <esb@livingstonbakhtiar.com>; jmk@livingstonbakhtiar.com; Sandy <sb@livingstonbakhtiar.com>; Douglas Garcia <dag@livingstonbakhtiar.com>; Alex Munoz <alex@dordicklaw.com>; Celine Adran <celine@dordicklaw.com>
Subject: RE: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY
Importance: High

Hi Sandra,

I will not be able to review in time for a discussion tomorrow on the letter. During the call, we can discuss a time to talk about it next week.

Additionally, we would like to push our document exchange back to tomorrow. We anticipate being ready to produce tomorrow after our call.

Best,

Glaser Weil

Jill Harris | Attorney
10250 Constellation Blvd., 19th Floor, Los Angeles, CA 90067
Main: 310.553.3000 | Direct: 310.282.6207 | Fax: 310.785.3507
E-Mail: jharris@glaserweil.com | www.glaserweil.com



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From: Sandra Jimenez <sandra@dordicklaw.com>
Sent: Wednesday, June 28, 2023 5:18 PM
To: Aaron Allan <aallan@glaserweil.com>; Jill Harris <jharris@glaserweil.com>; Fred Heather <fheather@glaserweil.com>; vshaydner@glaserweil.com; Gwendolyn Edwards <gedwards@glaserweil.com>
Cc: Dustin Moaven <dustin@dordicklaw.com>; Kim Anglin <kim.anglin@dordicklaw.com>; Jessica Huerta <jessica.huerta@dordicklaw.com>; ESB <esb@livingstonbakhtiar.com>; jmk@livingstonbakhtiar.com; Sandy <sb@livingstonbakhtiar.com>; Douglas Garcia <dag@livingstonbakhtiar.com>; Alex Munoz <alex@dordicklaw.com>; Celine Adran <celine@dordicklaw.com>
Subject: Jane Doe v. David | Case No. 20STCV37498 | MEET AND CONFER RE: DEF DAVID ALKIVIADES' RESPONSES TO FIRST SET OF DISCOVERY

Dear Counsel,

Attached please find Plaintiff's meet and confer letter regarding Defendant's responses to first set of discovery.

Please advise if your office would like to discuss the issues raised in this letter during the call scheduled for Friday, June 30th.

Kind regards,

Sandra Jimenez

Paralegal

DORDICK LAW CORPORATION

Beverly Hills • Downtown Los Angeles • Riverside

(800) 555-5595 (310) 551-0949

Direct (424) 426-6718

Fax (424) 426-6718

sandra@dordicklaw.com

www.Dordicklaw.com



All correspondence to: 1122 Wilshire Boulevard, Los Angeles, CA 90017

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 10250 Constellation Boulevard, 19th Floor, Los Angeles, California 90067.

On August 21, 2023, I served the foregoing document(s) described as:

NOTICE OF MOTION AND MOTION TO COMPEL FURTHER RESPONSES TO INTERROGATORIES AND REQUEST FOR SANCTIONS IN THE AMOUNT OF \$6,525; DECLARATION OF JILLIAN P. HARRIS

on the interested parties to this action by delivering thereof in a sealed envelope addressed to each of said interested parties at the following address(es):

SEE ATTACHED LIST

- (BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the above named addressee(s).
- (BY ELECTRONIC SERVICE)** by causing the foregoing document(s) to be electronically filed using the Court’s Electronic Filing System which constitutes service of the filed document(s) on the individual(s) listed on the attached mailing list.
- (BY E-MAIL SERVICE)** I caused such document to be delivered electronically via e-mail to the e-mail address of the addressee(s) set forth in the attached service list.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on August 21, 2023, at Los Angeles, California.



Veronica Shnyder

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SERVICE LIST

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Dustin Moaven, Esq.
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Attorneys for Plaintiff JANE DOE

Ebby S. Bakhtiar, Esq.
Justin M. Kirk, Esq.
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3435 Wilshire Boulevard, Suite 1669
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Tel: (213) 632-1550
Fax: (213) 632-3100
Email: esb@livingstonbakhtiar.com
jmk@livingstonbakhtiar.com
sb@livingstonbakhtiar.com
dag@livingstonbakhtiar.com

Attorneys for Plaintiff JANE DOE

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Journal Technologies Court Portal

Make a Reservation

JANE DOE vs ALKIVIADES DAVID, et al.

Case Number: 20STCV37498 Case Type: Civil Unlimited Category: Wrongful Termination

Date Filed: 2020-09-30 Location: Stanley Mosk Courthouse - Department 76

Reservation

Case Name: JANE DOE vs ALKIVIADES DAVID, et al.	Case Number: 20STCV37498
Type: Motion to Compel Further Discovery Responses	Status: RESERVED
Filing Party: Jane Doe (Plaintiff)	Location: Stanley Mosk Courthouse - Department 76
Date/Time: 09/13/2023 8:30 AM	Number of Motions: 1
Reservation ID: 258401690947	Confirmation Code: CR-HJXONXOOXDQM7HTG4

Fees

Description	Fee	Qty	Amount
Motion to Compel Further Discovery Responses	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

Payment

Amount: \$61.65	Type: MasterCard
Account Number: XXXX5512	Authorization: 02781Z
Payment Date: 1969-12-31	

[Print Receipt](#)

[Reserve Another Hearing](#)

[View My Reservations](#)

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Chat
AA0241

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AA0242

TAB 17

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AA0243

1 FRED D. HEATHER - State Bar No. 110650
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2 AARON P. ALLAN - State Bar No. 144406
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4 GLASER WEIL FINK HOWARD
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6 Telephone: (310) 553-3000
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7

Electronically FILED by
Superior Court of California,
County of Los Angeles
8/21/2023 2:57 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By K. Hung, Deputy Clerk

8 Attorneys for Defendant
ALKIVIADES DAVID a.k.a. ALKI DAVID
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT
12

13 JANE DOE, an Adult Individual Suing Under
Anonymity Due to Privacy and Safety Concerns,
14

15 Plaintiffs,
16

17 v.
18

19 ALKIVIADES DAVID, an Individual, a.k.a.
20 ALKI DAVID; HOLOGRAM USA, INC., a
California Corporation, a.k.a. HOLOGRAM
21 USA PRODUCTIONS, INC., HOLOGRAM
USA ENTERTAINMENT, INC., FILMON.TV,
INC., FILMON.TV NETWORKS, INC. and
FILMON.TV LA, INC.; SWISSX LABS AG,
INC., a California Corporation, a.k.a. SWISSX
LOUNGE and FILMONTV UK, LTD.; and
DOES 1 through 150, Inclusive,
22

23 Defendants.
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25
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27
28

Case No. 20STCV37498
Unlimited Jurisdiction

Assigned to the Honorable Christopher K. L.
Department: 76

**DEFENDANT'S SEPARATE
STATEMENT IN SUPPORT OF MOTION
TO COMPEL FURTHER RESPONSES TO
INTERROGATORIES AND REQUEST
FOR SANCTIONS IN THE AMOUNT OF
\$6,525**

*[Notice of Motion and Motion; Declaration of
Dr. Richard Romanoff; Proposed Order filed
concurrently herewith]*

Reservation No. 258401690947
Date: September 13, 2023
Time: 8:30 a.m.

Action Filed: September 30, 2020
Trial Date: August 7, 2023

Document received by the CA 2nd District Court of Appeal.

1 Pursuant to California Rules of Court 3.1345, Defendant Alkiviades David hereby submits
2 its Separate Statement in support of Defendant’s Motion for Order Compelling Further Responses to
3 Interrogatories from Plaintiff Jane Doe (“Plaintiff”).

4 **SPECIAL INTERROGATORIES AND DISPUTED RESPONSES**

5 **SPECIAL INTERROGATORY NO. 34:**

6 IDENTIFY every MEDICAL CARE PROVIDER (The term -MEDICAL CARE
7 PROVIDER” includes all persons who provide any type of health care, mental health care, or
8 rehabilitation care on a professional basis, such as physicians, surgeons, nurses, paramedics,
9 physical therapists, rehabilitation therapists, chiropractors, podiatrists, psychiatrists, psychologists,
10 and mental health counselors and therapists) who examined, diagnosed, treated, or otherwise
11 provided MEDICAL CARE (The term “MEDICAL CARE” includes any medical care, aid,
12 treatment, comfort, diagnosis, prognosis, or examination by any medical care provider or other
13 person for any INJURY, including any mental, emotional, or psychological illness) to YOU for the
14 period April 1, 2015 to the present.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 34:**

16 OBJECTION. Responding Party objects that the term “Medical Care Provider” is vague and
17 ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead to an improper response
18 due to its ambiguity and vagueness. Responding Party further objects to this Interrogatory on the
19 ground that it seeks the disclosure of information protected by Responding Party’s Constitutional
20 Right to Privacy contained in Article 1, § 1 of the Constitution of the State of California. In this
21 regard, California case authority proscribes fishing expeditions into a plaintiff’s medical records
22 solely on the basis of speculation that something of interest may surface. (See *Vinson v. Sup.Ct.*
23 (1987) 43 Cal.3d 833, 840; *Mendez v. Sup.Ct.* (1988) 206 Cal.App.3d 557, 571; *Tylo v. Sup.Ct.*
24 (1997) 55 Cal.App.4th 1379, 1387.) In this regard, simply because this Responding Party has filed
25 lawsuit does not signal the his waiver of his right to privacy or the physician-patient privilege
26 regarding unrelated matters. (See, e.g., *In Re Lifschutz* (1970) 2 Cal.3d 415, 435; see also *Britt vs*
27 *Sup.Ct.* (1978) 20 Ca1.3d 844, 864; and *Vinson*, 43 Cal.3d at 841-842.) In fact, it has been
28 concluded that the “[d]iscovery of constitutionally protected information is on a par with discovery

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1 of privileged information and is more narrowly proscribed than traditional discovery.” (*Tylo*, 55
 2 Cal.App.4th at 1387.) (Emphasis added.) Moreover, this Interrogatory also appears to impermissibly
 3 and prematurely seeks the identities of expert witnesses and expert witness materials. Accordingly,
 4 since the information sought by this Request is governed by Code of Civ. Proc. §§ 2034.210 -
 5 2034.310, it is presently protected by the attorney work-product privilege. (See *Rodriguez v.*
 6 *McDonnell Douglas Corp.* (1978) 87 Cal.App.3d 626, 647-648; *Scotsman Mfg. v. Sup.Ct.* (1966)
 7 242 Cal.App.2d 527, 530; *Williamson v. Sup.Ct.* (1978) 21 Ca1.3d 829, 834; *Mack v. Sup. Ct.*
 8 (1968) 259 Cal .App.2d 7,10; *Nacht & Lewis Arch. vs. Sup. Ct.* (1996) 47 Cal.App.4th 214.)
 9 Nevertheless, subject to, and without waiving the foregoing objections, and assuming this
 10 Interrogatory is seeking non-expert witness related information and relating to the injuries
 11 Responding Party sustained, Responding Party responds as follows: Planned Parenthood, 1014 1/2
 12 N Vermont Ave, Los Angeles, CA 90029, (800) 576-5544. However, since this Responding Party’s
 13 investigation and discovery are continuing, this Responding Party does not have sufficient facts
 14 available to her, at this time, to furnish a complete response to this Interrogatory; therefore, this
 15 Responding Party hereby reserves the right to amend this response in the future, once additional
 16 Information/facts have been discovered.

17 **DEFENDANT’S REASONS WHY FURTHER RESPONSE TO SHOULD BE COMPELLED**
 18 **TO SPECIAL INTERROGATORY NO. 34:**

19 Defendant agreed to limit this response to the identification of Plaintiff’s primary care or
 20 family doctors based on Plaintiff’s limited right of privacy.

21 The disclosure of names and addresses of potential witnesses is a routine and essential part
 22 of pretrial discovery. *Puerto v. Sup. Ct.*, 158 Cal. App. 4th 1242, 1249-1250 (2008) (“Central to the
 23 discovery process is the identification of potential witnesses. The disclosure of the names and
 24 addresses of potential witnesses is a routine and essential part of pretrial discovery. Indeed, our
 25 discovery system is founded on the understanding that parties use discovery to obtain names and
 26 contact information for possible witnesses as the starting point for further investigations.”)

27 Even assuming *arguendo* that Plaintiff had a potential right of privacy with respect to the
 28 identity of her family doctors, any such right was waived when she filed this action seeking

1 damages for severe emotional distress. While a party may have a right of privacy under the
 2 California Constitution (Cal. Const. Art 1, § 1) in some instances, the protection is qualified and not
 3 absolute: The court may order disclosure to the extent necessary to serve a “compelling state
 4 interest.” *Britt v. Sup. Ct.*, 20 Cal. 3d 844, 855-856 (1978). Particularly, a party that sues for
 5 personal injuries implicitly waives her right of privacy with respect to discovery that is directly
 6 relevant to the claims and essential to the fair resolution of the lawsuit. *Vinson v. Sup. Ct.*, 43 Cal.
 7 3d 833, 842 (1987) (by claiming emotional distress from sexual harassment, plaintiff may waive her
 8 privacy as to present mental or emotional condition).

9 Plaintiff’s right of privacy does not protect the name of her family doctor and associated
 10 medical institutions. Defendant is entitled to explore whether other unrelated conditions are the
 11 proximate cause of her emotional distress. The reasonably likely source of this information is
 12 Plaintiff’s primary care physician given that she did not see any mental health professionals.
 13 Moreover, Plaintiff is seeking emotional distress damages in connection with events that occurred
 14 over a four-year period. Defendant is entitled to test the sufficiency of her claims. A primary care
 15 physician would be the first place, and the only place, that Plaintiff would report things like
 16 sleeplessness or anxiety and obtain prescriptions for such conditions. Thus, if Plaintiff did not report
 17 any symptoms consistent with extreme and severe emotional distress during the four-year period,
 18 that fact would also be directly relevant to Defendant’s defense.

19 Additionally, Defendant will seek a mental examination of Plaintiff pursuant to CCP §
 20 2019.010. Harris Dec. ¶ 11. Plaintiff’s primary care physician records are necessary for Defendant’s
 21 expert to complete this examination because relevant contemporaneous records for past events are
 22 especially important, including any records documenting medical and/or psychological evaluation
 23 or treatment from the relevant time period. *See Romanoff Dec.* ¶ 4. These records can provide
 24 independent objective evidence of the presence or absence of medical and/or psychological
 25 conditions and difficulties that can facilitate a more accurate reconstruction of Plaintiff’s condition
 26 at that time. *See id.* They can also facilitate the development of a more accurate and clearer
 27 understanding of Plaintiff’s current medical and/or psychological difficulties in the event that such
 28 difficulties are present. *See id.* A primary care physician’s records often contain important

Document received by the CA 2nd District Court of Appeal.

1 information directly relevant to a particular patient’s medical and or psychological response to a
2 traumatic or psychologically stressful experience that occurred during that relevant time frame. *Id.*
3 at ¶ 5. For these reasons, Defendant’s expert needs the records from Plaintiff’s primary care
4 physician—along with other relevant records—in pursuit of conducting a maximally objective
5 current evaluation effort. *Id.* Defendant cannot obtain these necessary records without first learning
6 the name of Plaintiff’s primary care physicians.

7 The physician-patient privilege does not apply to this request because it only covers
8 communications, while this request seeks only the identity of the doctor. *See* Evi. Code § 992.
9 Moreover, Where plaintiff sues for personal injuries, the physician-patient and psychotherapist-
10 patient privileges are waived for conditions at issue in the action. or related to the issue of proximate
11 causation. Evi. Code §§ 996, 999, 1016.

12 This request is not a premature attempt at expert discovery because, in contrast to expert
13 witnesses, the identity and opinions of treating physicians are not privileged, and they are subject
14 ordinary discovery with no special restrictions. *Schreiber v. Est. of Kiser*, 22 Cal. 4th 31, 38 (1999)

15 **SPECIAL INTERROGATORY NO. 35:**

16 IDENTIFY each MEDICAL CARE INSTITUTION (The term “MEDICAL CARE
17 INSTITUTION” includes hospitals, health care centers, rape crisis clinics, counseling centers,
18 trauma centers, health maintenance organizations, rehabilitation facilities, medical clinics, and
19 associations of MEDICAL CARE PROVIDERS in any form) in which or from which YOU
20 received MEDICAL CARE for the INJURY.

21 **RESPONSE TO SPECIAL INTERROGATORY NO. 35:**

22 OBJECTION. Responding Party objects that the term "Medical Care Institution" is vague
23 and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead to an improper
24 response due to its ambiguity and vagueness. Moreover, this Interrogatory also appears to
25 impermissibly and prematurely seeks the identities of expert witnesses and expert witness material.
26 Accordingly, since the information sought by this Request is governed by Code of Civ. Proc. §§
27 2034.210 - 2034.310, it is presently protected by the attorney work-product privilege. (See
28 *Rodriguez v. McDonnell Douglas Corp.* (1978) 87 Cal.App.3d 626, 647-648; *Scotsman Mfg. v.*

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1 *Sup. Ct.* (1966) 242 Cal.App.2d 527, 530; *Williamson v. Sup. Ct.* (1978) 21 Cal.3d 829, 834; *Mack v.*
2 *Sup. Ct.* (1968) 259 Cal.App.2d 7,10; *Nacht & Lewis Arch. vs. Sup. Ct.* (1996) 47 Cal.App.4th 214.)
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8 available to her, at this time, to furnish a complete response to this Interrogatory; therefore, this
9 Responding Party hereby reserves the right to amend this response in the future, once additional
10 information/facts have been discovered.

11 **DEFENDANT’S REASONS WHY FURTHER RESPONSE TO SHOULD BE COMPELLED**
12 **TO SPECIAL INTERROGATORY NO. 35:**

13 Defendant agreed to limit this response to the identification of medical institutions
14 associated with Plaintiff’s primary care or family doctors, based on Plaintiff’s limited right of
15 privacy.

16 The disclosure of names and addresses of potential witnesses is a routine and essential part
17 of pretrial discovery. *Puerto v. Sup. Ct.*, 158 Cal. App. 4th 1242, 1249-1250 (2008) (“Central to the
18 discovery process is the identification of potential witnesses. The disclosure of the names and
19 addresses of potential witnesses is a routine and essential part of pretrial discovery. Indeed, our
20 discovery system is founded on the understanding that parties use discovery to obtain names and
21 contact information for possible witnesses as the starting point for further investigations.”)

22 Even assuming *arguendo* that Plaintiff had a potential right of privacy with respect to the
23 identity of her family doctors, any such right was waived when she filed this action seeking
24 damages for severe emotional distress. While a party may have a right of privacy under the
25 California Constitution (Cal. Const. Art 1, § 1) in some instances, the protection is qualified and not
26 absolute: The court may order disclosure to the extent necessary to serve a “compelling state
27 interest.” *Britt v. Sup. Ct.*, 20 Cal. 3d 844, 855-856 (1978). Particularly, a party that sues for
28 personal injuries implicitly waives her right of privacy with respect to discovery that is directly

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1 relevant to the claims and essential to the fair resolution of the lawsuit. *Vinson v. Sup. Ct.*, 43 Cal.
2 3d 833, 842 (1987) (by claiming emotional distress from sexual harassment, plaintiff may waive her
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4 Plaintiff’s right of privacy does not protect the name of her family doctor and associated
5 medical institutions. Defendant is entitled to explore whether other unrelated conditions are the
6 proximate cause of her emotional distress. The reasonably likely source of this information is
7 Plaintiff’s primary care physician given that she did not see any mental health professionals.
8 Moreover, Plaintiff is seeking emotional distress damages in connection with events that occurred
9 over a four-year period. Defendant is entitled to test the sufficiency of her claims. A primary care
10 physician would be the first place, and the only place, that Plaintiff would report things like
11 sleeplessness or anxiety and obtain prescriptions for such conditions. Thus, if Plaintiff did not report
12 any symptoms consistent with extreme and severe emotional distress during the four-year period,
13 that fact would also be directly relevant to Defendant’s defense.

14 Additionally, Defendant will seek a mental examination of Plaintiff pursuant to CCP §
15 2019.010. Harris Dec. ¶ 11. Plaintiff’s primary care physician records are necessary for Defendant’s
16 expert to complete this examination because relevant contemporaneous records for past events are
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18 or treatment from the relevant time period. *See Romanoff Dec.* ¶ 4. These records can provide
19 independent objective evidence of the presence or absence of medical and/or psychological
20 conditions and difficulties that can facilitate a more accurate reconstruction of Plaintiff’s condition
21 at that time. *See id.* They can also facilitate the development of a more accurate and clearer
22 understanding of Plaintiff’s current medical and/or psychological difficulties in the event that such
23 difficulties are present. *See id.* A primary care physician’s records often contain important
24 information directly relevant to a particular patient’s medical and or psychological response to a
25 traumatic or psychologically stressful experience that occurred during that relevant time frame. *Id.*
26 at ¶ 5. For these reasons, Defendant’s expert needs the records from Plaintiff’s primary care
27 physician—along with other relevant records—in pursuit of conducting a maximally objective
28 current evaluation effort. *Id.* Defendant cannot obtain these necessary records without first learning

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the name of Plaintiff’s primary care physicians.

The physician-patient privilege does not apply to this request because it only covers communications, while this request seeks only the identity of the doctor and associated medical institutions. *See* Evi. Code § 992. Moreover, Where plaintiff sues for personal injuries, the physician-patient and psychotherapist-patient privileges are waived for conditions at issue in the action. or related to the issue of proximate causation. Evi. Code §§ 996, 999, 1016.

This request is not a premature attempt at expert discovery because, in contrast to expert witnesses, the identity and opinions of treating physicians are not privileged, and they are subject to ordinary discovery with no special restrictions. *Schreiber v. Est. of Kiser*, 22 Cal. 4th 31, 38 (1999).

DATED: August 21, 2023

GLASER WEIL FINK HOWARD
JORDAN & SHAPIRO LLP

By: /s/ Jillian P. Harris
FRED D. HEATHER
AARON P. ALLAN
JILLIAN P. HARRIS
Attorneys for Defendant
ALKIVIADES DAVID a.k.a. ALKI DAVID

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 10250 Constellation Boulevard, 19th Floor, Los Angeles, California 90067.

On August 21, 2023, I served the foregoing document(s) described as:

DEFENDANT’S SEPARATE STATEMENT IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSES TO INTERROGATORIES AND REQUEST FOR SANCTIONS IN THE AMOUNT OF \$6,525
on the interested parties to this action by delivering thereof in a sealed envelope addressed to each of said interested parties at the following address(es):

SEE ATTACHED LIST

- (BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the above named addressee(s).
- (BY ELECTRONIC SERVICE)** by causing the foregoing document(s) to be electronically filed using the Court’s Electronic Filing System which constitutes service of the filed document(s) on the individual(s) listed on the attached mailing list.
- (BY E-MAIL SERVICE)** I caused such document to be delivered electronically via e-mail to the e-mail address of the addressee(s) set forth in the attached service list.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on August 21, 2023, at Los Angeles, California.



Veronica Shnayder

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dag@livingstonbakhtiar.com

Attorneys for Plaintiff JANE DOE

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TAB 18

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AA0254

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 76

20STCV37498

JANE DOE vs ALKIVIADES DAVID, et al.

August 23, 2023

10:00 AM

Judge: Honorable Christopher K. Lui

Judicial Assistant: T. Le

Courtroom Assistant: R. Lomeli

CSR: Ann M. Elmendorf, CSR #8547

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Justin Kirk, Dustin Moaven and Thanh Nguyen (via Teams) for Gary A. Dordick

For Defendant(s): Fred D. Heather and Aaron Allan (via Teams)

NATURE OF PROCEEDINGS: Hearing on Motion to Compel of Defendant, Alkiviades David aka Alki David, Deposition of Plaintiff [Res. ID# 830157265264];

Hearing - Other Vesco Hearing

Pursuant to Government Code sections 68086, 70044, California Rules of Court, rule 2.956, and the stipulation of appearing parties, Ann M. Elmendorf, CSR #8547, certified shorthand reporter is appointed as an official Court reporter pro tempore in these proceedings, and is ordered to comply with the terms of the Court Reporter Agreement. The Order is signed and filed this date.

The matters are called for hearing.

After hearing oral argument, The Court takes the Hearing on Motion to Compel of Defendant, Alkiviades David aka Alki David, Deposition of Plaintiff [Res. ID# 830157265264] under submission.

The court to issue a written ruling.

The Court and counsel confer regarding the Vesco Hearing.

The Court and counsel confer regarding the accommodation request made by defense counsel for deposition and for trial as more fully reflected in the official notes of the court reporter.

Defense counsel indicates that a new accommodation request will be filed.

On the Court's own motion, the Hearing - Other Vesco Hearing scheduled for 08/23/2023 is continued to 09/25/2023 at 01:30 PM in Department 76 at Stanley Mosk Courthouse.

The parties are ordered to meet and confer regarding a stipulated protective order. The parties are

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 76

20STCV37498

JANE DOE vs ALKIVIADES DAVID, et al.

August 23, 2023

10:00 AM

Judge: Honorable Christopher K. Lui

Judicial Assistant: T. Le

Courtroom Assistant: R. Lomeli

CSR: Ann M. Elmendorf, CSR #8547

ERM: None

Deputy Sheriff: None

to submit a [proposed] protective order within 7 days of today. Any stipulation will become effective upon filing of the protective order.

Notice is waived.

TAB 19

AA0257

Document received by the CA 2nd District Court of Appeal.

1 FRED D. HEATHER - State Bar No. 110650
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2 AARON P. ALLAN - State Bar No. 144406
aallan@glaserweil.com
3 JILLIAN P. HARRIS - State Bar No. 300119
jharris@glaserweil.com
4 GLASER WEIL FINK HOWARD
JORDAN & SHAPIRO LLP
5 10250 Constellation Boulevard, 19th Floor
Los Angeles, California 90067
6 Telephone: (310) 553-3000
Facsimile: (310) 556-2920
7

8 Attorneys for Defendant
ALKIVIADES DAVID a.k.a. ALKI DAVID
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT
12

13 JANE DOE, an Adult Individual Suing Under
Anonymity Due to Privacy and Safety Concerns,
14

15 Plaintiffs,
16

17 v.
18

19 ALKIVIADES DAVID, an Individual, a.k.a.
20 ALKI DAVID; HOLOGRAM USA, INC., a
California Corporation, a.k.a. HOLOGRAM
21 USA PRODUCTIONS, INC., HOLOGRAM
USA ENTERTAINMENT, INC., FILMON.TV,
22 INC., FILMON.TV NETWORKS, INC. and
FILMON.TV LA, INC.; SWISSX LABS AG,
23 INC., a California Corporation, a.k.a. SWISSX
LOUNGE and FILMONTV UK, LTD.; and
24 DOES 1 through 150, Inclusive,
25
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28

29 Defendants.
30

Case No. 20STCV37498
Unlimited Jurisdiction

Assigned to the Honorable Christopher K. L.
Department: 76

**DECLARATION OF DR. BRIAN H.
KLEINER, Ph.D.**

Action Filed: September 30, 2020
Trial Date: August 7, 2023

DECLARATION OF DR. BRIAN H. KLEINER, Ph.D.

I, BRIAN KLEINER, declare as follows:

1. I am a Professor (Emeritus) of Human Resource Management with the California State University, Fullerton, located in Fullerton, California. I make this declaration in support of Defendant Alkiviades David’s (“Defendant”) Motion to Compel Further Responses relating to Plaintiff’s primary care doctors. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. As a Professor, I regularly taught classes concerning employee management issues, and have consulted with over 100 public and private organizations concerning human resource policies and practices, including Arco- Atlantic Richfield Company, Bausch & Lomb, Brother International Corporation, ConAgra, General Dynamics Corporation, In-N-Out Burger, Interstate Electronics Corporation, Pioneer Electronics, Reynolds Metals Company, Shasta Beverages, Shell Oil Company, Toshiba, and Yoshinoya. These consultations have regularly included specific opinions about, and evaluations of, issues arising under the Americans with Disabilities Act and similar state law statutes. A true and correct copy of my current curriculum vitae is attached here as **Exhibit A**.

3. I have reviewed information about the Defendant, including a medical report authored by Dr. Eric M. Wexler M.D., concerning his disability. Given that disability, and the course of treatment by Dr. Wexler to mitigate some of Defendant’s behavioral symptoms, it is my opinion that any deposition of Defendant should be postponed until Defendant’s treatment is concluded. If such a deposition proceeds prior to completion of the course of treatment recommended by Dr. Wexler, then it is my opinion that such a deposition should be allowed to proceed by way of written questions only in order to provide Defendant with an appropriate accommodation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on August 21, 2023, at Los Angeles, California.


BRIAN KLEINER

Document received by the CA 2nd District Court of Appeal.

EXHIBIT A

Document received by the CA 2nd District Court of Appeal.

AA0263

Brian H. Kleiner, Ph.D.

Professor (Emeritus) of Human Resource Management
Mihaylo College of Business and Economics
California State University, Fullerton
551 Santa Barbara Avenue
Fullerton, California 92835-2463
Telephone: (714) 879-9705
Fax: (714) 879-5600
Email: bkleinerphdmba@gmail.com

Degrees

Ph.D. in Management, U.C.L.A., 1977
Master of Business Administration, U.C.L.A., 1973
B.S. in Business Administration, Drexel, 1969

Credential

Lifetime California Community College Instructor in Business Management

Forensic Experience

Have given trial testimony in over 70 cases for both plaintiffs and defense.

Practitioner Experience

After first being employed as a human resource manager for Ford Motor Company in 1969, I have over 35 years experience as a consultant to over 100 public and private organizations around the world concerning how to improve human resource management policies and practices. These include the following: Arco-Atlantic Richfield Company, Bausch & Lomb, Brother International Corporation, ConAgra, General Dynamics Corporation, In-N-Out Burger, Interstate Electronics Corporation, Pioneer Electronics, Reynolds Metals Company, Shasta Beverages, Shell Oil Company, Toshiba, and Yoshinoya.

Extended Education Experience

From 1988 to 2002 have taught classes concerning effective employee management for the general public through University Extended Education at California State University, Fullerton, helping managers and supervisors from hundreds of organizations.

University Experience

1977-2020: Professor of Human Resource Management, California State University, Fullerton

Regularly have taught classes concerning effective employee management in both graduate and undergraduate programs. Have also taught graduate courses concerning effective employee management at Chapman University and California State University, Dominguez Hills.

Publications

Have published over 500 articles in a wide variety of academic and professional journals and books. These include the following:

Effectively preventing employment discrimination and harassment. Co-authored. Conflict Resolution & Negotiation Journal, March 15, 2011.

How to write excellent human resource policies. Co-authored. Nonprofit World, 2006, 24 (5), 22-23.

How to comply with the Americans with Disabilities Act. Co-authored. Equal Opportunities International, 2005, 24 (5/6) 86-92.

How to hire employees effectively. Co-authored. Management Research News, 2004, 27 (4/5), 108-115.

How to comply with the Americans with Disabilities Act. Co-authored. Equal Opportunities International, 2003, 22 (6/7), 9-16.

Benefit programmes for disabled employees. Co-authored. Equal Opportunities International, 2003, 22 (3), 10-15.

How to hire the right person on the first time. Co-authored. Nonprofit World, 2003, 21 (2), 9-11.

Reasonable accommodation of employees with cancer. Co-authored. Equal Opportunities International, 2002, 21 (3), 32-40.

Effective hiring. Co-authored. Management Research News, 2002, 25 (6/7), 60-68.

How to hire the best people without breaking the law. Co-authored. Nonprofit World, 2002, 20 (5), 17-18.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 76-84.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 65-75.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 58-64.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 48-57.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 39-47.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 30-38.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 21-29.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 12-20.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (5), 3-11.

Effective employment screening practices. Co-authored. Managerial Law, 2002, 44 (1/2), 62-68.

New developments concerning negligent hiring. Co-authored. Managerial Law, 2002, 44 (1/2), 50-54.

How to hire employees effectively. Co-authored. Management Research News, 2002, 25 (1), 49-59.

Examples of unreasonable hardship in accommodating disabilities in Organizations. Co-authored. Equal Opportunities International, 2001, 20 (5/6/7), 138-141.

Reasonable accommodation of psychiatric disability under the ADA. Co-authored. Equal Opportunities International, 2001, 20 (5/6/7), 133-137.

A review of current empirical research concerning discrimination. Co-authored. Equal Opportunities International, 2001, 20 (5/6/7), 5-9.

How to hire employees effectively. Co-authored. Management Research News, 2001, 24 (12), 31-38.

New developments concerning discrimination and harassment in the workplace. Co-authored.

International Journal of Sociology and Social Policy, 2001, 21 (8/9/10), 83-91.

New developments concerning reasonable accommodation of disabilities in American organizations. Co-authored. Equal Opportunities International, 2001, 20 (5/6/7), 152-156.

How to accommodate common disabilities in organizations. Co-authored. Equal Opportunities International, 2001, 20 (5/6/7), 146-151.

New developments concerning discrimination based on medical conditions. Co-authored. Equal Opportunities International, 2001, 20 (5/6/7), 142-145.

A review of current empirical research concerning discrimination. Co-authored. Equal Opportunities International, 2001, 20 (5/6/7), 5-9.

How to hire employees effectively. Co-authored. Management Research News, 2001, 24 (6/7), 35-42.

How to hire employees effectively. Co-authored. Management Research News, 2000, 23 (12), 17-23.

How to write excellent human resources policies. Co-authored. Management Research News, 2000, 23 (7/8), 95-98.

How to hire employees effectively. Co-authored. Management Research News, 2000, 23 (7/8), 84-88.

Understanding and preventing negligent hiring. Co-authored. Management Research News, 2000, 23 (7/8), 53-55.

Best in class staffing practices. Co-authored. Management Research News, 2000, 23 (7/8), 35-38.

New developments in employment applications. Co-authored. Management Research News, 2000, 23 (7/8), 30-34.

Effective employment screening practices. Co-authored. Management Research News, 2000, 23 (7/8), 24-29.

How to hire employees effectively. Co-authored. Management Research News, 2000, 23 (7/8), 10-13.

New developments concerning mental disabilities discrimination. Co-authored. Equal Opportunities International, 2000, 19 (6/7), 62-65.

How to conduct workplace investigations. Co-authored. Equal Opportunities International, 2000, 19, (6/7), 15-19.

The value of training in changing discriminatory behavior at work. Co-authored. Equal Opportunities International, 2000, 19 (6/7), 5-9.

How to accommodate disabilities under ADA. Co-authored Nonprofit World, 2000, 19 (5), 29-33.

How to hire employees effectively. Co-authored. Management Research News, 1999, 22 (12), 33-37.

How to hire employees effectively. Co-authored. Management Research News, 1999, 22 (9), 18-25.

New developments concerning disability discrimination in the workplace. Co-authored. Equal Opportunities International, 1999, 18 (5/6), 3-10.

How organizations should manage discrimination and harassment complaints. Co-authored. Equal Opportunities International, 1999, 18 (5/6), 16-20.

New developments concerning reasonable accommodations of disabilities in American organizations. Co-authored. Equal Opportunities International, 1999, 18 (5/6), 38-43.

New developments concerning disability discrimination in the workplace. Co-authored. Equal Opportunities International, 1999, 18 (5/6), 3-10

How to hire employees effectively. Co-authored. Management Research News, 1999, 22 (5), 15-21.

How to hire employees effectively. Co-authored. Management Research News, 1999, 22 (4), 10-13.

New developments concerning negligent hiring. Co-authored. Journal of Workplace Learning, 1999, 11 (1), 16-21.

Effective employment screening. Co-authored. Career Development International, 1998, 3 (4), 164-168.

How to investigate and prove disability discrimination. Co-authored. Equal Opportunities International, 1998, 17 (3/4/5), 21-25

How to write excellent human resource policies. Co-authored. Employment Bulletin & Industrial Relations Digest, 1997, 13 (1/2), 7-10.

Becoming familiar with the Americans With Disabilities Act. Co-authored. Equal Opportunities International, 1995, 14 (6/7), 8-16.

The Americans with Disabilities Act and the responsibilities of an employer. Co-authored. Equal Opportunities International, 1995, 14 (5), 8-16.

New developments in disability employment discrimination. Co-authored. Equal Opportunities International, 1995, 14 (6/7), 1-7.

New developments in disability discrimination. Co-authored. Equal Opportunities International, 1995, 14 (6/7), 17-23.

The disabled in the workplace. Co-authored. Journal of Business and Society, 1991, 4 (1), 87-92.

Article Accepted for Publication

New developments concerning discrimination based on medical condition. Co-authored. Accepted for EEO Update.

Book That Was Accepted for Publication

Managing For Excellence by Kern International, Inc.

Professional Memberships

Society For Human Resource Management

Honors

In 2019 was featured in the social media blog of the Bar Association of San Francisco as the “Expert to Know”, the only Employment expert listed in their Directory ever so honored.

In 2015 was formally honored by the Dean of the College of Business and Economics at California State University, Fullerton for the high quality of my research publications during the last five years.

In 2014 was formally honored by the Dean of the College of Business and Economics at California State University, Fullerton for the high quality of my research publications during the last five years.

In 2013 was formally honored by the Dean of the College of Business and Economics at California State University, Fullerton for the high quality of my research publications during the last five years.

In 2012 was formally honored by the Dean of the College of Business and Economics at California State University, Fullerton for the high quality of my research publications during the last five years.

In 2011 was formally honored by the Dean of the College of Business and Economics at California State University, Fullerton for the high quality of my research publications during the last five years.

In 2009 my achievements during the past five years were evaluated by the President of California State University, Fullerton as "exceeded expectation."

In 2008 was favorably featured in Employment Law Verdict Reports.

In 2007 was profiled in the September issue of Bender's California Labor & Employment Bulletin as a result of my forensic expert successes and other professional achievements.

In 2003 was honored by the President of California State University at a special recognition event for my "distinguished service."

In 2001 was chosen to be honored at an "Outstanding Faculty Recognition" event by the Vice President for Academic Affairs at California State University, Fullerton for my "Outstanding Scholarly and Creative activity" during "the past three years."

In 2000 won California State University, Fullerton's Faculty Merit award for my "professional achievements and superior contributions to the school and the university."

In 1999 received a letter of commendation from the President of California State University, Fullerton.

In 1998 was honored by the Vice President for Academic Affairs at California State University, Fullerton at an "Outstanding Recognition Event" for my "noteworthy level of activity in the past three years" with regard to "scholarly and creative activity."

In 1997 was awarded a two-step Performance Salary Increase "given in recognition of your outstanding and meritorious performance as a member of the California State University, Fullerton faculty."

In 1996 was awarded a two-step Performance Salary Increase "given in recognition of your outstanding and meritorious performance as a member of the California State University, Fullerton faculty."

In 1996 a program was hosted in my honor by CSUF's Office of the Vice President for Academic Affairs and the Institute for the Advancement of Teaching and Learning in recognition of my accomplishments over the past two years as a teacher scholar.

In 1996 taught the first graduate course on managing human resources ever to be televised for the public in the United States.

In 1995 taught the first graduate course on human behavior in organizations ever to be televised for the public in the United States.

Selected in 1994 to develop a peer review of faculty program to be implemented throughout the California State University system.

Nominee for the 1993 Bradford Outstanding Educator in the United States Award

Finalist for the 1992 Annual Outstanding Faculty Award, School of Business Administration and Economics, California State University, Fullerton

Recipient of the 1986, 1987, 1988, 1989, 1990 School of Business Administration and Economics' Meritorious Performance and Professional Promise Award

Selected for the following: Who's Who in Business Higher Education, Who's Who in Finance and Industry, Who's Who in California, Personalities of America, Community Leaders of America, and Who's Who in the World

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INITIAL PSYCHIATRIC TREATMENT PLAN

INTERIM REPORT

May 6, 2023

RE: Alkiviades “Alki” David

DIAGNOSES

- (S06.2XAS) Diffuse traumatic brain injury with loss of consciousness of unspecified duration
- (F90.2) Attention-deficit hyperactivity disorder, combined type
- (F63.81) Intermittent explosive disorder
- (F22) Delusional Disorder

BACKGROUND

In many ways the mind is what defines a person, who they really are. What we call the mind is an amalgam of emotion, temperament, capacities, and behaviors, yet how a unique “person” emerges from the brain’s circuitry remains poorly understood. Until only very recently, most of what we knew of this process was learned from observing unfortunates who had suffered traumatic brain injuries (TBI). Diagnosing and treating those who have suffered these injuries lies at the ill-defined boundary between neurology and psychiatry. This task, difficult to start with, is made even more uncertain because the medical literature lacks enough well-designed clinical trials to provide firm guidance. Without the established probabilities afford by clinical trial data, treatment plans require frequent reevaluation and adjustment.

Mr. David suffers from objective neurological damage and apparent psychiatric pathology that goes far beyond diminished attention or moodiness¹. It is often surprising to those unfamiliar with TBIs how

¹ Mr. David’s clinical picture is all too common, but somewhat difficult to characterize because of short-coming in the medical literature. For example, neurology in this country uses a different nomenclature than psychiatry and psychiatry in the USA uses a different diagnostic classification system than psychiatry in the rest of the world. For the purposes of this report all diagnoses will use the *International Classification of Diseases, Tenth Revision (ICD-10)* coding, but reference the American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR)* where clinically indicated.

Document received by the CA 2nd District Court of Appeal.

similarly they can present behaviorally. For example, a 30-year follow-up of TBI patients showed a 2-4 fold increase in the rate of personality disorders², the most prominent being what was then termed Organic Personality Syndrome (OPS: F07.0). The diagnostic criteria (below) for OPS should be easily recognizable to anyone who has met Mr. David.

Organic Personality Syndrome *A persistent personality disturbance, either lifelong or representing a change or accentuation of a previously characteristic trait, involving at least one of the following:*

(1) affective instability, e.g., marked shifts from normal mood to depression, irritability, or anxiety.

(2) recurrent outbursts of aggression or rage that are grossly out of proportion to any precipitating psychosocial stressors.

(3) markedly impaired social judgment, e.g., sexual indiscretions

(4) marked apathy and indifference

(5) suspiciousness or paranoid ideation

...Specify explosive type if outbursts of aggression or rage are the predominant feature.

TABLE 1. Diagnostic criteria for Organic Personality Syndrome³ : [**BOLD**: those traits exhibited by Mr Alkiviades]

INITIAL TREATMENT PLAN

Mr. David impaired social functioning, and by extension, his legal problems are largely caused by the psychiatric challenges he faces. While each of his psychiatric diagnoses deserve to be addressed eventually, his treatment plan should initially focus on the following target symptom: Paranoia (delusional psychosis), Attention deficit/Impulsivity, Intermittent explosivity(rage) and, while his mood symptoms can be addressed later.

(I) PSYCHOSIS Paranoid delusions generally improve with pharmacotherapy. There are a plethora of medication that would a priori be expected to have sufficient, though not entirely equal, effectiveness^{4,5} and

² Koponen, S., Taiminen, T., Portin, R., Himanen, L., Isoniemi, H., Heinonen, H., Hinkka, S., & Tenovuo, O. (2002). Axis I and II psychiatric disorders after traumatic brain injury: a 30-year follow-up study. *The American journal of psychiatry*, 159(8), 1315–1321. <https://doi.org/10.1176/appi.ajp.159.8.1315>

³ American Psychiatric Association. (1987). *Diagnostic and statistical manual of mental disorders (DSM-III-R)*; 3rd ed., revised). Washington, DC

⁴ Huhn, M., Nikolakopoulou, A., Schneider-Thoma, J., Krause, M., Samara, M., Peter, N., ... Leucht, S. (2019). Comparative efficacy and tolerability of 32 oral antipsychotics for the acute treatment of adults with multi-episode schizophrenia: a systematic review and network meta-analysis. *The Lancet*. doi:10.1016/s0140-6736(19)31135-3

⁵ Abou-Setta AM, Mousavi SS, Spooner C, et al. First-Generation Versus Second-Generation Antipsychotics in Adults: Comparative Effectiveness [Internet]. Rockville (MD): Agency for Healthcare Research and Quality (US); 2012 Aug. (Comparative Effectiveness Reviews, No. 63.) Table 1, List of antipsychotics included in the comparative effectiveness review* Available from: <https://www.ncbi.nlm.nih.gov/books/NBK107237/table/introduction.t1/>

are available both in the United States and his native country. Were it simply a question of which medication would be most effective, the first choice of therapy would be Clozapine. However, in practice this is never the first medication trialed for a host of reasons (e.g. requirement for weekly blood monitoring during the first year, etc.). Since this entire class of medications carry a high side effect burden specific medication choice will need to be governed by his idiosyncratic tolerability, which will have to be determined empirically through trial and error, as well as overall compliance. In my experience, Aripiprazole⁶ and Cariprazine⁷ are among the best tolerated and most effective medications in this class. The advantage of the latter is that it is less sedating and weight neutral, while the former is available in the form of a monthly long-acting injectable. I would advise a discussion of the risk, benefits and alternatives of these medications and initiating a titration schedule of the chosen medication as soon as possible.

(II) ATTENTION DEFICIT/IMPULSIVITY Attention problems are very common after TBI. In moderate–severe TBI, 60% report chronic, long-lasting problems with inattention⁸. Stimulants of the amphetamine class remain the most widely studied medication class used to treat posttraumatic attentional impairments⁹. While methylphenidate is the best studied, my clinical experience suggests that long-acting dextroamphetamine preparations are more effective in adults like Mr. David, with comorbid attention deficits and dysexecutive function. Specifically, I would initiate therapy with lisdexamfetamine (Vyvanse), which has been trialed in TBI patient¹⁰s and was not found to exacerbate delusions in already psychotic patients¹¹. In addition, I would initiate a trial of extended-release guanfacine, a non-amphetamine modulator of norepinephrine signaling that can reduce impulsivity and hyperactivity.

(III) RAGE-AGGRESSION Hair-triggered rage or perseverative aggression can easily develop following traumatic injury to the frontal lobes.. The first line treatment for these explosive behaviors are selective serotonin reuptake inhibitors with Fluoxetine having the best empirical support¹² (Prozac). This medication should be started at 10-20mg per day and titrated as tolerated to 60mg per day for 6-12 week. If the rage

⁶ Weiser M, Davis JM, Brown CH, Slade EP, Fang LJ, Medoff DR, Buchanan RW, Levi L, Davidson M, Kreyenbuhl J. Differences in Antipsychotic Treatment Discontinuation Among Veterans With Schizophrenia in the U.S. Department of Veterans Affairs. *Am J Psychiatry*. 2021 Oct 1;178(10):932-940. doi: 10.1176/appi.ajp.2020.20111657. Epub 2021 Jul 14. PMID: 34256606.

⁷ Németh, G., Laszlovszky, I., Czobor, P., Szalai, E., Szatmári, B., Harsányi, J., ... Fleischhacker, W. W. (2017). Cariprazine versus risperidone monotherapy for treatment of predominant negative symptoms in patients with schizophrenia: a randomised, double-blind, controlled trial. *The Lancet*, 389(10074), 1103–1113. doi:10.1016/s0140-6736(17)30060-0

⁸ Ponsford J, Alway Y, Gould KR. Epidemiology and Natural History of Psychiatric Disorders After TBI. *J Neuropsychiatry Clin Neurosci*. 2018 Fall;30(4):262-270. doi: 10.1176/appi.neuropsych.18040093. Epub 2018 Jun 25. PMID: 29939106.

⁹ Frenette, A. J., Kanji, S., Rees, L., Williamson, D. R., Perreault, M. M., Turgeon, A. F., ... Fergusson, D. A. (2012). Efficacy and Safety of Dopamine Agonists in Traumatic Brain Injury: A Systematic Review of Randomized Controlled Trials. *Journal of Neurotrauma*, 29(1), 1–18. doi:10.1089/neu.2011.1812

¹⁰ Tramontana, M. G., Cowan, R. L., Zald, D., Prokop, J. W., & Guillamondegui, O. (2014). Traumatic brain injury-related attention deficits: Treatment outcomes with lisdexamfetamine dimesylate (Vyvanse). *Brain Injury*, 28(11), 1461–1472. doi:10.3109/02699052.2014.930179

¹¹ <https://clinicaltrials.gov/ct2/show/results/NCT00922272>

¹² Coccaro EF, Lee RJ, Kavoussi RJ. A double-blind, randomized, placebo-controlled trial of fluoxetine in patients with intermittent explosive disorder. *J Clin Psychiatry*. 2009 Apr 21;70(5):653-62. doi: 10.4088/JCP.08m04150. PMID: 19389333.

type behaviors remain unabated the second line therapy would be to initiate a course of a stabilizing anticonvulsant. Although phenytoin is the best studied it has a lower degree of patient tolerability than newer agents like oxcarbazine. Since compliance will be a major concern in this case, I would choose oxcarbazine at an initial dose of oxcarbazepine of 150 or 300 mg per day. The daily dose could then be titrated by 150-300mg every 2-4 days, as tolerated, to a target dose of 600-1200mg twice daily. Additionally, propranolol¹³ might be used adjunctively to reduce the severity, if not frequency of these episodes.



Eric Wexler, M.D., Ph.D.

Board-Certified in Psychiatry

¹³ Williamson D, Frenette AJ, Burry LD, Perreault M, Charbonney E, Lamontagne F, Potvin MJ, Giguère JF, Mehta S, Bernard F. Pharmacological interventions for agitated behaviours in patients with traumatic brain injury: a systematic review. *BMJ Open*. 2019 Jul 9;9(7):e029604. doi: 10.1136/bmjopen-2019-029604. PMID: 31289093; PMCID: PMC6615826.

Ozga JE, Povroznik JM, Engler-Chiurazzi EB, Vonder Haar C. Executive (dys)function after traumatic brain injury: special considerations for behavioral pharmacology. *Behav Pharmacol.* 2018 Oct;29(7):617-637. doi: 10.1097/FBP.0000000000000430. PMID: 30215621; PMCID: PMC6155367.

Abou-Setta AM, Mousavi SS, Spooner C, et al. First-Generation Versus Second-Generation Antipsychotics in Adults: Comparative Effectiveness [Internet]. Rockville (MD): Agency for Healthcare Research and Quality (US); 2012 Aug. (Comparative Effectiveness Reviews, No. 63.) Table 1, List of antipsychotics included in the comparative effectiveness review* Available from: <https://www.ncbi.nlm.nih.gov/books/NBK107237/table/introduction.t1/>

Huhn, M., Nikolakopoulou, A., Schneider-Thoma, J., Krause, M., Samara, M., Peter, N., ... Leucht, S. (2019). Comparative efficacy and tolerability of 32 oral antipsychotics for the acute treatment of adults with multi-episode schizophrenia: a systematic review and network meta-analysis. *The Lancet.* doi:10.1016/s0140-6736(19)31135-3

Németh, G., Laszlovszky, I., Czobor, P., Szalai, E., Szatmári, B., Harsányi, J., ... Fleischhacker, W. W. (2017). Cariprazine versus risperidone monotherapy for treatment of predominant negative symptoms in patients with schizophrenia: a randomised, double-blind, controlled trial. *The Lancet*, 389(10074), 1103–1113. doi:10.1016/s0140-6736(17)30060-0

Weiser M, Davis JM, Brown CH, Slade EP, Fang LJ, Medoff DR, Buchanan RW, Levi L, Davidson M, Kreyenbuhl J. Differences in Antipsychotic Treatment Discontinuation Among Veterans With Schizophrenia in the U.S. Department of Veterans Affairs. *Am J Psychiatry.* 2021 Oct 1;178(10):932-940. doi: 10.1176/appi.ajp.2020.20111657. Epub 2021 Jul 14. PMID: 34256606.

Tiihonen, J., Mittendorfer-Rutz, E., Majak, M., Mehtälä, J., Hoti, F., Jedenius, E., ... Taipale, H. (2017). Real-World Effectiveness of Antipsychotic Treatments in a Nationwide Cohort of 29 823 Patients With Schizophrenia. *JAMA Psychiatry*, 74(7), 686. doi:10.1001/jamapsychiatry.2017.1322



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NEUROPSYCHIATRIC EVALUATION of ALKIVIADES “ALKI” DAVID INTERIM REPORT

April 18, 2023

Alkiviades “Alki” David is a 55 year old white male referred by his sister for evaluation and management of long-standing disturbed behavior.

HISTORY

Mr. David was interviewed for a total of 3.5 hours over the course of three separate sessions. The first session began with AD relating that he wasn’t sure why he needed to see a psychiatrist. He related details of his developmental and relationship history, beginning with his birth in Lagos Nigeria. Though tangential, he was redirectable enough to provide details about his three previous marriages and his current long-term relationship. However, after approximately 20 minutes he digressed onto a dissertation on certain of biblical characters that I found nearly impossible to follow. My probing led to him getting angry and frustrated. When I changed topics he launched into a discursive rant, laden with invective, where he described in detail his beliefs that a world-wide criminal organization composed of lawyers and judges were persecuting him. He was 100% convinced that this was true and was somehow the result of his championing the less fortunate or wealthy. For the next hour plus I was unable to obtain any other credible historical information, though I did obtain considerable evidence for his behavioral dysregulation and lack of insight. Subsequent sessions were kept much shorter, but still, his attention span rarely exceeded 10-15 minutes. The length of productive attention and engagement was strongly linked to the emotional valence of what he was talking about.

MENTAL STATUS EXAM

The patient’s mental status was grossly the same overall at each session, which was as follows: His overall appearance exhibited good grooming and appropriate eye contact. His gait and station were normal. He appeared fit and in no apparent distress. He became psychomotor activated numerous times throughout the interview, but always within the context of the content he was reporting. Similarly, his affect was labile and energized, but congruent with his expressed mood at that moment. He expressed substantial anger throughout our sessions that was almost exclusively directed at his perceived persecutors. He also exhibited significant irritability at times of perceived slights or when I said that I was having difficulty following his train of thought. Mr. David’s thought process was frequently nonlinear (tangential and circumstantial), perseverative and prone to lapses in logic. The content of these thoughts was notable for crystalized paranoia.

Document received by the CA 2nd District Court of Appeal.

In short, all trains of conversations return to an exposition about his persecution at the hands of a vast, international legal cabal, comprising advocates, prosecutors and jurists. He further expresses a belief that this corrupt group is victimizing many others besides himself and is 100% certain that this is true. His assessment of evidence show a strong, if not pathological, confirmation bias and a concomitant bias against disconfirmatory evidence. The presence of these cognitive biases characterize psychotic patients and are often responsible for driving the steady worsening of delusional thinking. Mr. David's repeatedly evinces poor judgement and demonstrates limited insight. He denies the possibility that his thinking could be distorted. Similarly, he views his past behaviors as justified and reasonable, almost righteous, despite substantial evidence to the contrary. With regard to cognitions, he was alert and oriented in all spheres with no gross language deficits noted.

BRAIN IMAGING

MRI of the Brain Without Contrast. The patient was imaged using a 3 Tesla Siemens Verio MRI Open system, the following sequences were obtained: Localizer, T1-weighted 3D MPRAGE, T2 TSE axial, 3D double inversion recovery, T2 FLAIR sagittal, axial, and coronal, DWI axial, SWI axial. This study was notable for (1) Significant left frontal encephalomalacia, most prominently in superior frontal gyrus with gliosis in the deep white matter involving the paramedian frontal lobe, and (2) frontal volume loss, greater on the right than on the left.

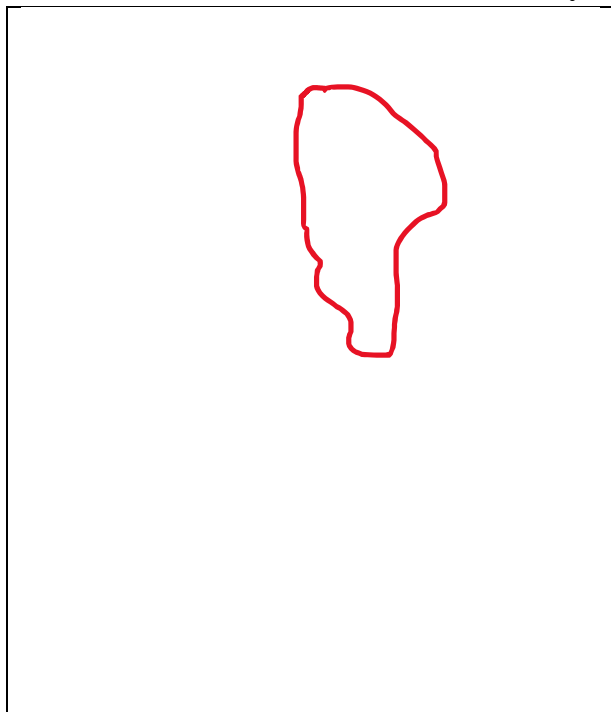


Figure 1. Axial FLAIR image at level of superior frontal gyrus showing location of brain damage

(2) Significant left frontal encephalomalacia, most prominently in superior frontal gyrus with gliosis in the deep white matter involving the paramedian frontal lobe, and (2) frontal volume loss, greater on the right than on the left.

Advanced MRI of the Brain And MRI Connectomics. The patient was imaged using a 3 Tesla Siemens Verio MRI Open system, a functional MRI study was performed using the following sequences: (1) 3D MPRAGE, (2) Arterial Spin Labeling, (3) DWI DTI Tractography and Fractional Anisotropy, (4) MRI Connectomics.

The arterial spin labeling study reveals markedly diminished perfusion in the left frontotemporal region. There is also diminished perfusion in the left parietal occipital area. This is consistent with less metabolism in these areas. This is a finding sometimes seen in depression the left frontal lobe. The patient has a lesion of encephalomalacia in the paramedian left frontal lobe. This will be further evaluated on a definitive SRI of the brain. DWI fractional anisotropic study reveals marked asymmetry in the

definitive SRI of the brain. DWI fractional anisotropic study reveals marked asymmetry in the

fractional anisotropy in the left frontal lobe. These findings are consistent with the previously noted injury to the brain with encephalomalacia in this region.

Neuroquant Volumetric Analysis. The patient was imaged using a 3 Tesla Siemens Verio MRI Open system, a functional MRI study was performed using 3D MPRAGE and volumetric analysis. This study revealed considerable bilateral volume loss in the temporal lobes two standard deviations below normal. This finding is also seen in the lateral occipital lobes. There is significant volume loss in the right superior frontal lobe 7th percentile as well as in the cortical gray matter, right worse than left.

PSYCHODIAGNOSTIC TESTING

Symptom Checklist-90 (SCL-90) The SCL-90 was administered to screen for overall psychopathology since he struggled so thoroughly to assess his own mental state. The Symptom Checklist-90 (SCL-90) is a brief, self-report questionnaire commonly used to assess a broad range of psychological symptoms and distress in adults. It includes 90 items that assess nine primary symptom dimensions: somatization, obsessive-compulsive, interpersonal sensitivity, depression, anxiety, hostility, phobic anxiety, paranoid ideation, and psychoticism. The SCL-90 has been shown to be a reliable and valid measure of psychological distress and can be used to screen for a variety of psychological disorders, such as depression, anxiety, and somatization disorders. Mr. David scored in the 99% percentile for interpersonal sensitivity, depression, anxiety, hostility, phobic anxiety, paranoid ideation, and psychoticism.

Brown Executive Function/Attention Scales-Adult (BEFAS-A) The BEFAS-A is a standardized assessment tool designed to measure executive functioning and attention in adults.

The Brown Executive Function/Attention Scales (Brown EF/A Scales) provide an easily understandable, standardized tool to collect information about the problems an individual demonstrates or reports with executive functions, the self-management functions that support attention in multiple tasks of daily life. Results are compared with norms to indicate how any reported problems over the past 6 months compared to other people of similar age. Individual scores indicate how much of a problem the adult appears to have with each of the clusters identified in the Brown model of EF. These clusters are as follows: Cluster 1. Activation: Organizing, Prioritizing, and Activating to Work, Cluster 2. Focus: Focusing, Sustaining, and Shifting Attention to Tasks, Cluster 3. Effort: Regulating Alertness, Sustaining Effort, and Adjusting Processing Speed, Cluster 4. Emotion: Managing Frustration and Modulating Emotions, Cluster 5. Memory: Utilizing Working Memory and Accessing Recall, Cluster 6. Action: Monitoring and Self-Regulating Action. Total Composite score is a composite of the six cluster scores. On these scales T-scores over 70 indicate markedly atypical presentation (i.e. very significant problems).

Mr. David's total composite score placed him in the severely affected range, with similarly severe impairments in focus (sustaining, and shifting attention to tasks), memory (Utilizing working memory and accessing recall) and worst of all, monitoring and self-regulating action.

Delis Rating of Executive Functions (D-REF)

The D-REF Adult consists of 58 items and takes 10–15 minutes to administer. Key components of executive functioning are generally conceptualized into four broad areas: goal formation, planning, goal-directed behavior, and effective performance. For an individual to demonstrate adequate executive functioning, he/she must reflect on what it is he/she wants to accomplish, determine the next steps in order to achieve anticipated outcomes, engage in problem-solving behaviors to reach desired goal, and finally perform the action efficiently.

Mr. David scored in the 99th percentile (most affected) for impairments of behavioral and emotional control. Similarly, he scored in the 98-99th percentile on (1) Activity Level/ Impulse Control (AIC), an assessment of impulsivity, hyperactivity, and poor self-monitoring; (2) Emotional Control/ Anger Management (EAM), which assesses symptoms of poor frustration tolerance, emotional lability, sensitivity to criticism, and problems with anger control and (3) Abstract Thinking/ Problem-Solving (APS), which assesses symptoms of concrete thinking, cognitive rigidity, disorganization, and poor decision- making and problem-solving skills.

Millon Clinical Multiaxial Inventory-IV (MCMI-IV) Mr. David was administered the MCMI-IV to more fully explore his personality structure, antisocial or otherwise. The MCMI-IV is a multi-axial assessment tool that provides information on several domains of psychological functioning, including personality traits, clinical syndromes, and severe personality pathology. It also provides information on a patient's overall level of functioning, as well as their interpersonal style, coping mechanisms, and stressors. The test consists of 195 true/false questions that assess a wide range of psychological symptoms, including mood disorders, anxiety disorders, substance abuse, and personality disorders. The test is designed to be completed by adults aged 18 years or older and is commonly used by mental health professionals in clinical and forensic settings. One unique aspect of the MCMI-IV is that it assesses both the patient's self-reported symptoms and their coping styles, allowing clinicians to gain insight into how the patient perceives and deals with their problems. The MCMI-IV has been extensively researched and has demonstrated high levels of reliability and validity. It is widely used in clinical settings as a tool for diagnosing and planning treatment for patients with mental health disorders. However, it should be noted that the MCMI-IV is not a diagnostic tool on its own and only used in conjunction with other assessments and clinical evaluations.

Mr. David's response profile was processed by Pearson Assessments and the abridged reports is as follows: In sum, the major complaints expressed by the patient's MCMI-IV responses do not take the form of distinct clinical syndrome symptoms (i.e. no DSM-5 specified personality disorder like antisocial or borderline), however, he had traits of a turbulent and sadistic (aggressive) style. His response pattern showed no evidence to suggest dissimulation.

DISCUSSION

Decades ago, Mr. David lapsed into a coma after being struck by a motor vehicle while walking across the street. After regaining consciousness weeks later he became far more impulsive, irritable and exhibited profound short-term memory deficits, what his sister described as being a “different person,” personality-wise. Given Mr. David’s behavioral history it is shocking that no brain imaging was performed prior to the current evaluation. Functional and structural brain MR imaging reveals damage to the left frontal lobe that is so severe that it is obvious to even the untrained eye (Figure 2). Quantitative analysis of these images revealed more loss of brain mass in the frontal and temporal lobes.

The frontotemporal region is a network of functional circuits operating in concert to produce what is termed *executive function*. Executive function comprises the mental processes that enable us to plan, focus attention, remember instructions, and juggle multiple tasks successfully. Just as an air traffic control system at a busy airport safely manages the arrivals and departures of many aircraft on multiple runways, the brain needs this skill set to filter distractions, prioritize tasks, set and achieve goals, and control impulses. Conversely, damage to the executive system often leads to: Difficulty organizing; Difficulty in planning and initiation (getting started); Inability to multitask; Difficulty with verbal fluency, Trouble planning for the future; Difficulty processing, storing, and/or retrieving information; Mood swings; Lack of concern for people and animals; Loss of interest in activities; Socially inappropriate behavior; Inability to learn from consequences from past actions; Difficulty with abstract concepts (the inability to make the leap from the symbolic to the real world)

Damaging either a specific subregion of frontotemporal cortex or the connections between subregions will impair executive function. This is well illustrated by the case of Phineas gage, arguably the most famous neurological patient of all time. In brief, an explosion propelled a metal rod through his left frontal lobe, but leaving the rest of his brain otherwise intact. Dr. JM Harlow who attended to Gage’s wounds reported that Gage’s employers, “*who regarded him as the most efficient and capable foreman ... considered the change in his mind so marked that they could not give him his place again.... He is fitful, irreverent, indulging at times in the grossest profanity (which was not previously his custom), manifesting but little deference for his fellows, impatient of restraint or advice when it conflicts with his desires.... A child in his intellectual capacity and manifestations, he has the animal passions of a strong man.... His mind was radically changed, so decidedly that his friends and acquaintances said he was ‘no longer Gage.’*” There is an undeniable similarity between the behavior of Gage and Mr David after his accident.

Frontotemporal dementia (FTD) can serve as a model to understand the context and scope of Mr. David’s deficits. Mr. David has compromised frontal and temporal lobes, as revealed by quantitative MR imaging. This would be expected to produce deficits and behaviors that are most similar to those exhibited by patients suffering from frontotemporal dementia (FTD). Patients with FTD (1) struggle to focus on tasks and become distracted easily (2) find it difficult to plan, organize and make decisions – these problems may first appear at work or with managing money; (3) lose their inhibitions – behaving in socially inappropriate ways and acting impulsively or without thinking. For example, making insensitive or rude comments about someone’s

appearance, making sexual gestures in public, staring at strangers, or being verbally or physically aggressive; (4) lose motivation to do things that they used to enjoy; (5) lose the ability to understand what others might be thinking or feeling – they may be less considerate of the needs of others, lose interest in social activities or be less friendly. They may also have less of a sense of humor or laugh at other people's problems. This can make the person appear cold and selfish; (6) show repetitive or obsessive behaviors; (7) developing cravings or insatiable eating, drinking, smoking or other drug use. It is instructive to recognize that the symptoms of FTD are often misunderstood. Other may think that the person is merely misbehaving, leading to anger and conflict. It is important to understand that people with these disorders often lack any awareness of their illness and either cannot control their behaviors or can only do so for short periods of time.

Mr. David's brain damage underlies his apparent lack of executive functioning. Because the frontotemporal regions are so complex in their function it is outside the bounds of this interim report to discuss in detail all of the aspects of Mr. David's cognition and behavior that will be affected. However, two anatomically easily illustrated examples would be impaired memory and his seemingly lack of forethought. First, as illustrated in Figure 2, he has significant damage to the dorsomedial prefrontal cortex (dmPFC). This region is directly required for working memory. The extent of the damage easily explains his partial amnesia after his accident. It is important to keep in mind that working memory is more than remembering facts since it is what allows us to

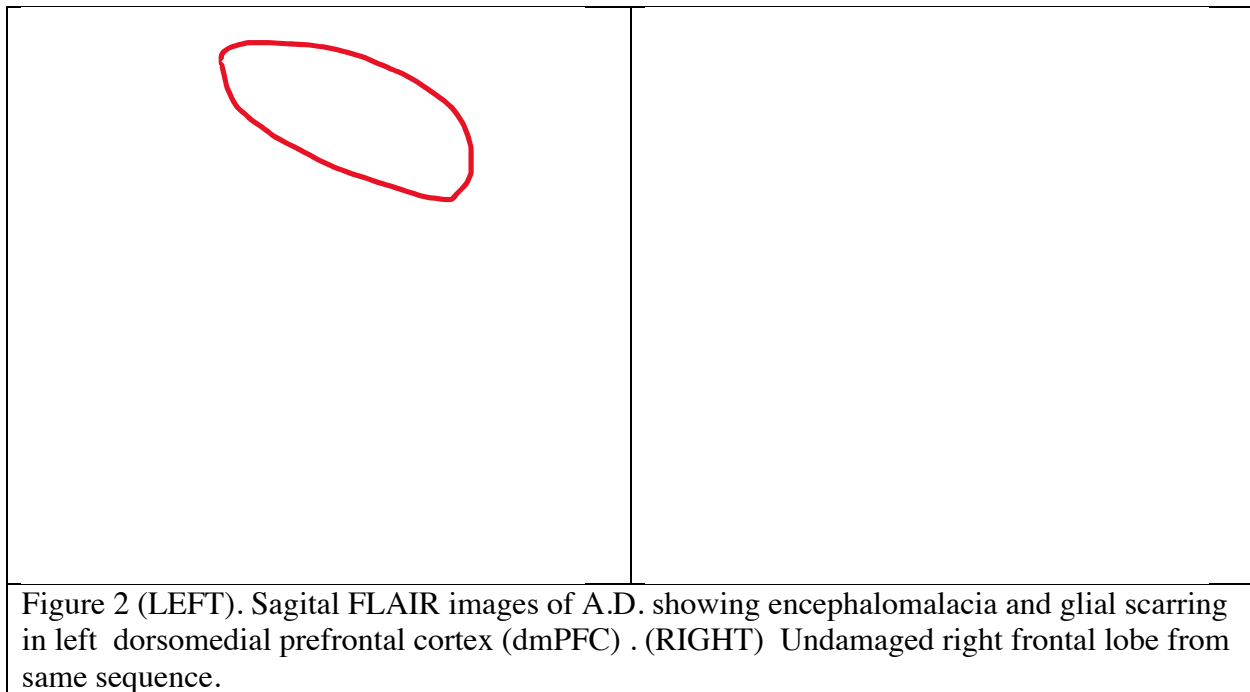


Figure 2 (LEFT). Sagittal FLAIR images of A.D. showing encephalomalacia and glial scarring in left dorsomedial prefrontal cortex (dmPFC) . (RIGHT) Undamaged right frontal lobe from same sequence.

perform calculations or evaluate prospective outcomes for our decisions.

Patients like A.D. with frontal lobe damage are known to demonstrate deficits in planning actions for tasks that require foresight. Foresight and future thinking require the ability to think about the self and to focus attention on one's inner experience. When an individual reflects on their own mental state, infers the mental state of others, or engages in social reasoning they activate the dorsomedial prefrontal cortex (dmPFC) subsystem includes the dmPFC proper, the

temporoparietal junction, the lateral temporal cortex, and the temporal pole. This region (dmPFC) is the most obviously damaged in Mr. David (Figure 2), but not the only dysfunctional circuit. This is supported by the limited psychometric testing Mr. David has thus far been able to complete. Mr. David scored in the severe affected/impaired range

SUMMARY OF FINDINGS

On initial interview, Mr. David presented with a labile mood, digressive thought process and perseveratively espoused numerous bizarre beliefs, but denied all past medical history and drug use over the past two weeks. His behavior pattern appeared most consistent with an early-onset mid-stage behavioral variant frontotemporal dementia, prompting me to order brain imaging. I subsequently learned that decades earlier Mr. David suffered a severe traumatic brain injury, which was confirmed on MRI. Initial psychometric testing revealed broad, mostly severe, dysfunction across all sphere of executive function, including emotional dysregulation, behavioral dysregulation, impaired attention & memory, impaired practical problem solving ability and diminished impulse control. Executive function is mediated by brain circuits located in the damaged parts of Mr. David’s brains. Being a tightly coordinated system, the damage renders the whole system less resilient in the face of stressors. The result is that whenever one component of executive functioning is stressed, other components will in turn perform less well. This can produce a cascading failure in the entire system. Such a system-wide failure manifests as an illogical, uncontrolled behavioral meltdown.

SUMMARY OF DIAGNOSES

1. S06.2XAS Diffuse traumatic brain injury with loss of consciousness of unspecified duration,
2. R45.89 Impairing Emotional Outbursts
3. F02.C18 Major Neurocognitive Disorder Due to Traumatic Brain Injury, Severe, With other behavioral or psychological disturbance

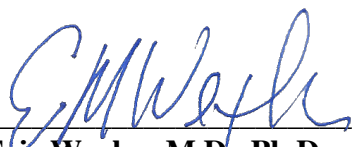
OPINONS¹

1. Mr. David suffered a major traumatic brain injury
2. Mr. David’s TBI resulted in permanent damage to and loss of brain structures
3. Mr. David has the behavioral manifestation predicted by an injury to this brain region
4. Psychometric testing affirmatively documents broad impairments in Mr. David’s executive functioning.

¹ Mr. David has not fully completed all intended testing. Pending the completion of neuropsychological testing, the opinions expressed are subject to revision.

5. Mr. David lacked objective evidence of enduring brain damage prior to this evaluation
6. Mr. David's brain damage compromised his insight and ability to introspect
7. Lack of objective evidence, insight and introspective ability prevented him from recognizing his functional deficits.
8. Mr. David's neurological deficits render him permanently disabled.
9. Mr. David should be afforded reasonable accommodations as he suffers from a heretofore unrecognized medical disability.
10. Mr. David's accommodations should include mechanisms that reduce the need for sustained vigilance (e.g. shorter session, or more frequent breaks, especially when emotions are likely to be activated, but more frequent sessions).
11. Mr. David's cognitive functioning and behavioral control declines dramatically during emotionally charged exchanges. As such, Mr. David should be afforded an accommodation whereby he is only given written questions to which he can consider and respond to, and be spared from adversarial questioning, whenever possible.

Note: The full extent of the data and opinions in this report should be open to amendment pending the completion of neuropsychological testing.



Eric Wexler, M.D., Ph.D.
Board-Certified in Psychiatry

Document received by the CA 2nd District Court of Appeal.

TAB 20

AA0285

Document received by the CA 2nd District Court of Appeal.

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12 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

13 COUNTY OF LOS ANGELES

14 JANE DOE, an Adult Individual Suing Under
15 Anonymity Due to Privacy and Safety,

16 Plaintiff,

17 vs.

18
19 ALKIVIADES DAVID, an Individual, a.k.a.
20 ALKI DAVID; HOLOGRAM USA, INC., a
21 California Corporation, a.k.a. HOLOGRAM
22 USA PRODUCTIONS, INC., HOLOGRAM
23 USA ENTERTAINMENT, INC., FILMON.TV,
24 INC., FILMON.TV NETWORKS, INC. and
25 FILMON.TV LA, INC.; SWISSX LABS AG,
26 INC. a California Corporation, a.k.a. SWISSX
27 LOUNGE and FILMONTV UK, LTD; and
28 DOES 1 through 150, inclusive,

Defendants.

Case No.: 20STCV37498

(Assigned for all purposes to the Honorable
Christopher L. Lui in Dept. 76)

**PLAINTIFF'S OPPOSITION TO
ALKIVIADES DAVID'S MOTION TO
COMPEL FURTHER RESPONSES TO
INTERROGATORIES; DECLARATION
OF JUSTIN KIRK; PLAINTIFF'S
REQUEST FOR SANCTIONS AGAINST
DEFENDANT**

Hearing: 258401690947

Date: September 13, 2023

Time: 8:30 a.m.

Dept: 76

Electronically FILED by
Superior Court of California,
County of Los Angeles
8/30/2023 3:38 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By A. Lopez, Deputy Clerk

1 TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF
2 RECORD:

3 Plaintiffs, Jane Doe ("Plaintiff") hereby submits her Opposition to Defendant Alkiviades
4 David's ("Defendant" or "David") Motion to Compel Further Responses to Interrogatories
5 ("Motion"). Defendant David's Motion should be denied for the following reasons:

- 6 1. Defendant's claimed basis for the information sought here is his erroneous belief
7 he is "entitled to explore whether other unrelated conditions are the proximate
8 cause of [Plaintiff's] emotional distress."
- 9 2. California law declares that a plaintiff's privacy rights may not be breached
10 because of Defendant's speculation that Plaintiff's past conduct might reveal
11 possible alternative contributing factors and/or causes for her emotional distress,
12 thereby potentially justifying the apportionment of her damages. (*Mendez v.*
13 *Sup.Ct. (Peery)* (1988) 206 Cal.App.3d 557, 571.)

14 In addition, Plaintiff hereby requests that the Court order Defendant and his attorney of
15 record pay monetary sanctions in the amount of \$2,250 for the abuse of the discovery process
16 and for bringing this motion unjustifiably.

17 This Opposition is based on the accompanying Memorandum of Points and Authorities,
18 the papers, records, and files in this action, and such oral and documentary evidence as may be
19 presented at the time of the hearing.

20
21
22 DATED August 30, 2023

LIVINGSTON • BAKHTIAR

By: 

Ebby Bakhtiar, Esq.
Justin M. Kirk, Esq.
Attorneys for Plaintiff

1 **I. INTRODUCTION**

2 This lawsuit involves the sexual harassment and assault between a misogynist, Defendant
3 Alkiviades David’s (“Defendant” or “David”), and his victim, the Plaintiff, that has resulted in
4 the current claims and injuries addressed in her complaint. Now David attempts to violate
5 Plaintiff again by fishing for information that not only breaches Plaintiff’s right to privacy, but
6 more importantly is designed to continue his harassment toward her. David is so certain that he
7 can exploit this litigation for his own improper means that David has chosen to not even attempt
8 to hide his intentions to abuse the discovery process in declaring that he “is entitled to explore
9 **whether other unrelated conditions are the proximate cause of her emotional distress.**”
10 (Motion to Compel, pg. 7, lns. 9-11.) This, by definition, is a fishing expedition and in the end a
11 farce.

12 But despite this clear admitted abuse of discovery, Plaintiff has attempted to provide her
13 best efforts to resolve this discovery matter informally, in good faith. However, it is evident here
14 and in the other discovery disputes solely created by this Defendant that Defendant’s sole goal
15 in this litigation is to continue his harassment of the Plaintiff in an effort to convince her of his
16 manhood and monetary superiority in the hopes of breaking her spirit. Plaintiff will not allow
17 this to happen. But more importantly, this abuse of the discovery should not be condoned by the
18 Court and this Motion should be denied and sanctions awarded against Defendant and his counsel,
19 jointly and severally, in the amount of \$2,250.

20 **II. LEGAL ARGUMENT**

21 **A. CALIFORNIA LAW RESTRICTS INTRUSIONS INTO PLAINTIFFS’**
22 **PRIVATE UNRELATED RECORDS.**

23 The right to privacy, contained in Article I, §1, of the California Constitution, is “on a par
24 with defending life and possessing property.” (*Vinson v. Sup.Ct.* (1987) 43 Cal.3d 833, 841.) For
25 this reason, even highly relevant nonprivileged information may be shielded from discovery if
26 its disclosure would impair a person’s inalienable right to privacy. (*Britt v. Sup. Ct.* (1978) 20
27 Cal.3d 844, 855-856.) As such, whenever privacy concerns are implicated, the expansive scope
28 of discoverability under the Discovery Act does not apply. (*Tylo v. Sup.Ct.* (1997) 55

1 Cal.App.4th 1379, 1389.)

2 “[P]laintiffs are ‘not obligated to sacrifice all privacy to seek redress for a specific
3 (physical,) mental or emotional injury.’” (*Britt*, 20 Cal.3d at 864, quoting *In Re Lifschutz* (1970)
4 2 Cal.3d 415, 435.) The reason is that only medical conditions placed in issue can be ordered
5 disclosed, not “other aspects of the patient-litigant’s [medical conditions] even though they may,
6 in some sense, be ‘relevant’ to the substantive issues of litigation.” (*Ibid.*)

7 Article I, §1, of the California Constitution secures the right of privacy for all persons.
8 The “‘inalienable right’ of privacy is a ‘fundamental interest’ of our society, essential to those
9 rights ‘guaranteed by the First, Third, Fourth, Fifth and Ninth Amendments to the U.S.
10 Constitution.’ [Citations omitted.]” (*Board of Trustees v. Sup. Ct. (Dong)* (1981) 119
11 Cal.App.3d 516, 524-525.)

12 Although the right to privacy is not absolute, it can only be abridged when necessary to
13 accommodate a compelling public interest. (See *Britt*, 20 Cal.3d at 855-856.) Even then, a
14 compelling interest does not automatically mandate the waiver of all privacy rights. Rather,
15 “[w]hen an individual’s right of privacy ... conflicts with the public need for discovery in
16 litigation, the competing interests must be carefully balanced.” (*Moskowitz v. Sup. Ct. (Zerner,*
17 *Sims & Cibener)* (1982) 137 Cal.App.3d 313, 316.)

18 To this end, the careful balancing of the interests dictates a close examination of the
19 claimed privacy right in contrast with the public interest in obtaining just results in litigation.
20 (*Valley Bank of Nevada v. Sup.Ct. (Barkett)* (1975) 15 Cal.3d 652, 657.) The Court must
21 therefore consider the purpose of the information sought; the effect that disclosure will have on
22 the parties and the trial; the nature of the objections urged by the party resisting disclosure; and
23 the “ability of the court to make an alternative order which may grant partial disclosure,
24 disclosure in another form, or disclosure only in the event that the party seeking the information
25 undertakes certain specified burdens which appear just under the circumstances.” (*Ibid.*, at 658.)
26 (Emphasis added.)

27 In *Tylo v. Sup.Ct. (Spelling Entertainment Group, Inc.)* (1997) 55 Cal.App.4th 1379, it
28 was held that “[d]iscovery of constitutionally protected information is on a par with discovery

1 of privileged information and is more narrowly proscribed than traditional discovery.” (*Ibid*, at
2 1387.) Accordingly, “[i]n those situations where it is argued that a party waives protection ... the
3 court must construe the concept of ‘waiver’ narrowly and a compelling public interest is
4 demonstrated only where the material sought is directly relevant to the litigation.” (*Ibid*, citing
5 *Britt*, 20 Cal.3d at 852-853; also see *Vinson*, 43 Cal.3d at 842.)

6 **1. Plaintiff Has Not Waived Her Right to Privacy by Filing this Lawsuit.**

7 It is well known that the mere filing of a personal injury action will not signal the waiver
8 of a plaintiff’s right to privacy. (*Britt*, 20 Cal.3d at 864; *In Re Lifschutz* (1970) 2 Cal.3d 415,
9 435; *Vinson*, 43 Cal.3d at 841-842.) California law recognizes that a “[p]laintiff is not compelled,
10 as a condition to entering the courtroom, to discard entirely [plaintiff’s] mantle of privacy.”
11 (*Vinson*, 43 Cal.3d at 841-842.) Although “the filing of a lawsuit may implicitly bring about a
12 partial waiver of one’s constitutional right of [privacy], the scope of such ‘waiver’ must be
13 narrowly rather than expansively construed” (*Ibid*, at 842 quoting *Britt*, 20 Cal.3d at 859.)

14 In this regard, it has been observed that “[w]hile the filing of the lawsuit ... may be
15 something like issuing a fishing license for discovery[;] as with a fishing license, the rules of
16 discovery do not allow unrestricted access to all species of information.” (*Tylo*, 55 Cal.App.4th
17 at 1387.) (Emphasis added.) Therefore, “[m]ere speculation as to the possibility that some
18 **portion of the records might be relevant to some substantive issue does not suffice.”** (*Davis*
19 *v. Sup.Ct. (Williams)* (1992) 7 Cal.App.4th 1008, 1017; see *Vinson*, 43 Cal.3d at 840; *Board of*
20 *Trustees*, 119 Cal.App.3d at 525.) (Emphasis added.)

21 Notably, the facts of *Britt*, supra, are nearly identical to the instant dispute. The plaintiffs
22 in *Britt* had sued for personal injuries and during discovery, the defendant sought, *inter alia*,
23 detailed information relating to the plaintiffs’ medical histories. The plaintiffs objected and the
24 defendant obtained an order compelling disclosure. (*Britt*, 20 Cal.3d at 850-851.) The California
25 Supreme Court then issued a writ following the plaintiffs’ petition for extraordinary relief. (*Ibid*,
26 at 851-852.)

27 In their petition, the *Britt* plaintiffs argued that although they were willing to disclose
28 those portions of their medical records relating to the injuries that were being claimed, they were

1 not amenable to revealing their entire past medical histories simply because they filed a personal
2 injury action. The Britt defendant replied, just as Defendant herein contends, that the broad
3 discovery order properly afforded it the opportunity to determine, for itself, whether the plaintiffs'
4 injuries were caused by it, or whether said injuries actually arose from other medical conditions.
5 (*Id.*, at 862.) However, the California Supreme Court rejected the defendant's proposition,
6 holding instead that the "plaintiffs are 'not obligated to sacrifice all privacy to seek redress for a
7 specific (physical,) mental or emotional injury'" (*Britt*, 20 Cal.3d at 864 quoting *Lifschutz*, 2
8 Cal.3d at 435.) (Emphasis added; the addition of "physical" in the parenthesis is contained in
9 original.) The *Britt* court drew the distinction, however, that although the plaintiffs are not
10 permitted to "withhold information which relates to any physical or mental condition which they
11 have put in issue ...," they "are entitled to retain the confidentiality of all unrelated medical or
12 psychotherapeutic treatment they may have undergone in the past." (*Id.*)

13 **2. Plaintiff Has Not Waived Her Right to Privacy for Her Unrelated Medical**
14 **Treatment and Medical Providers.**

15 In the instant matter, Defendant has presented no cognizable right to Plaintiff's entire
16 *unrelated medical histories* – let alone the names of those with whom she received treatment for
17 this unrelated medical treatment. While Plaintiff has no objection to producing her medical
18 records relating to the conditions she has placed at issue, Plaintiff has serious concerns as to the
19 disclosure of records and the names contained in those records that are totally unrelated to this
20 action. (Declaration of Justin Kirk ("Decl. Kirk") ¶¶ 5, 6; Declaration of Jill Harris ("Decl.
21 Harris") ¶ 7)

22 Even Defendant recognized and acknowledged that Plaintiff's treatment with two of her
23 medical providers for gastrointestinal and sinus issues were unrelated to her current injury claims
24 resulting from this action. (Decl. Harris ¶ 7.) In fact, Defendant's counsel went as far as to
25 recognize the overbreadth of Defendant's request in agreeing to "limit the scope of the
26 interrogatories to Plaintiff's primary care or family doctors". (*Id.*) If this is the case and if
27 Defendant's counsel realizes the impropriety of seeking information from these two medical
28 providers who provided unrelated treatment, then how does the Defendant justify continuing to

1 seek information about and from Plaintiff's primary care physician who also only treated
2 Plaintiff for matters unrelated to her current injury claims resulting from this action? Defendant's
3 requests are thus too broad to fall within the paradigm outlined above of permissible breaches of
4 a parties' privacy rights. As such, Defendant's Motion should be denied in order to secure
5 Plaintiffs' inalienable right to privacy.

6 **3. Defendant Cannot Show a Specific Need or a Compelling Interest for**
7 **Plaintiff's Unrelated Psychological Medical History Because the Law Prohibits Defendant**
8 **From Exploring "Whether Other Unrelated Conditions Are The Proximate Cause Of**
9 **[Plaintiff's] Emotional Distress."**

10 The California Supreme Court's decision in *Lifschutz*, supra, speaks to the issues relating
11 to a plaintiff's past mental state. In *Lifschutz*, the plaintiff had brought suit for personal injuries,
12 including severe emotional distress following an alleged physical assault. During discovery, the
13 defendant sought to obtain the details of the plaintiff's past psychological therapy sessions from
14 Dr. Joseph E. Lifschutz, the plaintiff's psychiatrist.

15 Although Dr. Lifschutz appeared for a deposition pursuant to a subpoena, he refused to
16 provide the defendant with any information, or furnish any records relating to his treatment of
17 the plaintiff. The defendant then promptly obtained an order compelling disclosure, which Dr.
18 Lifschutz refused to comply with, thereby precipitating his imprisonment for contempt of court.

19 During the subsequent legal battle to gain Dr. Lifschutz his freedom, the California
20 Supreme Court undertook a review of the patient-litigant exception to the privacy privilege in
21 order to render a determination as to the doctor's rights. In so doing, the Court concluded that a
22 "defendant would not be authorized to undertake an examination of psychotherapeutic
23 communications to determine if the plaintiff has ever exhibited aggressive tendencies or had
24 other personal attributes that might be related to the assault." (*In Re Lifschutz*, 2 Cal.3d at 435.)
25 (Emphasis added.) The Court recognized that the "plaintiff has not disclosed such elements of
26 his mental condition merely by instituting an action for damages resulting from an assault"
27 (*Ibid*, at fn 21.)

28 The underpinning for the *Lifschutz* decision was our High Court's concern with the forced

1 disclosure of past mental health records which the Court reasoned may “deter many
2 psychotherapeutic patients from instituting any general claim for mental suffering and damage
3 out of fear of opening up all past communications to discovery.” (*Id.*, at 435.) The Court thus
4 concluded that such a “result would clearly be an intolerable and overbroad intrusion into the
5 patient’s privacy, not sufficiently limited to the legitimate state interest embodied in the
6 provision and would create opportunities for harassment and blackmail.” (*Id.*)

7 Consequently, pursuant to the holding in *Lifschutz*, the disclosure of past mental health
8 records are restricted to only “those mental conditions the patient-litigant has ‘disclose(d) ... by
9 bringing an action in which they are in issue’ [citation omitted] ... [and] communications which
10 are not directly relevant to those specific conditions ... remain privileged.” (*Id.*) As such, mental
11 health records of a plaintiff “**cannot be compelled with respect to other aspects of the patient-**
12 **litigant’s personality even though they may, in some sense, be ‘relevant’ to the substantive**
13 **issues of litigation.**” (*Id.*) (Emphasis added.) As echoed by *Britt*, supra, *Lifschutz* stands for the
14 proposition that a plaintiff “**is not obligated to sacrifice all privacy to seek redress for a**
15 **specific mental or emotional injury.**” (*Id.*; *Britt*, 20 Cal.3d at 864.) (Emphasis added.)

16 The foregoing concept was applied in the matter of *Mendez v. Sup.Ct.*, supra. In *Mendez*,
17 an employee had brought an action against her employer and others for assault and battery, as
18 well as intentional and negligent infliction of emotional distress in connection with an alleged
19 rape perpetrated by her supervisor. During discovery, the defendants sought to obtain
20 information relating to the plaintiff’s sexual history, including purported extra-marital affairs.

21 The defendants maintained that discovery of the plaintiff’s past sexual behavior was
22 necessary and relevant in order to determine the inception of her emotional distress claims as
23 well as the extent of her damages. (*Ibid* at 569.) The defendants argued that the plaintiff’s past
24 conduct might reveal possible alternative contributing factors and/or causes for her emotional
25 distress, thereby potentially justifying the apportionment of her damages. (*Id.*, at 570-571.) The
26 Appellate Court in *Mendez* declined to accept the defendants’ proposition, appropriately holding
27 instead:

1 we have difficulty accepting the defendants' basic notion that plaintiff's claimed
2 injury of severe emotional distress is somehow apportionable between preexisting
3 anxieties and the mental trauma caused by the defendants' alleged conduct. We
4 address here emotional distress distinctly related to particular conduct separate and
5 apart from the turmoil created by life in general. Were we to accept defendants'
6 proposition, arguably a defendant might pry not only into the sexual affairs of the
7 plaintiff and her spouse, but into her financial affairs, her health (medical records)
8 and the health of her spouse, children, parents and siblings. Problems in any of
9 these areas might have caused preexisting emotional upset.

10 (Id., at 571.)

11 Needless to say, Defendant has not demonstrated any discernible need for Plaintiff's past
12 mental health records. Much like her past medical records relating to her physical condition,
13 Plaintiff's unrelated mental health records are absolutely irrelevant and private, mandating
14 protection from unnecessary disclosure. Accordingly, this Motion should be denied.

15 **4. Defendant Has Not Met His Burden of Showing a Specific Need or a**
16 **Compelling Interest for Plaintiff's Unrelated Medical History.**

17 Despite Defendant's contrary belief, the party who seeks disclosure, not the objecting part,
18 is saddled with the onus of demonstrating a particularized need for the private information, and
19 the broad relevancy to the subject matter standard is not enough to meet such a need. (*See Britt*,
20 20 Cal.3d at 859-862; *see also Lantz v. Sup.Ct. (County of Kern)* (1994) 28 Cal.App.4th 1839,
21 1853.) To this end, Defendant must convince the Court that the information is directly relevant
22 to a cause of action or defense and that it is essential to ascertain the truth of the disputed matters.
23 (*Ibid.*)

24 As articulated above, even when "the balance tips in favor of disclosure, constitutional
25 concerns require a strict circumscription of the scope of disclosure." (*Cutter v. Brownbridge*,
26 (1986) 183 Cal.App.3d 836, 843.) Hence, "the scope of such disclosure will be narrowly
27 circumscribed ... [since] such an invasion of the right of privacy 'must be drawn with narrow
28 specificity.'" (*Board of Trustees*, 119 Cal.App.3d at 526, quoting *Britt*, 20 Cal.3d at 856.)
Therefore, when a defendant establishes a right to disclosure, the court must still carefully tailor
its order so that it does not unnecessarily injure any privacy interests and upon request, the court
should also consider appropriate protective orders as well. (*Schnabel v. Sup.Ct. (Schnabel)*)

1 (1993) 5 Cal.4th 704, 714; see *Britt*, 20 Cal.3d at 859.)

2 Furthermore, the privacy protections prohibit a defendant from compelling the disclosure
3 of a plaintiff's medical history "solely on the basis of speculation that something of interest may
4 surface." (*Vinson*, 43 Cal.3d at 840 citing *Schlagenhauf v. Holder* (1964) 379 U.S. 104, 116-
5 122.) Thus, an "inquiry into one's private affairs will not be constitutionally justified simply
6 because [the] inadmissible, and irrelevant, [sic] matter sought to be discovered might lead to
7 other, and relevant, evidence." (*Board of Trustees*, 119 Cal.App.3d at 525; see *Vinson*, 43 Cal.3d
8 at 840; *Davis*, 7 Cal.App.4th at 1017.) As held by *Tylo*, a plaintiff's claim for injuries does not
9 entitle the defendant to engage in "a true fishing expedition," seeking all other potential
10 "stressors" in the plaintiff's life which "might have caused, or contributed to, [the plaintiff's]
11 alleged ... injuries." (*Tylo*, 55 Cal.App.4th at 1388.) (Emphasis added.)

12 Therefore, Defendant's belief that he should be afforded carte blanche access into
13 Plaintiff's private unrelated medical history, based upon nothing more than an assumption that
14 something of interest might be found, thoroughly runs afoul of the Constitutional protections
15 afforded Plaintiff, in addition to the sound policy precepts underlying *Lifschutz*, *Britt*, *Vinson*,
16 *Board of Trustees*, *Tylo*, *Davis* and the myriad of other decisions supporting Plaintiff's
17 proposition. Indeed, "[i]t would be anomalous for a trial court to accept conjecture as a basis for
18 discovery when there is no submitted support for the underlying assumption." (*Mendez v. Sup.Ct.*
19 (*Peery*) (1988) 206 Cal.App.3d 557, 571.)

20 Again, Defendant's belief he "is entitled to explore **whether other unrelated conditions**
21 **are the proximate cause of [Plaintiff's] emotional distress**" acknowledges his own unfounded
22 speculation. Hence, Defendant's contention that he needs Plaintiff's unrelated medical history
23 in hopes of finding something that would allow it to divine what might have transpired is
24 unsupported by California law. Accordingly, while following the long line of precedent bearing
25 on this issue, it is undeniable that Defendant has not only failed to demonstrate a compelling
26 interest, but also a direct need for the private information sought, thereby warranting the denial
27 of Defendant's Motion.

28 **B. THE PARTIES HAVE MET AND CONFERRED.**

Document received by the CA 2nd District Court of Appeal.

1 Both Defendants and Plaintiff have met and conferred on the issues encompassed by this
2 Motion in good faith. (See Decls. Kirk and Harris). Despite Plaintiff's best efforts, the parties
3 were unable to reach a mutually acceptable agreement to resolve the issue before the Court. (*Id.*)

4 C. MONETARY SANCTIONS SHOULD BE ORDERED AGAINST
5 DEFENDANT AND HIS COUNSEL OF RECORD, NOT AGAINST
6 PLAINTIFF OR HER COUNSEL.

7 California statutes provide that the Court shall impose sanctions upon a party who
8 unsuccessfully makes or opposes a motion to compel further response to interrogatories absent
9 substantial justification otherwise. (*Code of Civil Procedure* § 2030.300(d).) In addition, *Code*
10 *of Civil Procedure* § 2023.030(a) provides that the court may impose a monetary sanction order
11 for misuse of the discovery process. *Code Civ. Proc.*, § 2023.010 notes that misuses of the
12 discovery process include: . . .(c) Employing a discovery method in a manner or to an extent that
13 causes unwarranted annoyance, embarrassment, or oppression, or undue burden and expense; . . .”
14 As the Motion should be denied in its entirety, the result should be the basis to deny sanctions
15 against Plaintiff. In the alternative, Plaintiff requests the amount of \$2,250 as monetary sanctions
16 against Defendant and his counsel of record, jointly and severally.

17 **III. CONCLUSION**


18 For all the reasons stated above, Plaintiff respectfully requests that this Court deny
19 Defendant's Motion with prejudice.

20
21 Respectfully submitted,

LIVINGSTON • BAKHTIAR

22
23 DATED August 30, 2023

24 By:

25 
26 Ebby Bakhtiar, Esq.
27 Justin M. Kirk, Esq.
28 Attorneys for Plaintiff

1 the incident alleged in her Complaint that I would agree to a “first look” agreement with
2 Defendant’s counsel in connection with any subpoenas related to any such potential providers.
3 However, all representations made to Defendant’s counsel regarding Plaintiff’s willingness to
4 supplement her Responses to Special Interrogatories Nos. 34 and 35 was prefaced on Plaintiff
5 having actually received any treatment for her injuries contained in her Complaint from any
6 medical care providers other than Planned Parenthood.

7 5. After our June 30, 2023 phone call, I verified with my client that she did **not**
8 receive any treatment for her injuries contained in her Complaint from any medical care
9 providers other than Planned Parenthood. As such, Plaintiff did not provide further responses to
10 Defendant’s Special Interrogatories Nos. 34 and 35.

11 6. On August 10, 2023, I had a phone call with Defendant’s counsel in which I
12 explained that Plaintiff only received treatment for her injuries contained in her Complaint from
13 Planned Parenthood, and this was the reason why we did not serve further responses. I also
14 explained that while Plaintiff does have a primary care doctor (or “family doctor”), she did not
15 see this doctor for any of the injuries contained in her Complaint.

16 7. My hourly billable rate is \$500.00. I have spent approximately 2.5 hours preparing
17 this opposition to Defendant’s Motion to Compel Special Interrogatories. I also estimate that I
18 will spend another 1 hour reviewing Defendant’s Reply and approximately 1 hour attending the
19 hearing on this Motion. As a result, Plaintiff respectfully requests \$2,250.00 that has been
20 necessitated in opposing this Motion.

21 I declare under penalty of perjury under the laws of the State of California that the forgoing
22 is true and correct.

23 Executed on this 30th day of August, 2023, at Los Angeles, California.

24
25 
26 _____
27 Justin M. Kirk, Esq.
28

and providing them to a messenger service for service

() **BY PERSONAL SERVICE.** I caused such documents to be delivered personally delivered to the persons addresses listed below.

() For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between normal business hours.

() For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between normal business hours.

() **BY FAX TRANSMISSION.** I caused all of the pages of the above-entitled document to be sent to the recipients noted on the attached service list via electronic transfer (FAX) at the respective FAX numbers pursuant to C.C.P. §1013(e) from DORDICK LAW CORPORATION on the date set forth above. The machine I used complied with California Rules of Court, Rule 2.306(h)(3) and no error was reported by the machine.

(X) **BY ELECTRONIC SERVICE [E-MAIL]** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from e-mail address sandra@dordicklaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on August 30, 2023, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


SANDRA JIMENEZ

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SERVICE LIST
Jane Doe v. David
Case No. 20STCV37498

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Attorney for Defendant, ALKIVIADES DAVID

TAB 21

AA0302

Document received by the CA 2nd District Court of Appeal.

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15 JANE DOE

16 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

17 COUNTY OF LOS ANGELES

18 JANE DOE, an Adult Individual Suing Under
19 Anonymity Due to Privacy and Safety,

20 Plaintiff,

21 vs.

22 ALKIVIADES DAVID, an Individual, a.k.a.
23 ALKI DAVID; HOLOGRAM USA, INC., a
24 California Corporation, a.k.a. HOLOGRAM
25 USA PRODUCTIONS, INC., HOLOGRAM
26 USA ENTERTAINMENT, INC., FILMON.TV,
27 INC., FILMON.TV NETWORKS, INC. and
28 FILMON.TV LA, INC.; SWISSX LABS AG,
INC. a California Corporation, a.k.a. SWISSX
LOUNGE and FILMONTV UK, LTD; and
DOES 1 through 150, inclusive,

Defendants.

Electronically FILED by
Superior Court of California,
County of Los Angeles
8/30/2023 3:38 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By A. Lopez, Deputy Clerk

Case No.: 20STCV37498

(Assigned for all purposes to the Honorable
Christopher L. Lui in Dept. 76)

**PLAINTIFF'S OPPOSITION TO
ALKIVIADES DAVID'S SEPARATE
STATEMENT IN SUPPORT OF
DEFENDANT'S MOTION TO COMPEL
FURTHER RESPONSES TO
INTERROGATORIES**

Hearing: 258401690947

Date: September 13, 2023

Time: 8:30 a.m.

Dept: 76

1 Pursuant to California *Rule of Court*, Rule 3.1345, Plaintiff, Jane Doe ("Plaintiff") hereby
2 submits her Opposition to Defendant Alkiviades David's Separate Statement in support of
3 Defendant's Motion to Compel Further Responses to Interrogatories.

4 **SPECIAL INTERROGATORIES AND DISPUTED RESPONSES**

5 **SPECIAL INTERROGATORY NO. 34:**

6 IDENTIFY every MEDICAL CARE PROVIDER (The term -MEDICAL CARE
7 PROVIDER" includes all persons who provide any type of health care, mental health care, or
8 rehabilitation care on a professional basis, such as physicians, surgeons, nurses, paramedics,
9 physical therapists, rehabilitation therapists, chiropractors, podiatrists, psychiatrists,
10 psychologists, and mental health counselors and therapists) who examined, diagnosed, treated,
11 or otherwise provided MEDICAL CARE (The term "MEDICAL CARE" includes any medical
12 care, aid, treatment, comfort, diagnosis, prognosis, or examination by any medical care provider
13 or other person for any INJURY, including any mental, emotional, or psychological illness) to
14 YOU for the period April 1, 2015 to the present.

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 34:**

16 OBJECTION. Responding Party objects that the term "Medical Care Provider" is vague
17 and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead to an improper
18 response due to its ambiguity and vagueness. Responding Party further objects to this
19 Interrogatory on the ground that it seeks the disclosure of information protected by Responding
20 Party's Constitutional Right to Privacy contained in Article 1, § 1 of the Constitution of the State
21 of California. In this regard, California case authority proscribes fishing expeditions into a
22 plaintiffs medical records solely on the basis of speculation that something of interest may
23 surface. (See *Vinson v. Sup. Ct.* (1987) 43 Cal.3d 833, 840; *Mendez v. Sup.Ct.* (1988) 206
24 Cal.App.3d 557, 571; *Tylo v. Sup.Ct.* (1997) 55 Cal.App.4th 1379, 1387.) In this regard, simply
25 because this Responding Party has filed a lawsuit does not signal the his waiver of his right to
26 privacy or the physician-patient privilege regarding unrelated matters. (See, e.g., *In Re Lifschutz*
27 (1970) 2 Cal.3d 415, 435; see also *Britt vs. Sup.Ct.* (1978) 20 Cal.3d 844, 864; and *Vinson*, 43
28 Cal.3d at 841 -842.) In fact, it has been concluded that the "[d]iscovery of constitutionally

1 protected information is on a par with discovery of privileged information and is more narrowly
2 proscribed than traditional discovery." (Tylo, 55 Cal.App.4th at 1387.) (Emphasis added.)
3 Moreover, this Interrogatory also appears to impermissibly and prematurely seeks the identities
4 of expert witnesses and expert witness materials. Accordingly, since the information sought by
5 this Request is governed by Code of Civ. Proc. §§ 2034.210 - 2034.310, it is presently protected
6 by the attorney work-product privilege. (See Rodriguez v. McDonnell Douglas Corp. (1978) 87
7 Cal.App.3d 626, 647-648; Scotsman Mfg. v. Sup.Ct. (1966) 242 Cal.App.2d 527, 530;
8 Williamson v. Sup.Ct. (1978) 21Cal.3d829, 834; Mackv. Sup. Ct. (1968) 259 Cal .App.2d 7, 1
9 O; Nacht & Lewis Arch. vs. Sup. Ct. (1996) 4 7 Cal.App.4th 214.)

10 Nevertheless, subject to, and without waiving the foregoing objections, and assuming this
11 Interrogatory is seeking non-expert witness related information and relating to the injuries
12 Responding Party sustained, Responding Party responds as follows: Planned Parenthood, 1014
13 ½ N Vermont Ave, Los Angeles, CA 90029, (800) 576-5544. However, since this Responding
14 Party's investigation and discovery are continuing, this Responding Party does not have
15 sufficient facts available to her, at this time, to furnish a complete response to this Interrogatory;
16 therefore, this Responding Party hereby reserves the right to amend this response in the future,
17 once additional Information/facts have been discovered.

18 **DEFENDANT'S REASONS WHY FURTHER RESPONSE TO SHOULD BE**
19 **COMPELLED TO SPECIAL INTERROGATORY NO. 34:**

20 Defendant agreed to limit this response to the identification of Plaintiff's primary care or
21 family doctors based on Plaintiff's limited right of privacy.

22 The disclosure of names and addresses of potential witnesses is a routine and essential part
23 of pretrial discovery. Puerto v. Sup. Ct., 158 Cal. App. 4th 1242, 1249-1250 (2008) ("Central to
24 the discovery process is the identification of potential witnesses. The disclosure of the names
25 and addresses of potential witnesses is a routine and essential part of pretrial discovery. Indeed,
26 our discovery system is founded on the understanding that parties use discovery to obtain names
27 and contact information for possible witnesses as the starting point for further investigations.")

28 Even assuming arguendo that Plaintiff had a potential right of privacy with respect to the

1 identity of her family doctors, any such right was waived when she filed this action seeking
2 damages for severe emotional distress. While a party may have a right of privacy under the
3 California Constitution (Cal. Const. Art 1, § 1) in some instances, the protection is qualified and
4 not absolute: The court may order disclosure to the extent necessary to serve a "compelling state
5 interest." *Britt v. Sup. Ct.*, 20 Cal. 3d 844, 855-856 (1978). Particularly, a party that sues for
6 personal injuries implicitly waives her right of privacy with respect to discovery that is directly
7 relevant to the claims and essential to the fair resolution of the lawsuit. *Vinson v. Sup. Ct.*, 43
8 Cal. 3d 833, 842 (1987) (by claiming emotional distress from sexual harassment, plaintiff may
9 waive her privacy as to present mental or emotional condition).

10 Plaintiff's right of privacy does not protect the name of her family doctor and associated
11 medical institutions. Defendant is entitled to explore whether other unrelated conditions are the
12 proximate cause of her emotional distress. The reasonably likely source of this information is
13 Plaintiff's primary care physician given that she did not see any mental health professionals.
14 Moreover, Plaintiff is seeking emotional distress damages in connection with events that
15 occurred over a four-year period. Defendant is entitled to test the sufficiency of her claims. A
16 primary care physician would be the first place, and the only place, that Plaintiff would report
17 things like sleeplessness or anxiety and obtain prescriptions for such conditions. Thus, if Plaintiff
18 did not report any symptoms consistent with extreme and severe emotional distress during the
19 four-year period, that fact would also be directly relevant to Defendant's defense.

20 Additionally, Defendant will seek a mental examination of Plaintiff pursuant to CCP §
21 2019.010. *Harris Dec.* ¶ 11. Plaintiff's primary care physician records are necessary for
22 Defendant's expert to complete this examination because relevant contemporaneous records for
23 past events are especially important, including any records documenting medical and/or
24 psychological evaluations or treatment from the relevant time period. See *Romanoff Dec.* ~ 4.
25 These records can provide independent objective evidence of the presence or absence of medical
26 and/or psychological conditions and difficulties that can facilitate a more accurate reconstruction
27 of Plaintiff's condition at that time. See *id.* They can also facilitate the development of a more
28 accurate and clearer understanding of Plaintiff's current medical and/or psychological difficulties

1 in the event that such difficulties are present. See *id.* A primary care physician's records often
2 contain important information directly relevant to a particular patient's medical and or
3 psychological response to a traumatic or psychologically stressful experience that occurred
4 during that relevant time frame. *Id.* at if 5. For these reasons, Defendant's expert needs the records
5 from Plaintiff's primary care physician-along with other relevant records-in pursuit of conducting
6 a maximally objective current evaluation effort. *Id.* Defendant cannot obtain these necessary
7 records without first learning the name of Plaintiff's primary care physicians.

8 The physician-patient privilege does not apply to this request because it only covers
9 communications, while this request seeks only the identity of the doctor. See Evi. Code§ 992.
10 Moreover, where plaintiff sues for personal injuries, the physician-patient and psychotherapist-
11 patient privileges are waived for conditions at issue in the action. or related to the issue of
12 proximate causation. Evi. Code§§ 996, 999, 1016.

13 This request is not a premature attempt at expert discovery because, in contrast to expert
14 witnesses, the identity and opinions of treating physicians are not privileged, and they are subject
15 to ordinary discovery with no special restrictions. *Schreiber v. Est. of Kiser*, 22 Cal. 4th 31, 38
16 (1999).

17 **FACTUAL AND LEGAL REASONS FOR DENYING DEFENDANT'S MOTION TO**
18 **COMPEL INTERROGATORY NO. 34:**

19 **A. CALIFORNIA LAW RESTRICTS INTRUSIONS INTO PLAINTIFF'S**
20 **PRIVATE UNRELATED RECORDS.**

21 The right to privacy, contained in Article I, §1, of the California Constitution, is “on a par
22 with defending life and possessing property.” (*Vinson v. Sup.Ct.* (1987) 43 Cal.3d 833, 841.)
23 (Emphasis added.) For this reason, even highly relevant nonprivileged information may be
24 shielded from discovery if its disclosure would impair a person's inalienable right to privacy.
25 (*Britt v. Sup. Ct.* (1978) 20 Cal.3d 844, 855-856.) As such, whenever privacy concerns are
26 implicated, the expansive scope of discoverability under the Discovery Act does not apply. (*Tylo*
27 *v. Sup.Ct.* (1997) 55 Cal.App.4th 1379, 1389.)

28 “[P]laintiffs are ‘not obligated to sacrifice all privacy to seek redress for a specific

1 (physical,) mental or emotional injury.” (*Britt*, 20 Cal.3d at 864 quoting *In Re Lifschutz* (1970)
2 2 Cal.3d 415, 435.) (Emphasis added.) The reason is that only medical conditions placed in issue
3 can be ordered disclosed, not “other aspects of the patient-litigant’s [medical conditions] even
4 though they may, in some sense, be ‘relevant’ to the substantive issues of litigation.” (*Ibid.*)
5 (Emphasis added.)

6 Article I, §1, of the California Constitution secures the right of privacy for all persons.
7 The “‘inalienable right’ of privacy is a ‘fundamental interest’ of our society, essential to those
8 rights ‘guaranteed by the First, Third, Fourth, Fifth and Ninth Amendments to the U.S.
9 Constitution.’ [Citations omitted.]” (*Board of Trustees v. Sup. Ct. (Dong)* (1981) 119
10 Cal.App.3d 516, 524-525.)

11 However, the right to privacy is not absolute, but can only be abridged when necessary to
12 accommodate a compelling public interest. (See *Britt*, 20 Cal.3d at 855-856.) Even then, a
13 compelling interest does not automatically mandate the waiver of all privacy rights. Rather,
14 “[w]hen an individual’s right of privacy ... conflicts with the public need for discovery in
15 litigation, the competing interests must be carefully balanced.” (*Moskowitz v. Sup. Ct. (Zerner,*
16 *Sims & Cibener)* (1982) 137 Cal.App.3d 313, 316.) (Emphasis added.)

17 To this end, the careful balancing of the interests dictates a close examination of the
18 claimed privacy right in contrast with the public interest in obtaining just results in litigation.
19 (*Valley Bank of Nevada v. Sup.Ct. (Barkett)* (1975) 15 Cal.3d 652, 657.) The court must
20 therefore consider the purpose of the information sought; the effect that disclosure will have on
21 the parties and the trial; the nature of the objections urged by the party resisting disclosure; and
22 the “ability of the court to make an alternative order which may grant partial disclosure,
23 disclosure in another form, or disclosure only in the event that the party seeking the information
24 undertakes certain specified burdens which appear just under the circumstances.” (*Ibid.*, at 658.)
25 (Emphasis added.)

26 In *Tylo v. Sup.Ct. (Spelling Entertainment Group, Inc.)* (1997) 55 Cal.App.4th 1379, it
27 was held that “[d]iscovery of constitutionally protected information is on a par with discovery
28 of privileged information and is more narrowly proscribed than traditional discovery.” (*Ibid.*, at

1 1387.) (Emphasis added.) Accordingly, “[i]n those situations where it is argued that a party
2 waives protection ... the court must construe the concept of ‘waiver’ narrowly and a compelling
3 public interest is demonstrated only where the material sought is directly relevant to the
4 litigation.” (*Ibid*, citing *Britt*, 20 Cal.3d at 852-853; also see *Vinson*, 43 Cal.3d at 842.)
5 (Emphasis added.)

6 **1. Plaintiff Has Not Waived Her Right to Privacy by Filing this Lawsuit.**

7 It is well known that the mere filing of a personal injury action will not signal the waiver
8 of a plaintiff’s right to privacy. (*Britt*, 20 Cal.3d at 864; *In Re Lifschutz* (1970) 2 Cal.3d 415,
9 435; *Vinson*, 43 Cal.3d at 841-842.) California law recognizes that a “[p]laintiff is not compelled,
10 as a condition to entering the courtroom, to discard entirely [plaintiff’s] mantle of privacy.”
11 (*Vinson*, 43 Cal.3d at 841-842.) Although “the filing of a lawsuit may implicitly bring about a
12 partial waiver of one’s constitutional right of [privacy], the scope of such ‘waiver’ must be
13 narrowly rather than expansively construed ...” (*Ibid*, at 842 quoting *Britt*, 20 Cal.3d at 859.)

14 In this regard, it has been observed that “[w]hile the filing of the lawsuit ... may be
15 something like issuing a fishing license for discovery[;] as with a fishing license, the rules of
16 discovery do not allow unrestricted access to all species of information.” (*Tylo*, 55 Cal.App.4th
17 at 1387.) (Emphasis added.) Therefore, “[m]ere speculation as to the possibility that some
18 portion of the records might be relevant to some substantive issue does not suffice.” (*Davis*
19 *v. Sup.Ct. (Williams)* (1992) 7 Cal.App.4th 1008, 1017; see *Vinson*, 43 Cal.3d at 840; *Board of*
20 *Trustees*, 119 Cal.App.3d at 525.) (Emphasis added.)

21 Notably, the facts of *Britt*, supra, are nearly identical to the instant dispute. The plaintiffs
22 in *Britt* had sued for personal injuries and during discovery, the defendant sought, *inter alia*,
23 detailed information relating to the plaintiffs’ medical histories. The plaintiffs objected and the
24 defendant obtained an order compelling disclosure. (*Britt*, 20 Cal.3d at 850-851.) The California
25 Supreme Court then issued a writ following the plaintiffs’ petition for extraordinary relief. (*Ibid*,
26 at 851-852.)

27 In their petition, the *Britt* plaintiffs argued that although they were willing to disclose
28 those portions of their medical records relating to the injuries that were being claimed, they were

1 not amenable to revealing their entire past medical histories simply because they filed a personal
2 injury action. The Britt defendant replied, just as Defendant herein contends, that the broad
3 discovery order properly afforded it the opportunity to determine, for itself, whether the plaintiffs'
4 injuries were caused by it, or whether said injuries actually arose from other medical conditions.
5 (*Id.*, at 862.)

6 The California Supreme Court rejected the defendant's proposition, holding instead that
7 the "plaintiffs are 'not obligated to sacrifice all privacy to seek redress for a specific (physical,
8 mental or emotional injury'" (*Britt*, 20 Cal.3d at 864 quoting *Lifschutz*, 2 Cal.3d at 435.)
9 (Emphasis added; the addition of "physical" in the parenthesis is contained in original.) The
10 *Britt* court drew the distinction, however, that although the plaintiffs are not permitted to
11 "withhold information which relates to any physical or mental condition which they have put in
12 issue," they "are entitled to retain the confidentiality of all unrelated medical or
13 psychotherapeutic treatment they may have undergone in the past." (*Id.*) (Emphasis added.)

14 **2. Plaintiff Has Not Waived Her Right to Privacy for Her Unrelated Medical**
15 **Treatment And Medical Providers.**

16 In the instant matter, Defendant has presented no cognizable right to Plaintiff's entire
17 *unrelated medical histories* – let alone the names of those with whom she received treatment for
18 this unrelated medical treatment. While Plaintiff has no objection to producing her medical
19 records relating to the conditions she has placed at issue, Plaintiff has serious concerns as to the
20 disclosure of records and the names contained in those records that are totally unrelated to this
21 action. (Declaration of Justin Kirk ("Decl. Kirk") ¶¶ 5, 6; Declaration of Jill Harris ("Decl.
22 Harris") ¶ 7)

23 Even Defendant recognized and acknowledged that Plaintiff's treatment with two of her
24 medical providers for gastrointestinal and sinus issues were unrelated to her current injury claims
25 resulting from this action. (Decl. Harris ¶ 7.) In fact, Defendant's counsel went as far as to
26 recognize the overbreadth of Defendant's request in agreeing to "limit the scope of the
27 interrogatories to Plaintiff's primary care or family doctors". (*Id.*) If this is the case and if
28 Defendant's counsel realizes the impropriety of seeking information from to these two medical

1 providers who provided unrelated treatment, then how does the Defendant justify continuing to
2 seek information about and from Plaintiff's primary care physician who also only treated
3 Plaintiff for matters unrelated to her current injury claims resulting from this action. Defendant's
4 requests are thus too broad to fall within the paradigm outlined above of permissible breaches of
5 a parties' privacy rights. As such, this Motion should be denied in order to secure Plaintiffs'
6 inalienable right to privacy.

7 **3. Defendant Cannot Show a Specific Need or a Compelling Interest for**
8 **Plaintiff's Unrelated Psychological Medical History Because The Law Prohibits Defendant**
9 **From Exploring "Whether Other Unrelated Conditions Are The Proximate Cause Of**
10 **[Plaintiff's] Emotional Distress."**

11 The California Supreme Court's decision in *Lifschutz*, supra, speaks to the issues relating
12 to a plaintiff's past mental state. In *Lifschutz*, the plaintiff had brought suit for personal injuries,
13 including severe emotional distress following an alleged physical assault. During discovery, the
14 defendant sought to obtain the details of the plaintiff's past psychological therapy sessions from
15 Dr. Joseph E. Lifschutz, the plaintiff's psychiatrist.

16 Although Dr. Lifschutz appeared for a deposition pursuant to a subpoena, he refused to
17 provide the defendant with any information, or furnish any records relating to his treatment of
18 the plaintiff. The defendant then promptly obtained an order compelling disclosure, which
19 Lifschutz refused to comply with, thereby precipitating his imprisonment for contempt of court.

20 During the subsequent legal battle to gain Lifschutz his freedom, the California Supreme
21 Court undertook a review of the patient-litigant exception to the privacy privilege in order to
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23 "defendant would not be authorized to undertake an examination of psychotherapeutic
24 communications to determine if the plaintiff has ever exhibited aggressive tendencies or had
25 other personal attributes that might be related to the assault." (*In Re Lifschutz*, 2 Cal.3d at 435.)
26 (Emphasis added.) The Court recognized that the "plaintiff has not disclosed such elements of
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1 The underpinnings for the *Lifschutz* decision was our High Court's concern with the
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3 psychotherapeutic patients from instituting any general claim for mental suffering and damage
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6 patient's privacy, not sufficiently limited to the legitimate state interest embodied in the
7 provision and would create opportunities for harassment and blackmail." (*Id.*)

8 Consequently, pursuant to the holding in *Lifschutz*, the disclosure of past mental health
9 records are restricted to only "those mental conditions the patient-litigant has 'disclose(d) ... by
10 bringing an action in which they are in issue' [citation omitted] ... [and] communications which
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12 health records of a plaintiff "**cannot be compelled with respect to other aspects of the patient-**
13 **litigant's personality even though they may, in some sense, be 'relevant' to the substantive**
14 **issues of litigation.**" (*Id.*) (Emphasis added.) As echoed by *Britt*, supra, *Lifschutz* stands for
15 the proposition that a plaintiff "**is not obligated to sacrifice all privacy to seek redress for a**
16 **specific mental or emotional injury.**" (*Id.*; *Britt*, 20 Cal.3d at 864.)

17 The foregoing concept was applied in the matter of *Mendez v. Sup.Ct.*, supra. In *Mendez*,
18 an employee had brought an action against her employer and others for assault and battery, as
19 well as intentional and negligent infliction of emotional distress in connection with an alleged
20 rape perpetrated by her supervisor. During discovery, the defendants sought to obtain
21 information relating to the plaintiff's sexual history, including purported extra-marital affairs.

22 The defendants maintained that discovery of the plaintiff's past sexual behavior was
23 necessary and relevant in order to determine the inception of her emotional distress claims as
24 well as the extent of her damages. (*Ibid* at 569.) The defendants argued that the plaintiff's past
25 conduct might reveal possible alternative contributing factors and/or causes for her emotional
26 distress, thereby potentially justifying the apportionment of her damages. (*Id.*, at 570-571.)

27 The Appellate Court in *Mendez* declined to accept the defendants' proposition,
28 appropriately holding instead:

1 we have difficulty accepting the defendants' basic notion that plaintiff's claimed
2 injury of severe emotional distress is somehow apportionable between preexisting
3 anxieties and the mental trauma caused by the defendants' alleged conduct. We
4 address here emotional distress distinctly related to particular conduct separate and
5 apart from the turmoil created by life in general. Were we to accept defendants'
6 proposition, arguably a defendant might pry not only into the sexual affairs of the
7 plaintiff and her spouse, but into her financial affairs, her health (medical records)
8 and the health of her spouse, children, parents and siblings. Problems in any of
9 these areas might have caused preexisting emotional upset.

10 (Id., at 571.) (Emphasis added, italics in original.)

11 Needless to say, Defendant has not demonstrated any discernible need for Plaintiff's past
12 mental health records. Much like her past medical records relating to her physical condition,
13 Plaintiff's unrelated mental health records are absolutely irrelevant and private, mandating
14 protection from unnecessary disclosure. Accordingly, this Motion should be denied.

15 **4. Defendant Has Not Met His Burden Of Showing a Specific Need or a**
16 **Compelling Interest for Plaintiff's Unrelated Medical History.**

17 Despite Defendant's contrary belief, the party who seeks disclosure, not the objecting part,
18 is saddled with the onus of demonstrating a particularized need for the private information and
19 the broad relevancy to the subject matter standard is not enough to meet such a need. (*Britt*, 20
20 Cal.3d at 859-862; see *Lantz v. Sup.Ct. (County of Kern)* (1994) 28 Cal.App.4th 1839, 1853.)
21 To this end, Defendant must convince the court that the information is directly relevant to a cause
22 of action or defense and that it is essential to ascertain the truth of the disputed matters. (*Ibid.*)

23 As articulated above, even when "the balance tips in favor of disclosure, constitutional
24 concerns require a strict circumscription of the scope of disclosure." (*Cutter v. Brownbridge*,
25 (1986) 183 Cal.App.3d 836, 843.) (Emphasis added.) Hence, "the scope of such disclosure will
26 be narrowly circumscribed ... [since] such an invasion of the right of privacy 'must be drawn
27 with narrow specificity.'" (*Board of Trustees*, 119 Cal.App.3d at 526, quoting *Britt*, 20 Cal.3d
28 at 856.) Therefore, when a defendant establishes a right to disclosure, the court must still
carefully tailor its order so that it does not unnecessarily injure any privacy interests and upon
request, the court should also consider appropriate protective orders as well. (*Schnabel v. Sup.Ct.*
Schnabel) (1993) 5 Cal.4th 704, 714; see *Britt*, 20 Cal.3d at 859.)

1 Furthermore, the privacy protections prohibit a defendant from compelling the disclosure
2 of a plaintiff's medical history "solely on the basis of speculation that something of interest may
3 surface." (*Vinson*, 43 Cal.3d at 840 citing *Schlagenhauf v. Holder* (1964) 379 U.S. 104, 116-
4 122.) (Emphasis added.) Thus, an "inquiry into one's private affairs will not be constitutionally
5 justified simply because [the] inadmissible, and irrelevant, [sic] matter sought to be discovered
6 might lead to other, and relevant, evidence." (*Board of Trustees*, 119 Cal.App.3d at 525; see
7 *Vinson*, 43 Cal.3d at 840; *Davis*, 7 Cal.App.4th at 1017.) (Emphasis added.) As held by *Tylo*, a
8 plaintiff's claim for injuries does not entitle the defendant to engage in "a true fishing expedition,"
9 seeking all other potential "stressors" in the plaintiff's life which "might have caused, or
10 contributed to, [the plaintiff's] alleged ... injuries." (*Tylo*, 55 Cal.App.4th at 1388.)

11 Therefore, Defendant's belief that he be afforded carte blanche access into Plaintiff's
12 private unrelated medical history, based upon nothing more than an assumption that something
13 of interest might be found, thoroughly runs afoul of the Constitutional protections afforded
14 Plaintiff, in addition to the sound policy precepts underlying *Lifschutz*, *Britt*, *Vinson*, *Board of*
15 *Trustees*, *Tylo*, *Davis* and the myriad of other decisions supporting Plaintiff's proposition.
16 Indeed, "[i]t would be anomalous for a trial court to accept conjecture as a basis for discovery
17 when there is no submitted support for the underlying assumption." (*Mendez v. Sup.Ct. (Peery)*
18 (1988) 206 Cal.App.3d 557, 571.) (Emphasis added.)

19 Again, Defendant's belief he "is entitled to explore **whether other unrelated conditions**
20 **are the proximate cause of [Plaintiff's] emotional distress"** acknowledges his own unfounded
21 speculation. Hence, Defendant's contention that it needs Plaintiff's unrelated medical history in
22 hopes of finding something that would allow it to divine what might have transpired is
23 unsupported by California law. Accordingly, while following the long line of precedent bearing
24 on this issue, it is undeniable that Defendant has not only failed to demonstrate a compelling
25 interest, but also a direct need for the private information sought, thereby warranting the del of
26 this Motion.

27 Accordingly, the Court should deny Defendant's request to supplement this response
28 because it is Code compliant.

1 **SPECIAL INTERROGATORY NO. 35:**

2 IDENTIFY each MEDICAL CARE INSTITUTION (The term "MEDICAL CARE
3 INSTITUTION" includes hospitals, health care centers, rape crisis clinics, counseling centers,
4 trauma centers, health maintenance organizations, rehabilitation facilities, medical clinics, and
5 associations of MEDICAL CARE PROVIDERS in any form) in which or from which YOU
6 received MEDICAL CARE for the INJURY.

7 **RESPONSE TO SPECIAL INTERROGATORY NO. 35:**

8 OBJECTION. Responding Party objects that the term "Medical Care Institution" is vague
9 and ambiguous. As such, said Interrogatory is sufficiently unclear so as to lead to an improper
10 response due to its ambiguity and vagueness. Moreover, this Interrogatory also appears to
11 impermissibly and prematurely seeks the identities of expert witnesses and expert witness
12 materials.

13 Accordingly, since the information sought by this Request is governed by Code of Civ.
14 Proc. §§ 2034.210 - 2034.310, it is presently protected by the attorney work-product privilege.
15 (See Rodriguez v. McDonnell Douglas Corp. (1978) 87 Cal.App.3d 626, 64 7-648; Scotsman
16 Mfg. v. Sup.Ct. (1966) 242 Cal.App.2d 527, 530; Williamson v. Sup.Ct. (1978) 21 Cal.3d 829,
17 834; Mack v. Sup. Ct. (1968) 259 Cal.App.2d 7,10; Nacht & Lewis Arch. vs. Sup. Ct. (1996) 47
18 Cal.App.4th 214.) Nevertheless, subject to, and without waiving the foregoing objections, and
19 assuming this Interrogatory is seeking non-expert witness related information and relating to the
20 injuries Responding Party sustained, Responding Party responds as follows: Planned Parenthood,
21 1014 ½ N Vermont Ave, Los Angeles, CA 90029, (800) 576-5544. However, since this
22 Responding Party's investigation and discovery are continuing, this Responding Party does not
23 have sufficient facts available to her, at this time, to furnish a complete response to this
24 Interrogatory; therefore, this Responding Party hereby reserves the right to amend this response
25 in the future, once additional information/facts have been discovered.

26 DEFENDANT'S REASONS WHY FURTHER RESPONSE TO SHOULD BE COMPELLED
27 TO SPECIAL INTERROGATORY NO. 35:

28 Defendant agreed to limit this response to the identification of medical institutions

1 associated with Plaintiff's primary care or family doctors, based on Plaintiff's limited right of
2 privacy.

3 The disclosure of names and addresses of potential witnesses is a routine and essential
4 part of pretrial discovery. *Puerto v. Sup. Ct.*, 158 Cal. App. 4th 1242, 1249-1250 (2008) ("Central
5 to the discovery process is the identification of potential witnesses. The disclosure of the names
6 and addresses of potential witnesses is a routine and essential part of pretrial discovery. Indeed,
7 our discovery system is founded on the understanding that parties use discovery to obtain names
8 and contact information for possible witnesses as the starting point for further investigations.")
9 Even assuming *arguendo* that Plaintiff had a potential right of privacy with respect to the
10 identity of her family doctors, any such right was waived when she filed this action seeking
11 damages for severe emotional distress. While a party may have a right of privacy under the
12 California Constitution (Cal. Const. Art 1, § 1) in some instances, the protection is qualified and
13 not absolute: The court may order disclosure to the extent necessary to serve a "compelling state
14 interest." *Britt v. Sup. Ct.*, 20 Cal. 3d 844, 855-856 (1978). Particularly, a party that sues for
15 personal injuries implicitly waives her right of privacy with respect to discovery that is directly
16 relevant to the claims and essential to the fair resolution of the lawsuit. *Vinson v. Sup. Ct.*, 43
17 Cal.3d 833, 842 (1987) (by claiming emotional distress from sexual harassment, plaintiff may
18 waive her privacy as to present mental or emotional condition).

19 Plaintiff's right of privacy does not protect the name of her family doctor and associated
20 medical institutions. Defendant is entitled to explore whether other unrelated conditions are the
21 proximate cause of her emotional distress. The reasonably likely source of this information is
22 Plaintiff's primary care physician given that she did not see any mental health professionals.
23 Moreover, Plaintiff is seeking emotional distress damages in connection with events that
24 occurred over a four-year period. Defendant is entitled to test the sufficiency of her claims. A
25 primary care physician would be the first place, and the only place, that Plaintiff would report
26 things like sleeplessness or anxiety and obtain prescriptions for such conditions. Thus, if Plaintiff
27 did not report any symptoms consistent with extreme and severe emotional distress during the
28 four-year period, that fact would also be directly relevant to Defendant's defense.

1 Additionally, Defendant will seek a mental examination of Plaintiff pursuant to CCP §
2 2019.010. Harris Dec. ¶ 11. Plaintiff's primary care physician records are necessary for
3 Defendant's expert to complete this examination because relevant contemporaneous records for
4 past events are especially important, including any records documenting medical and/or
5 psychological evaluations or treatment from the relevant time period. See Romanoff Dec. ii 4.
6 These records can provide independent objective evidence of the presence or absence of medical
7 and/or psychological conditions and difficulties that can facilitate a more accurate reconstruction
8 of Plaintiff's condition at that time. See id. They can also facilitate the development of a more
9 accurate and clearer understanding of Plaintiff's current medical and/or psychological difficulties
10 in the event that such difficulties are present. See id. A primary care physician's records often
11 contain important information directly relevant to a particular patient's medical and or
12 psychological response to a traumatic or psychologically stressful experience that occurred
13 during that relevant time frame. Id. at ii 5. For these reasons, Defendant's expert needs the records
14 from Plaintiff's primary care physician-along with other relevant records-in pursuit of conducting
15 a maximally objective current evaluation effort. Id. Defendant cannot obtain these necessary
16 records without first learning the name of Plaintiff's primary care physicians.

17 The physician-patient privilege does not apply to this request because it only covers
18 communications, while this request seeks only the identity of the doctor and associated medical
19 institutions. See Evi. Code § 992. Moreover, Where plaintiff sues for personal injuries, the
20 physician-patient and psychotherapist-patient privileges are waived for conditions at issue in the
21 action. or related to the issue of proximate causation. Evi. Code §§ 996, 999, 1016.

22 This request is not a premature attempt at expert discovery because, in contrast to expert
23 witnesses, the identity and opinions of treating physicians are not privileged, and they are subject
24 to ordinary discovery with no special restrictions. Schreiber v. Est. of Kiser, 22 Cal. 4th 31, 38
25 (1999).

1 FACTUAL AND LEGAL REASONS FOR DENYING DEFENDANT’S MOTION TO
2 COMPEL INTERROGATORY NO. 35:

3 A. CALIFORNIA LAW RESTRICTS INTRUSIONS INTO PLAINTIFFS’
4 PRIVATE UNRELATED RECORDS.

5 The right to privacy, contained in Article I, §1, of the California Constitution, is “on a par
6 with defending life and possessing property.” (*Vinson v. Sup.Ct.* (1987) 43 Cal.3d 833, 841.)
7 (Emphasis added.) For this reason, even highly relevant nonprivileged information may be
8 shielded from discovery if its disclosure would impair a person’s inalienable right to privacy.
9 (*Britt v. Sup. Ct.* (1978) 20 Cal.3d 844, 855-856.) As such, whenever privacy concerns are
10 implicated, the expansive scope of discoverability under the Discovery Act does not apply. (*Tylo*
11 *v. Sup.Ct.* (1997) 55 Cal.App.4th 1379, 1389.)

12 “[P]laintiffs are ‘not obligated to sacrifice all privacy to seek redress for a specific
13 (physical,) mental or emotional injury.’” (*Britt*, 20 Cal.3d at 864 quoting *In Re Lifschutz* (1970)
14 2 Cal.3d 415, 435.) (Emphasis added.) The reason is that only medical conditions placed in issue
15 can be ordered disclosed, not “other aspects of the patient-litigant’s [medical conditions] even
16 though they may, in some sense, be ‘relevant’ to the substantive issues of litigation.” (*Ibid.*)
17 (Emphasis added.)

18 Article I, §1, of the California Constitution secures the right of privacy for all persons.
19 The “‘inalienable right’ of privacy is a ‘fundamental interest’ of our society, essential to those
20 rights ‘guaranteed by the First, Third, Fourth, Fifth and Ninth Amendments to the U.S.
21 Constitution.’ [Citations omitted.]” (*Board of Trustees v. Sup. Ct. (Dong)* (1981) 119
22 Cal.App.3d 516, 524-525.)

23 However, the right to privacy is not absolute, but can only be abridged when necessary to
24 accommodate a compelling public interest. (See *Britt*, 20 Cal.3d at 855-856.) Even then, a
25 compelling interest does not automatically mandate the waiver of all privacy rights. Rather,
26 “[w]hen an individual’s right of privacy ... conflicts with the public need for discovery in
27 litigation, the competing interests must be carefully balanced.” (*Moskowitz v. Sup. Ct. (Zerner,*
28 *Sims & Cibener)* (1982) 137 Cal.App.3d 313, 316.) (Emphasis added.)

1 To this end, the careful balancing of the interests dictates a close examination of the
2 claimed privacy right in contrast with the public interest in obtaining just results in litigation.
3 (*Valley Bank of Nevada v. Sup.Ct. (Barkett)* (1975) 15 Cal.3d 652, 657.) The court must
4 therefore consider the purpose of the information sought; the effect that disclosure will have on
5 the parties and the trial; the nature of the objections urged by the party resisting disclosure; and
6 the “ability of the court to make an alternative order which may grant partial disclosure,
7 disclosure in another form, or disclosure only in the event that the party seeking the information
8 undertakes certain specified burdens which appear just under the circumstances.” (*Ibid*, at 658.)
9 (Emphasis added.)

10 In *Tylo v. Sup.Ct. (Spelling Entertainment Group, Inc.)* (1997) 55 Cal.App.4th 1379, it
11 was held that “[d]iscovery of constitutionally protected information is on a par with discovery
12 of privileged information and is more narrowly proscribed than traditional discovery.” (*Ibid*, at
13 1387.) (Emphasis added.) Accordingly, “[i]n those situations where it is argued that a party
14 waives protection ... the court must construe the concept of ‘waiver’ narrowly and a compelling
15 public interest is demonstrated only where the material sought is directly relevant to the
16 litigation.” (*Ibid*, citing *Britt*, 20 Cal.3d at 852-853; also see *Vinson*, 43 Cal.3d at 842.)
17 (Emphasis added.)

18 **1. Plaintiff Has Not Waived Her Right to Privacy by Filing this Lawsuit.**

19 It is well known that the mere filing of a personal injury action will not signal the waiver
20 of a plaintiff’s right to privacy. (*Britt*, 20 Cal.3d at 864; *In Re Lifschutz* (1970) 2 Cal.3d 415,
21 435; *Vinson*, 43 Cal.3d at 841-842.) California law recognizes that a “[p]laintiff is not compelled,
22 as a condition to entering the courtroom, to discard entirely [plaintiff’s] mantle of privacy.”
23 (*Vinson*, 43 Cal.3d at 841-842.) Although “the filing of a lawsuit may implicitly bring about a
24 partial waiver of one’s constitutional right of [privacy], the scope of such ‘waiver’ must be
25 narrowly rather than expansively construed” (*Ibid*, at 842 quoting *Britt*, 20 Cal.3d at 859.)

26 In this regard, it has been observed that “[w]hile the filing of the lawsuit ... may be
27 something like issuing a fishing license for discovery[;] as with a fishing license, the rules of
28 discovery do not allow unrestricted access to all species of information.” (*Tylo*, 55 Cal.App.4th

1 at 1387.) (Emphasis added.) Therefore, “[m]ere speculation as to the possibility that some
2 portion of the records might be relevant to some substantive issue does not suffice.” (*Davis*
3 *v. Sup.Ct. (Williams)* (1992) 7 Cal.App.4th 1008, 1017; see *Vinson*, 43 Cal.3d at 840; *Board of*
4 *Trustees*, 119 Cal.App.3d at 525.) (Emphasis added.)

5 Notably, the facts of *Britt*, supra, are nearly identical to the instant dispute. The plaintiffs
6 in *Britt* had sued for personal injuries and during discovery, the defendant sought, *inter alia*,
7 detailed information relating to the plaintiffs’ medical histories. The plaintiffs objected and the
8 defendant obtained an order compelling disclosure. (*Britt*, 20 Cal.3d at 850-851.) The California
9 Supreme Court then issued a writ following the plaintiffs’ petition for extraordinary relief. (*Ibid*,
10 at 851-852.)

11 In their petition, the *Britt* plaintiffs argued that although they were willing to disclose
12 those portions of their medical records relating to the injuries that were being claimed, they were
13 not amenable to revealing their entire past medical histories simply because they filed a personal
14 injury action. The Britt defendant replied, just as Defendant herein contends, that the broad
15 discovery order properly afforded it the opportunity to determine, for itself, whether the plaintiffs’
16 injuries were caused by it, or whether said injuries actually arose from other medical conditions.
17 (*Id.*, at 862.)

18 The California Supreme Court rejected the defendant’s proposition, holding instead that
19 the “plaintiffs are ‘not obligated to sacrifice all privacy to seek redress for a specific (physical,
20 mental or emotional injury)’” (*Britt*, 20 Cal.3d at 864 quoting *Lifschutz*, 2 Cal.3d at 435.)
21 (Emphasis added; the addition of “physical” in the parenthesis is contained in original.) The
22 *Britt* court drew the distinction, however, that although the plaintiffs are not permitted to
23 “withhold information which relates to any physical or mental condition which they have put in
24 issue,” they “are entitled to retain the confidentiality of all unrelated medical or
25 psychotherapeutic treatment they may have undergone in the past.” (*Id.*) (Emphasis added.)

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1 **2. Plaintiff Has Not Waived Her Right to Privacy for Her Unrelated Medical**
2 **Treatment And Medical Providers.**

3 In the instant matter, Defendant has presented no cognizable right to Plaintiff’s entire
4 *unrelated medical histories* – let alone the names of those with whom she received treatment for
5 this unrelated medical treatment. While Plaintiff has no objection to producing her medical
6 records relating to the conditions she has placed at issue, Plaintiff has serious concerns as to the
7 disclosure of records and the names contained in those records that are totally unrelated to this
8 action. (Declaration of Justin Kirk (“Decl. Kirk”) ¶¶ 5, 6; Declaration of Jill Harris (“Decl.
9 Harris”) ¶ 7)

10 Even Defendant recognized and acknowledged that Plaintiff’s treatment with two of her
11 medical providers for gastrointestinal and sinus issues were unrelated to her current injury claims
12 resulting from this action. (Decl. Harris ¶ 7.) In fact, Defendant’s counsel went as far as to
13 recognize the overbreadth of Defendant’s request in agreeing to “limit the scope of the
14 interrogatories to Plaintiff’s primary care or family doctors”. (*Id.*) If this is the case and if
15 Defendant’s counsel realizes the impropriety of seeking information from to these two medical
16 providers who provided unrelated treatment, then how does the Defendant justify continuing to
17 seek information about and from Plaintiff’s primary care physician who also only treated
18 Plaintiff for matters unrelated to her current injury claims resulting from this action. Defendant’s
19 requests are thus too broad to fall within the paradigm outlined above of permissible breaches of
20 a parties’ privacy rights. As such, this Motion should be denied in order to secure Plaintiffs’
21 inalienable right to privacy.

22 **3. Defendant Cannot Show a Specific Need or a Compelling Interest for**
23 **Plaintiff’s Unrelated Psychological Medical History Because The Law Prohibits Defendant**
24 **From Exploring “Whether Other Unrelated Conditions Are The Proximate Cause Of**
25 **[Plaintiff’s] Emotional Distress.”**

26 The California Supreme Court’s decision in *Lifschutz*, supra, speaks to the issues relating
27 to a plaintiff’s past mental state. In *Lifschutz*, the plaintiff had brought suit for personal injuries,
28 including severe emotional distress following an alleged physical assault. During discovery, the

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14 The Appellate Court in *Mendez* declined to accept the defendants’ proposition,
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24 these areas might have caused preexisting emotional upset.

25 (*Id.*, at 571.) (Emphasis added, italics in original.)

26 Needless to say, Defendant has not demonstrated any discernible need for Plaintiff’s past
27 mental health records. Much like her past medical records relating to her physical condition,
28 Plaintiff’s unrelated mental health records are absolutely irrelevant and private, mandating
protection from unnecessary disclosure. Accordingly, this Motion should be denied.

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1 **4. Defendant Has Not Met His Burden Of Showing a Specific Need or a**
2 **Compelling Interest for Plaintiff's Unrelated Medical History.**

3 Despite Defendant's contrary belief, the party who seeks disclosure, not the objecting part,
4 is saddled with the onus of demonstrating a particularized need for the private information and
5 the broad relevancy to the subject matter standard is not enough to meet such a need. (*Britt*, 20
6 Cal.3d at 859-862; see *Lantz v. Sup.Ct. (County of Kern)* (1994) 28 Cal.App.4th 1839, 1853.)
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8 of action or defense and that it is essential to ascertain the truth of the disputed matters. (*Ibid.*)

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15 carefully tailor its order so that it does not unnecessarily injure any privacy interests and upon
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17 (*Schnabel*) (1993) 5 Cal.4th 704, 714; see *Britt*, 20 Cal.3d at 859.)

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23 might lead to other, and relevant, evidence." (*Board of Trustees*, 119 Cal.App.3d at 525; see
24 *Vinson*, 43 Cal.3d at 840; *Davis*, 7 Cal.App.4th at 1017.) (Emphasis added.) As held by *Tylo*, a
25 plaintiff's claim for injuries does not entitle the defendant to engage in "a true fishing expedition,"
26 seeking all other potential "stressors" in the plaintiff's life which "might have caused, or
27 contributed to, [the plaintiff's] alleged ... injuries." (*Tylo*, 55 Cal.App.4th at 1388.)

28 ///

1 Therefore, Defendant's belief that he be afforded carte blanche access into Plaintiff's
2 private unrelated medical history, based upon nothing more than an assumption that something
3 of interest might be found, thoroughly runs afoul of the Constitutional protections afforded
4 Plaintiff, in addition to the sound policy precepts underlying *Lifschutz, Britt, Vinson, Board of*
5 *Trustees, Tylo, Davis* and the myriad of other decisions supporting Plaintiff's proposition.
6 Indeed, "[i]t would be anomalous for a trial court to accept conjecture as a basis for discovery
7 when there is no submitted support for the underlying assumption." (*Mendez v. Sup.Ct. (Peery)*
8 (1988) 206 Cal.App.3d 557, 571.) (Emphasis added.)

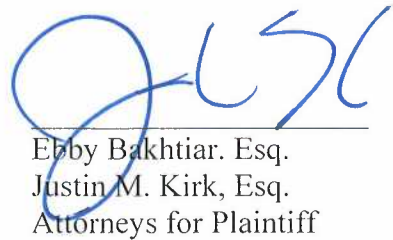
9 Again, Defendant's belief he "is entitled to explore **whether other unrelated conditions**
10 **are the proximate cause of [Plaintiff's] emotional distress**" acknowledges his own unfounded
11 speculation. Hence, Defendant's contention that it needs Plaintiff's unrelated medical history in
12 hopes of finding something that would allow it to divine what might have transpired is
13 unsupported by California law. Accordingly, while following the long line of precedent bearing
14 on this issue, it is undeniable that Defendant has not only failed to demonstrate a compelling
15 interest, but also a direct need for the private information sought, thereby warranting the del of
16 this Motion.

17
18 Respectfully submitted,

LIVINGSTON • BAKHTIAR

19
20 DATED August 30, 2023

21 By:



22 Ebby Bakhtiar, Esq.
23 Justin M. Kirk, Esq.
24 Attorneys for Plaintiff

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PROOF OF SERVICE

I am over age 18 and am not a party to this action. I am employed in Costa Mesa, California. My business address is:

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