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Daniel Szalkiewicz & Associates, PC
23 West 73rd Street, Suite 102
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(212) 706-1007
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Attorneys for Plaintiff

K.C.

Plaintiff,

-against-

CHRISTOPHER DOYLE

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

**NOTICE OF MOTION FOR
SUMMARY JUDGMENT ON
LIABILITY**

To: James J. Uliano, Esq., Chamlin, Rosen, Uliano & Witherington, 268 Norwood Avenue,
P.O. Box 38, West Long Branch, NJ 07764

PLEASE TAKE NOTICE that Plaintiff K.C. (“Plaintiff”), by and through her undersigned attorneys, will move this Court before the Honorable Mark A. Troncone, at the Ocean County Courthouse Civil Division, 100 Hooper Ave, 1st Floor Toms River, NJ 08753 on May 18, 2022, at 10:00 a.m., or as soon thereafter as counsel may be heard, for an Order pursuant to R. 4:46 granting Plaintiff’s Motion for Partial Summary Judgment on the issue of liability and striking Defendant’s affirmative defenses; and

PLEASE TAKE FURTHER NOTICE that, in support of this Motion, Plaintiff shall rely on the Brief, Statement of Undisputed Material Facts, Certification of Daniel S. Szalkiewicz, Esq., and the annexed exhibits submitted herewith; and

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith; and

PLEASE TAKE FURTHER NOTICE that, pursuant to R. 4:46-1, any opposition to this Motion shall be filed and served no later than ten (10) days before the above-referenced return date; and

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 1:6-2, oral argument is requested if timely opposition to this Motion is received by the Court.

Dated: New York, New York
April 18, 2022

Daniel Szalkiewicz & Associates, P.C.
Attorneys for Plaintiff

By: 

Daniel Szalkiewicz, Esq.

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-against-

CHRISTOPHER DOYLE

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

**ORDER GRANTING PLAINTIFF’S
MOTION FOR SUMMARY
JUDGMENT ON THE ISSUE OF
LIABILITY**

Upon application of Plaintiff K. C. (“Plaintiff”) seeking an Order for Summary Judgment against defendant CHRISTOPHER DOYLE (“Defendant”) on the issue of liability, it is hereby;

ON THIS _____ day of _____, 2022

ORDERED, that the Plaintiff’s motion for summary judgment on the issue of liability is granted, and this matter is set down for a trial on damages only.

FURTHER ORDERED, that within seven days of Plaintiff’s receipt of this Order, Plaintiff shall serve a copy of same upon Defendant’s Counsel.

J.S.C.

Daniel Szalkiewicz, Esq.
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 New York, NY 10023
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Attorneys for Plaintiff

<p>K.C.</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>CHRISTOPHER DOYLE</p> <p style="text-align: right;">Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION, CIVIL PART OCEAN COUNTY</p> <p>DOCKET NO. OCN-L-000865-19</p> <p>PLAINTIFF’S STATEMENT OF MATERIAL FACTS IN SUPPORT OF HER MOTION FOR PARTIAL SUMMARY JUDGMENT</p>
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Relationship Between the Parties

1. Plaintiff K.C. (“Plaintiff” or “K.C.”) is a young woman who grew up and attended high school in Wall, New Jersey (Plaintiff’s Deposition¹, p. 8, ln. 23 – p. 9, ln. 1). Plaintiff graduated from Wall High School in 2012 (Plaintiff’s Deposition², p. 9, ln. 3-5).

2. Defendant Christopher Doyle (“Defendant” or “Doyle”) is a teacher (Doyle’s Deposition³, p. 22, ln. 19 – p. 23, ln. 20). Defendant previously worked as a mathematics teacher at Wall High School from 2004 to 2019 (Doyle’s Deposition⁴, p. 49, ln. 6-8; p. 25, ln. 1-25). Doyle taught Plaintiff math when she was a freshman and approximately 14 or 15 years old (Doyle’s Deposition⁵, p. 49, ln. 2-5, ln. 15-18). Defendant also acted as assistant coach of

¹ Exhibit 1
² Exhibit 1
³ Exhibit 2
⁴ Exhibit 2
⁵ Exhibit 2

Plaintiff's sister's high school tennis team and served as director at a tennis camp at which Plaintiff's sister worked (Doyle's Deposition⁶, p. 49, ln. 22 – p. 50, ln. 14).

Plaintiff's Discovery of the Images

3. At 9:01 p.m. on the evening of March 26, 2018, Plaintiff was contacted by a former classmate at Wall High School who informed her that “photos of women are being shared without their consent on a site” and that the classmate had gone through the site and identified Plaintiff as one of the depicted women (Facebook Conversation⁷, K.C. Bates 000129). Plaintiff's former classmate sent Plaintiff the link to her images – <http://usa.anon-ib.su/nj/res/124640.html> - and indicated that threads were sorted by high school (Facebook Conversation⁸, K.C. Bates 000127-000128).

4. Because it was after business hours, Plaintiff was limited to performing internet searches on how to get naked photos taken offline (Plaintiff's Deposition⁹, p. 23, ln. 16 – p. 24,

⁶ Exhibit 2

⁷ Exhibit 3

⁸ Exhibit 3

⁹ Exhibit 1

ln. 11). Within one week of finding her images online, Plaintiff connected with an attorney (Plaintiff's Deposition¹⁰, p. 25, ln. 7-12).

5. Plaintiff's mother initially blamed Plaintiff for putting herself in this situation, while her father was more supportive (Exhibit 9, K.C. Bates 000024).

Determining Defendant's Identity

6. Plaintiff did not learn the identity of the person responsible for uploading her images until December of 2018 (Plaintiff's Deposition¹¹, p. 34, ln. 10-11). Plaintiff reported that she was contacted by her attorney who subpoenaed the internet provider.

7. More specifically, on March 30, 2018, Plaintiff's attorney contacted the legal team for the website on which her images had been posted – Anon-IB – to notify them that the images were posted illegally and request that the company preserve the IP address (E-Mail with Anon-IB¹², K.C. Bates 00009). Plaintiff's counsel identified Plaintiff's images as those contained on posts 125773, 125774, 125776 (*Id.*). A subpoena was sent to Anon-IB on April 13, 2018 and the company replied with the requested information, namely information sufficient to identify the user data for the individual responsible for posting Plaintiff's images (Subpoena to Anon-IB¹³).

8. Anon-IB responded to Plaintiff's subpoena with the following information:

Requested information:

Anonymous [67.86.232.162] 03/21/18 (Wed) 15:09:13 No.125773

Anonymous [67.86.232.162] 03/21/18 (Wed) 15:12:25 No.125774

¹⁰ Exhibit 1

¹¹ Exhibit 1

¹² Exhibit 4

¹³ Exhibit 5

Anonymous [67.86.232.162] 03/21/18 (Wed) 15:17:04 No.125776

(E-mail with Anon-IB¹⁴).

9. From there, Plaintiff's counsel issued a subpoena upon the cable company to whom the IP address was assigned: Optimum by Altice (Altice Subpoena and Response¹⁵, K.C. Bates 00060 – 00062). Optimum responded that, on the dates and at the times the images were posted, the IP address that posted the images was assigned to an account belonging to Christopher Doyle of 46 Dogwood Drive Jackson, N.J. 08527 (Altice Subpoena and Response¹⁶).

Defendant's Posting of the Images

10. Defendant admits that he visited the website Anon-IB on a daily or weekly basis, depending upon how busy he was (Doyle's Deposition¹⁷, p. 65, ln. 12-16). Defendant indicated that Anon-IB was organized by geographical region and he would visit towns that he was familiar with, such as Jackson, Toms River, Wall, and Brick in New Jersey as well as towns in Connecticut, Pennsylvania, North Carolina, and Florida (Doyle's Deposition¹⁸, p. 66, ln. 21 – 20).

11. Defendant concedes that Anon-IB contained "mostly images of people" and claimed that the people were sometimes wearing clothing and sometimes not wearing clothing (Doyle's Deposition¹⁹, p. 68, ln. 4-24). He further indicated that he sometimes visited Anon-IB

¹⁴ Exhibit 4

¹⁵ Exhibit 6

¹⁶ Exhibit 6

¹⁷ Exhibit 2

¹⁸ Exhibit 2

¹⁹ Exhibit 2

and 4Chan with the intention of treating them as porn sites and with the purpose of sexual gratification (Doyle's Deposition²⁰, p. 86, ln. 9-20).

12. Defendant stated that in all his time visiting the New Jersey sections of Anon-IB, he only once recognized someone who had been posted there: Plaintiff (Doyle's Deposition²¹, p. 69, ln. 12-p. 70, ln. 30).

13. Defendant described Plaintiff's images as "like, a little more intimate pictures. Some nude. Some non-nude" (Doyle's Deposition²², p. 70, ln. 19-22).

14. Fourteen intimate images of Plaintiff were posted on Anon-IB (Plaintiff's Interrogatory Responses). Several of the images depicted Plaintiff's exposed breasts, genitals, naked buttocks, and/or depicted her in her undergarments (Form A Interrogatory Responses²³, p. 5). Plaintiff was identified by her first name and last initial (Form A Interrogatory Responses²⁴, p. 5; Doyle's Deposition²⁵, p. 70, ln. 4-7).

15. More specifically, the first intimate image depicts Plaintiff's face in a bra and pants, the second depicts Plaintiff fully clothed with her face visible, the third depicts Plaintiff topless in her underwear, the fourth and fifth depict Plaintiff's exposed breast while she is wearing only underwear, the sixth depicts the lower portion of Plaintiff's face along with her exposed buttocks while she is wearing only underwear and a bra, the seventh depicts Plaintiff's naked buttocks, the eighth depicts Plaintiff fully naked with her breasts and genitals exposed, the ninth and tenth depict Plaintiff fully naked with her breast and buttocks exposed, the eleventh depicts Plaintiff fully clothed looking at the camera, the twelfth depicts Plaintiff's a portion of

²⁰ Exhibit 2

²¹ Exhibit 2

²² Exhibit 2

²³ Exhibit 8

²⁴ Exhibit 8

²⁵ Exhibit 2

Plaintiff's face while her buttocks is visible as she is wearing only underwear and a shirt, the thirteenth depicts Plaintiff's full face while she wears only a towel, the fourteenth depicts Plaintiff's genitals partially covered by underwear (K.C. Images²⁶).

16. Defendant indicated that he did not know whether Plaintiff had consented to the dissemination of her intimate images (Doyle's Deposition²⁷, p. 86, ln. 21-24).

17. Defendant did not tell anyone he found Plaintiff's intimate images online and did not alert Plaintiff or Plaintiff's sister that Plaintiff's images were online (Doyle's Deposition²⁸, p. 9-16).

18. Though Defendant had a roommate at the time Plaintiff's images were posted online, he never asked them whether they had posted Plaintiff's images; Defendant indicated he had no reason to believe that his then-roommate or her then-boyfriend were the ones who posted Plaintiff's images (Doyle's Deposition²⁹, p. 73, ln. 16-23). Indeed, when Defendant received the subpoena he never asked any third-party whether they had place Plaintiff's intimate images online (Doyle's Deposition³⁰, p. 21, ln. 21-24). Defendant indicated that, on March 21, 2018, the day Plaintiff's images were disseminated, he did not remember anybody being at his house but did not specifically recall (Doyle's Deposition³¹, p. 92, ln. 15-20).

19. While Defendant recalls viewing Plaintiff's intimate images and indicated that he "assume[s]" he used them "for the purpose of self-gratification" he does not recall saving them but stated he was "guessing that's what happened" (Doyle's Deposition³², p. 89, ln. 9-18; p. 80, ln. 10-19). While Defendant also claims not to have any specific recollection of disseminating

²⁶ Exhibit 16

²⁷ Exhibit 8

²⁸ Exhibit 2

²⁹ Exhibit 2

³⁰ Exhibit 2

³¹ Exhibit 2

³² Exhibit 2

Plaintiff's intimate images, he stated "I mean, it came from my IP address. And I visited the site before" and "my heart tells me that this is not something that I would do. It's not my character, but my brain's telling me I don't know what other, you know, options there are" (Doyle's Deposition³³, p. 80, ln. 14-19; p. 81, ln. 2-9).

Harm to Plaintiff

20. Plaintiff indicated that, when she learned her former teacher had disseminated her intimate images, "it was shocking" and she felt "extremely violated to know that it was someone who I could put a face to, someone who I've interacted with in real life" (Plaintiff's Deposition³⁴, p. 41, ln. 24 – p. 42, ln. 5). Plaintiff stated that "[i]t was extremely unsettling, violating and just like a very – a feeling of disgust over me thinking that someone I knew had saw me in an intimate way that I didn't consent for them seeing me as" (Plaintiff's Deposition³⁵, p. 41, ln. 24 – p. 42, ln. 9).

21. Additionally, Plaintiff reported that, around the time Plaintiff's images were posted on Anon-IB, she began receiving an "influx of Facebook friend requests from men" who were "all from New Jersey" (Plaintiff's Deposition³⁶, p. 40, ln. 19 – p. 41, ln. 8).

22. Shortly after Plaintiff learned that Defendant was the one responsible for posting her intimate images online, she went to her local police department, who told her to make the report in Jackson, N.J., where Defendant lives (Plaintiff's Deposition³⁷, p. 44, ln. 20 – p. 45, ln.

³³ Exhibit 2

³⁴ Exhibit 1

³⁵ Exhibit 1

³⁶ Exhibit 1

³⁷ Exhibit 1

6). Ultimately, the Jackson Police Department decided not to pursue the case because they did not have enough information (Plaintiff's Deposition³⁸, p. 45, ln. 7-22).

23. Upon learning that the Jackson Police Department would not be pressing charges, Plaintiff had an anxiety attack and left work. She decided she would pursue the instant civil lawsuit (Plaintiff's Deposition³⁹, p. 46, ln. 3-10).

24. Though Plaintiff had never previously been treated for mental health issues, she decided to seek medical treatment as she was suffering "a lot of anxiety, paranoia. It was getting in the way of my social life" (Plaintiff's Deposition⁴⁰, p. 33, ln. 9-15). Plaintiff indicated that she began experiencing these symptoms before learning Defendant's identity, but the symptoms intensified once she found out Defendant had disseminated the images (Plaintiff's Deposition⁴¹, p. 34, ln. 2-16). Progress notes from Plaintiff's therapist confirm that there was a "clear time" when symptoms worsened, and that was when Plaintiff "found out who one perpetrator was who shared images was someone she knew" (Diagnosis and Treatment Plan⁴², K.C. Bates 000024).

25. More specifically, Plaintiff stated that, during that period she was "definitely having anxiety" but it was "more subdued and manageable but it existed, it was there" (Plaintiff's Deposition⁴³, p. 34, ln. 17 – p. 35, ln. 1).

26. Plaintiff searched for a therapist, a task which involved Plaintiff searching for potential therapists, reading their profiles to see whether they would be a good fit, and e-mailing and calling them to explain her situation and determine whether they would be able to support her in the manner she needed (Plaintiff's Deposition⁴⁴, p. 28, ln. 13-24; E-mails Seeking

³⁸ Exhibit 1

³⁹ Exhibit 1

⁴⁰ Exhibit 1

⁴¹ Exhibit 1

⁴² Exhibit 9

⁴³ Exhibit 1

⁴⁴ Exhibit 1

Therapists⁴⁵). Eventually, on or about January 8, 2019, she settled on Jessie Ogienko (Therapist Statements⁴⁶).

27. Plaintiff testified that she “couldn’t really go out with friends anymore because I was paranoid of who saw my photos. When I go back to Charlotte, living in my apartment, I wasn’t able to sleep through the night because I was afraid that people had found my information online and were going to show up at my apartment. It was a very intense paranoia and anxiety. I had a lot of panic attacks, anxiety attacks and, you know, at times depressive episodes because it was just very overwhelming to feel all these things” (Plaintiff’s Deposition⁴⁷, p. 33, ln. 12 – p. 34, ln. 1).

28. Notes from one of Plaintiff’s treating therapists dated January 8, 2019 indicate that “[i]n the past two weeks [K.C.] has felt zero control over anxiety. Feels anxious about being stalked, of others knowing about or seeing photos, and has anxiety attacks. During which she feels intrusive thoughts related to people looking at them, heaving breathing, and crying.” The notes further report that Plaintiff reported that she lost ten pounds and “had IBS symptoms around when she found out; may be related to stress” (Diagnosis and Treatment Plan⁴⁸, K.C. Bates 000024). Under “History of Presenting Problem” the therapist wrote “last march photos were shared. Has worked with lawyers since. Unsure of when she will need to go to court, but would like to see perpetrator held responsible and feel closure to event. Had threatening/concerning calls to work and one to her family home by strangers. Feels higher

⁴⁵ Exhibit 10

⁴⁶ Exhibit 11

⁴⁷ Exhibit 1

⁴⁸ Exhibit 9

stress around home state, but still feels anxiety in Charlotte. Has anxiety regarding court case turning blame towards her” (Diagnosis and Treatment Plan⁴⁹, K.C. Bates 000024).

29. Plaintiff’s psychiatrist has diagnosed her with “PTSD, depression and anxiety, and social anxiety[;]” she takes Prozac (Plaintiff’s Deposition⁵⁰, p. 37, ln. 5-19). In addition to Prozac, she is also prescribed an as-needed pill that she takes when she is having “high anxiety and can’t sleep” which was prescribed to her “sometime in 2020. If not, late 2019” (Plaintiff’s Deposition⁵¹, p. 39, ln. 3-11; p. 39, ln. 19 – p. 40, ln. 3).

⁴⁹ Exhibit 9

⁵⁰ Exhibit 1

⁵¹ Exhibit 1

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<p>K.C.</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>CHRISTOPHER DOYLE</p> <p style="text-align: center;">Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION, CIVIL PART OCEAN COUNTY</p> <p>DOCKET NO. OCN-L-000865-19</p> <p>BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON BEHALF OF PLAINTIFF, K.C.</p>
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PRELIMINARY STATEMENT

Plaintiff K.C. (“Plaintiff” or “K.C.”) is a young woman who met Defendant Christopher Doyle (“Defendant” or “Doyle”) when she was a fourteen-year-old student in a high school math class he was teaching (Doyle’s Deposition¹, p. 49, ln. 2-5, ln. 15-18). Approximately six years after Plaintiff’s high school graduation, Plaintiff’s intimate images were shared online along with her first name and last initial (Form A Interrogatory Responses²; p. 5; Doyle’s Deposition³, p. 70, ln. 4-7; Facebook Conversation⁴, K.C. Bates 000129). By issuing a subpoena upon the website on which Plaintiff’s intimate images were posted and another on the cable company to whom the IP address belonged, Plaintiff’s counsel was able to determine that the person responsible for posting her intimate images was Defendant, Plaintiff’s Freshman math teacher (E-Mail with

¹ Exhibit 2
² Exhibit 8
³ Exhibit 2
⁴ Exhibit 3

Anon-IB⁵, K.C. Bates 00009; Subpoena to Anon-IB⁶; Altice Subpoena and Response⁷, K.C. Bates 00060 – 00062).

Several of the images depicted Plaintiff’s exposed breasts, genitals, naked buttocks, and/or depicted her in her undergarments (Form A Interrogatory Responses⁸, p. 5). Plaintiff was identified by her first name and last initial (Form A Interrogatory Responses⁹, p. 5; Doyle’s Deposition¹⁰, p. 70, ln. 4-7).

LEGAL ARGUMENT

I. STANDARD OF REVIEW

The Superior Court Appellate Division has held that:

summary judgment will be granted when ‘the competent evidential materials submitted by the parties,’ viewed in the light most favorable to the non-moving party, show there are no ‘genuine issues of material fact’ and that ‘the moving party is entitled to summary judgment as a matter of law’
[Premier Physician Network, LLC v. Maro, 468 N.J. Super. 182 \(App. Div. 2021\)](#).

In [Premier Physician Network, LLC](#), the court further held that issues of material fact are “genuine only if, considering the burden of persuasion at trial, the evidence submitted by the parties on the motion, together with all legitimate inferences therefrom favoring the non-moving party, would require submission of the issue to the trier of fact” (*Id.*).

Here, subpoena responses from the website on which the images were posted as well as the company to whom the IP address responsible for posting the images was assigned both

⁵ Exhibit 4
⁶ Exhibit 5
⁷ Exhibit 6
⁸ Exhibit 8
⁹ Exhibit 8
¹⁰ Exhibit 2

indicate Plaintiff's intimate images were posted from an IP address assigned to Defendant's home. Defendant recalls viewing Plaintiff's images and recognizing his former student as the individual depicted. Defendant has indicated that he has no reason to believe anyone other than him posted the images. There are no genuine issues of material fact and Plaintiff is entitled to summary judgment as a matter of law.

II. THERE IS NO QUESTION OF FACT – DEFENDANT VIOLATED NEW JERSEY'S NONCONSENSUAL PORNOGRAPHY LAWS

Pursuant to New Jersey Statute 2A:58D-1:

b. An actor who, in violation of section 1 of P.L.2003, c. 206 (C.2C:14-9), discloses any photograph, film, videotape, recording or any other reproduction of the image of another person who is engaged in an act of sexual penetration or sexual contact, the exposed intimate parts of another person, or the undergarment-clad intimate parts of another person shall be liable to that person, who may bring a civil action in the Superior Court. For purposes of this section: (1) "disclose" means sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, offer, share, or make available via the Internet or by any other means, whether for pecuniary gain or not; and (2) "intimate parts" has the meaning ascribed to it in N.J.S.2C:14-1.

Pursuant to section 1(c) of P.L. 2003, c. 2006 (c.2C:14-9),

an actor commits a crime of the third degree if, knowing that he is not licensed or privileged to do so, he discloses any photograph, film, videotape, recording or any other reproduction of the image of another person whose intimate parts are exposed or who is engaged in an act of sexual penetration or sexual contact, unless that person has consented to such disclosure. For purposes of this subsection, "disclose" means sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise or offer. Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine not to exceed \$ 30,000 may be imposed for a violation of this subsection. [2003 N.J. ALS 206](#), [2003 N.J. Laws 206](#), [2003 N.J. Ch. 206](#), [2002 N.J. S.N. 2366](#)

New Jersey law allows a court to award actual damages (“not less than liquidated damages computed at the rate of \$1,000 for each violation of this act”), punitive damages if the act was willful or in reckless disregard of the law, attorneys fees and costs, and other preliminary and equitable relief as deemed appropriate by the court.

In State v. Chow, the parties were engaged in a one-week relationship during which “M.M.” sent defendant Chow “several nude photographs” which M.M. later discovered on the internet attached to defendant’s user name. State v. Chow, No. A-0429-18T3, 2019 N.J. Super. Unpub. LEXIS 983 (App. Div. Apr. 30, 2019). The Superior Court Appellate Division has held that, while the term “revenge porn” is often used to describe the offense committed by Defendant, “[r]evenge is not an element of the charged offense”:

The State characterizes defendant's alleged actions as "revenge porn" and provides several citations defining the term "as nonconsensual pornography: the distribution of sexually graphic images of individuals without their consent," (quoting *Patel v. Hussain*, 485 S.W. 3d 153, 157 n.1 (Tex. App. 2016)). Revenge is not an element of the charged offense but describes the act of posting an ex-romantic partner's nude photographs on the Internet in retaliation. For purposes of the crime charged, invasion of privacy, what matters is the victim's lack of consent. Id. and annexed hereto as Exhibit 18.

Similarly, in State v. M.D., “an inebriated defendant posted on a website four photographs showing [plaintiff’s] face and exposed breasts” (State v. M.D., No. A-5706-17T3, 2020 N.J. Super. Unpub. LEXIS 305 (App. Div. Feb. 12, 2020)). (Exhibit 17). Ultimately, the defendant was charged with knowingly disclosing a photograph of a sexual act without consent, in violation of N.J.S.A. 2C:14-9(c).

1. The Disclosed Images Are Covered Images Depicting K.C.

New Jersey law proscribes the nonconsensual disclosure of the “exposed intimate parts of another person, or the undergarment-clad intimate parts of another person.” N.J.S.2C:14-1

defines “intimate parts” as “the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock or breast of a person.”

The first intimate image depicts Plaintiff’s face in a bra and pants, the second depicts Plaintiff fully clothed with her face visible, the third depicts Plaintiff topless in her underwear, the fourth and fifth depict Plaintiff’s exposed breast while she is wearing only underwear, the sixth depicts the lower portion of Plaintiff’s face along with her exposed buttocks while she is wearing only underwear and a bra, the seventh depicts Plaintiff’s naked buttocks, the eighth depicts Plaintiff fully naked with her breasts and genitals exposed, the ninth and tenth depict Plaintiff fully naked with her breast and buttocks exposed, the eleventh depicts Plaintiff fully clothed looking at the camera, the twelfth depicts Plaintiff’s a portion of Plaintiff’s face while her buttocks is visible as she is wearing only underwear and a shirt, the thirteenth depicts Plaintiff’s full face while she wears only a towel, the fourteenth depicts Plaintiff’s genitals partially covered by underwear (K.C. Images¹¹). Plaintiff was identified by her first name and last initial (Form A Interrogatory Responses¹², p. 5; Doyle’s Deposition¹³, p. 70, ln. 4-7). It is uncontested that Plaintiff is the individual depicted in the images.

Accordingly, twelve of the fourteen images are prohibited from nonconsensual dissemination pursuant to New Jersey law. Notably, the other two images are close-ups of Plaintiff’s face and, in tandem with the written portion of the post identifying Plaintiff by first name and last initial, serve to further positively identify Plaintiff as the person depicted in the post.

¹¹ Exhibit 16

¹² Exhibit 8

¹³ Exhibit 2

2. The Images Were Disclosed by Defendant

New Jersey law defines disclosure as to “sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise or offer.” On March 30, 2018, Plaintiff’s attorney contacted the legal team for the website on which Plaintiff’s images had been posted – Anon-IB – to notify the site that the images were posted illegally and request that the company preserve the IP address (E-Mail with Anon-IB¹⁴, K.C. Bates 00009). Plaintiff’s counsel identified Plaintiff’s images as those contained on posts 125773, 125774, 125776 (*Id.*). A subpoena was sent to Anon-IB on April 13, 2018 and the company replied with the requested information, namely information sufficient to identify the user data for the individual responsible for posting Plaintiff’s images (Subpoena to Anon-IB¹⁵).

Anon-IB responded to Plaintiff’s subpoena with the following information:

Requested information:

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Anonymous [67.86.232.162] 03/21/18 (Wed) 15:12:25 No.125774

Anonymous [67.86.232.162] 03/21/18 (Wed) 15:17:04 No.125776

(E-mail with Anon-IB¹⁶).

Upon receipt of the poster’s IP address from Anon-IB, Plaintiff’s counsel issued a subpoena upon the cable company to whom the IP address was assigned: Optimum by Altice (Altice Subpoena and Response¹⁷, K.C. Bates 00060 – 00062). Optimum responded that, on the dates

¹⁴ Exhibit 4

¹⁵ Exhibit 5

¹⁶ Exhibit 4

¹⁷ Exhibit 6

and at the times the images were posted, the IP address that posted the images was assigned to an account belonging to Christopher Doyle of 46 Dogwood Drive Jackson, N.J. 08527 (Altice Subpoena and Response¹⁸).

Defendant's name is Christopher Doyle; he has resided at 46 Dogwood Drive in Jackson, NJ since 2013 (Defendant's Deposition, p. 7, ln. 12-15). Defendant admits that he visited the website Anon-IB on a daily or weekly basis, depending upon how busy he was at the time (Doyle's Deposition¹⁹, p. 65, ln. 12-16). Defendant indicated that Anon-IB was organized by geographical region and he would visit towns that he was familiar with, such as Jackson, Toms River, Wall, and Brick in New Jersey as well as towns in Connecticut, Pennsylvania, North Carolina, and Florida (Doyle's Deposition²⁰, p. 66, ln. 21 – 20). Defendant concedes that Anon-IB contained images of people who were sometimes wearing clothing and sometimes not wearing clothing (Doyle's Deposition²¹, p. 68, ln. 4-24). He further indicated that he sometimes visited Anon-IB and 4Chan with the intention of treating them as porn sites and with the purpose of sexual gratification (Doyle's Deposition²², p. 86, ln. 9-20). Defendant stated that in all his time visiting the New Jersey sections of Anon-IB, he only once recognized someone who had been posted there: Plaintiff (Doyle's Deposition²³, p. 69, ln. 12-p. 70, ln. 30). Defendant described Plaintiff's images as "like, a little more intimate pictures. Some nude. Some non-nude" (Doyle's Deposition²⁴, p. 70, ln. 19-22).

While Defendant recalls viewing Plaintiff's intimate images and indicated that he "assume[s]" he used them "for the purpose of self-gratification" he does not recall saving them

¹⁸ Exhibit 6

¹⁹ Exhibit 2

²⁰ Exhibit 2

²¹ Exhibit 2

²² Exhibit 2

²³ Exhibit 2

²⁴ Exhibit 2

but stated he was “guessing that’s what happened” (Doyle’s Deposition²⁵, p. 89, ln. 9-18; p. 80, ln. 10-19). While Defendant also claims not to have any specific recollection of disseminating Plaintiff’s intimate images, he stated “I mean, it came from my IP address. And I visited the site before” and “my heart tells me that this is not something that I would do. It’s not my character, but my brain’s telling me I don’t know what other, you know, options there are” (Doyle’s Deposition²⁶, p. 80, ln. 14-19; p. 81, ln. 2-9).

Though Defendant had a roommate at the time Plaintiff’s images were posted online, he never asked them whether they had posted Plaintiff’s images; Defendant indicated he had no reason to believe that his then-roommate or her then-boyfriend were the ones who posted Plaintiff’s images (Doyle’s Deposition²⁷, p. 73, ln. 16-23). Indeed, when Defendant received the subpoena he never asked any third-party whether they had place Plaintiff’s intimate images online (Doyle’s Deposition²⁸, p. 21, ln. 21-24). Defendant indicated that, on March 21, 2018, the day Plaintiff’s images were disseminated, he did not remember somebody being at his house but did not specifically recall (Doyle’s Deposition²⁹, p. 92, ln. 15-20). Defendant’s wifi is password protected and he believes that it was password protected at the time Plaintiff’s images were shared (Defendant’s Deposition, p. 11, ln. 3-7). Defendant has no reason to believe that someone would try to frame him by using his IP address to disseminate Plaintiff’s intimate images (Defendant’s Deposition, p. 81, ln. 18 – p. 82, ln. 4).

²⁵ Exhibit 2

²⁶ Exhibit 2

²⁷ Exhibit 2

²⁸ Exhibit 2

²⁹ Exhibit 2

3. Defendant Knew He Was Not Licensed or Privileged to Disclose the Images

New Jersey law provides that “an actor commits a crime of the third degree if, knowing that he is not licensed or privileged to do so” he or she disseminates the intimate content. At the time Defendant shared the images, he knew he did not have Plaintiff’s consent or permission for same. During his deposition, when asked whether he had “any reason to believe that [Plaintiff] provided her consent to have these images put online” Defendant replied that he “didn’t know either way” (Doyle’s Deposition³⁰, p. 86, ln. 21-24). A

There can be no genuine issues of material fact that the Defendant violated New Jersey Statute 2A:58D-1.

III. THERE IS NO QUESTION OF FACT THAT PLAINTIFF HAS A CAUSE OF ACTION FOR THE INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

When establishing a claim for intentional infliction of emotional distress, a plaintiff must prove “intentional and outrageous conduct by the Defendant, proximate cause, and distress that is severe.” [Buckley v. Trenton Sav. Fund Soc’y, 111 N.J. 355 \(1988\)](#).

1. Defendant’s Conduct Was Intentional and/or Reckless

The first element requires a Plaintiff to prove that the Defendant acted either intentionally or recklessly. The courts have established a two-part test, whereby “for an intentional act to result in liability, the defendant must intend both to do the act and to produce emotional distress”. [Juzwiak v. Doe, 415 N.J. Super. 442 \(App. Div. 2010\)](#) (finding “liability may also

³⁰ Exhibit 8

attach to a reckless act ‘when the defendant acts recklessly in deliberate disregard of a high degree of probability that emotional distress will follow’’).

Defendant’s own testimony, while largely evasive or perhaps intentionally obtuse, establishes the intentionality or recklessness of his actions.

Q: Well, let me ask you, if someone put a photograph on saying does anybody have naked pictures of student A, would it lead you to believe, then, that if a naked picture showed up of that person it was done consensually?

A: Again, I don’t know. I don’t know if those images were shared. You know, I mean, I know there are people that have relationships that don’t care if they share pictures. So, I don’t know what the situation is with these.

Q: But do you have a reasonable assumption as to whether or not these [images] were intended to be shared?

A: Again, I don’t know. I don’t recall anybody ever saying like, oh, my God, don’t – you know, like, I don’t have permission to post this or – forget the word that you used. Consent. Like, you know, I don’t recall anybody saying that” (Defendant’s Deposition, p. 85, ln. 17 – p. 86, ln. 8).

Defendant’s used Anon-IB and likely Plaintiff’s intimate images for his own sexual gratification, without any concern as to the fallout it could and would cause Plaintiff.

Q: And she’s naked in some of these photographs. So, you finally see someone that you know, and your response is you don’t really know how that made you feel?

A: Not in that moment. I can’t –

Q: Did you treat those images as if you would treat other images on a porn site?

A: I would assume.

Q: And you use[d] them for purpose of self-gratification as well?

A: Perhaps. I don’t recall specific incident.

Q: What do you mean you don’t recall specific incident?

A: When I'm browsing images for sexual gratification I don't, like, look at one image and just go. I just – you know, I scroll through a bunch of images. I don't –

Q: But these specific images that are the subject of the lawsuit you've used for personal self-gratification as well?

A: Again, I can't speak to whether I – you know, I don't recall a particular incident where I just kept her picture on the screen and, you know, self-gratified. I don't recall an instance of that.

Q: Well, what –

A: I'm not saying it didn't happen, but I don't recall a specific time.

Indeed, Defendant's argument seems to be that "I don't believe that if there was – if there were websites that were illegal I don't think that they would be websites. I don't think they'd be up" and has asserted that "I am not a member of any website that contains non-consensual pornography. Otherwise the website would not exist." (Defendant's Deposition, p. 82, ln. 5-14). Notably, Anon-IB, regarded as "possibly the most infamous site focused on revenge porn – explicit or intimate images of people shared without their consent" had its server seized by Dutch authorities, who also arrested three site administrators in April 2018, just one month after Plaintiff's images were shared³¹.

2. Extreme and Outrageous Conduct

The second element of intentional infliction of emotional distress is that the conduct "be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community".

Buckley, supra, at 366.

³¹ <https://www.vice.com/en/article/pke3j7/someone-is-trying-to-revive-the-infamous-revenge-porn-site-anon-ib>, <https://www.vice.com/en/article/mbxdwv/anon-ib-revenge-porn-site-seized-by-politie>

Examples of extreme and outrageous conduct include a racial slur uttered by a sheriff directed against a subordinate officer (see [Taylor v. Metzger, 152 N.J. 490 \(1998\)](#) [“racial insults, relying as they do on the unalterable fact of the victim's race and on the history of slavery and race discrimination in this country, have an even greater potential for harm than other insults”]), backing a plaintiff into a corner and stating “are you still pissed at me ... [b]ecause if you are I am going to have to stare in them big blue eyes and pat those white titties,” while simultaneously stroking plaintiff's breast in a sexual manner (see [Flizack v. Good News Home for Women, Inc., 346 N.J. Super. 150 \[App. Div. 2001\]](#)), and the filing of false sexual harassment charges against a superintendent ([Hill v. N.J. Dep't of Corr. Com'r Fauver, 342 N.J. Super. 273 \[App. Div. 2001\]](#)).

The conduct is generally deemed outrageous when “the recitation of facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, ‘Outrageous!’”. [Borecki v. E. Int'l Mgmt. Corp., 694 F. Supp. 47 \(D.N.J. 1988\)](#).

As indicated above, Defendant published Plaintiff's intimate images, without her consent, on a public forum. New Jersey courts have found actions similar to those undertaken by Defendant to amount to the intentional infliction of emotional distress. In *Del Mastro v. Grimado*, for instance, the court held that the defendant's nonconsensual mailing of Christmas cards containing intimate images of plaintiff to plaintiff's family, friends, neighbors, and clients amounted to intentional infliction of emotional distress and invasion of privacy. [Del Mastro v. Grimado, 2010 N.J. Super. Unpub. LEXIS 2315](#) (annexed hereto as [Exhibit 19](#)).

3. Proximate Cause

The third element requires that the Defendant's actions are the proximate cause of Plaintiff's emotional distress. [Buckley, supra](#), at at 366). The determination of proximate cause

is based upon “mixed considerations of logic, common sense, justice, policy, and precedent”. [Caputzal v. Lindsay Co., 48 N.J. 69 \(1966\)](#).

Though Plaintiff had never previously been treated for mental health issues, she decided to seek medical treatment as she was suffering “a lot of anxiety, paranoia. It was getting in the way of my social life” (Plaintiff’s Deposition³², p. 33, ln. 9-15). Plaintiff indicated that she began experiencing these symptoms before learning Defendant’s identity, but the symptoms intensified once she found out Defendant had disseminated the images (Plaintiff’s Deposition³³, p. 34, ln. 2-16). Progress notes from Plaintiff’s therapist confirm that there was a “clear time” when symptoms worsened, and that was when Plaintiff “found out who one perpetrator was who shared images was someone she knew” (Diagnosis and Treatment Plan³⁴, K.C. Bates 000024). More specifically, Plaintiff stated that, during that period she was “definitely having anxiety” but it was “more subdued and manageable but it existed, it was there” (Plaintiff’s Deposition³⁵, p. 34, ln. 17 – p. 35, ln. 1).

Notes from one of Plaintiff’s treating therapists dated January 8, 2019 – approximately one month after learning of Defendant’s identity – indicate that “[i]n the past two weeks [K.C.] has felt zero control over anxiety. Feels anxious about being stalked, of others knowing about or seeing photos, and has anxiety attacks. During which she feels intrusive thoughts related to people looking at them, heaving breathing, and crying.” The notes further report that Plaintiff reported that she lost ten pounds and “had IBS symptoms around when she found out; may be related to stress” (Diagnosis and Treatment Plan³⁶, K.C. Bates 000024). Under “History of

³² Exhibit 1

³³ Exhibit 1

³⁴ Exhibit 9

³⁵ Exhibit 1

³⁶ Exhibit 9

Presenting Problem” the therapist wrote “last march photos were shared. Has worked with lawyers since. Unsure of when she will need to go to court, but would like to see perpetrator held responsible and feel closure to event. Had threatening/concerning calls to work and one to her family home by strangers. Feels higher stress around home state, but still feels anxiety in Charlotte. Has anxiety regarding court case turning blame towards her” (Diagnosis and Treatment Plan³⁷, K.C. Bates 000024).

4. Severe Distress

The fourth element requires that the emotional distress is “so severe that no reasonable person could be expected to endure it.” Buckley, supra, at 366. “Severe emotional distress is a severe and disabling emotional or mental condition which may be generally recognized and diagnosed by trained professionals”. Turner v. Wong, 363 N.J. Super. 186 (App. Div. 2003). Thus the emotional distress must result in either “physical illness or serious psychological sequelae”. Aly v. Garcia, 333 N.J. Super. 195 (App. Div. 2000).

Plaintiff’s damages go beyond mere embarrassment. Plaintiff has detailed the pain and anguish she has experienced following Defendant’s dissemination of her images. Plaintiff has indicated that, when she learned her former teacher had disseminated her intimate images, “it was shocking” and she felt “extremely violated to know that it was someone who I could put a face to, someone who I’ve interacted with in real life” (Plaintiff’s Deposition³⁸, p. 41, ln. 24 – p. 42, ln. 5). Plaintiff stated that “[i]t was extremely unsettling, violating and just like a very – a feeling of disgust over me thinking that someone I knew had saw me in an intimate way that I didn’t consent for them seeing me as” (Plaintiff’s Deposition³⁹, p. 41, ln. 24 – p. 42, ln. 9).

³⁷ Exhibit 9

³⁸ Exhibit 1

³⁹ Exhibit 1

Plaintiff testified that she “couldn’t really go out with friends anymore because I was paranoid of who saw my photos. When I go back to Charlotte, living in my apartment, I wasn’t able to sleep through the night because I was afraid that people had found my information online and were going to show up at my apartment. It was a very intense paranoia and anxiety. I had a lot of panic attacks, anxiety attacks and, you know, at times depressive episodes because it was just very overwhelming to feel all these things” (Plaintiff’s Deposition⁴⁰, p. 33, ln. 12 – p. 34, ln. 1).

Plaintiff’s psychiatrist has diagnosed her with “PTSD, depression and anxiety, and social anxiety[;]” she takes Prozac (Plaintiff’s Deposition⁴¹, p. 37, ln. 5-19). In addition to Prozac, she is also prescribed an as-needed pill that she takes when she is having “high anxiety and can’t sleep” which was prescribed to her “sometime in 2020. If not, late 2019” (Plaintiff’s Deposition⁴², p. 39, ln. 3-11; p. 39, ln. 19 – p. 40, ln. 3).

IV. THERE IS NO QUESTION OF FACT THAT DEFENDANT COMMITTED A PRIVACY TORT

Plaintiff’s final cause of action is that Defendant violated Plaintiff’s constitutional right of privacy. New Jersey’s invasion of privacy law

is not one tort, but a complex of four. The law of privacy comprises four distinct kinds of invasion of four different interests of the plaintiff, which are tied together by the common name, but otherwise have almost nothing in common except that each represents an interference with the right of the plaintiff to ‘be left alone.’

([Smith v Datla](#), 451 NJ Super 82, 95, 164 A3d 1110, 1118 [Super Ct App Div 2017])

⁴⁰ Exhibit 1

⁴¹ Exhibit 1

⁴² Exhibit 1

The four New Jersey causes of action are:

(1) intrusion (e.g., intrusion on plaintiff's physical solitude or seclusion, as by invading his or her home, illegally searching, eavesdropping, or prying into personal affairs); (2) public disclosure of private facts (e.g., making public private information about plaintiff); (3) placing plaintiff in a false light in the public eye (which need not be defamatory, but must be something that would be objectionable to the ordinary reasonable person); and (4) appropriation, for the defendant's benefit, of the plaintiff's name or likeness
[\(Rumbauskas v Cantor, 138 NJ 173, 180, 649 A2d 853, 856 \[1994\]\)](#)

The privacy tort that applies in this matter is public disclosure of private facts. Invasion of privacy for the public disclosure of private facts occurs when “the matters revealed were actually private, that dissemination of such facts would be offensive to a reasonable person, and that there is no legitimate interest of the public in being apprised of the facts publicized”

[\(Romaine v Kallinger, 109 NJ 282, 297, 537 A2d 284, 292 \[1988\]\).](#)

Because the tort “permits recovery for truthful disclosures[,]” New Jersey courts know it “creates significant potential for conflict with the guarantees contained in the first amendment of the Constitution” (*Id.*). Like New York, New Jersey recognizes the “newsworthiness” exception to the claim (*Id.*). When analyzing the tort, the court must first determine whether the facts were actually “private” or had previously been disclosed in the public domain. If they were in fact private, the court must then determine whether the facts are “newsworthy” and thus a matter of legitimate public concern. The Courts have stated:

[t]he “newsworthiness” defense in privacy-invasion tort actions is available to bar recovery where the subject matter of the publication is one in which the public has a legitimate interest. A publication is commonly understood to be “newsworthy” when it contains an “indefinable quality of information” that arouses the public's interest and attention.” In such cases it is for the court to determine whether a matter is of legitimate public interest.
[\(Romaine, at 293 \[internal citations omitted\]\)](#)

Finally, the courts:

should balance the relative newsworthiness of the publication against its level of offensiveness and intrusiveness into private matters. The factors to be considered in the balance are: (1) the social value of the facts published; (2) the depth of the article's intrusion into ostensibly private affairs, and (3) the extent to which the party voluntarily acceded to a position of public notoriety. The assessment of public interest includes a determination whether the person voluntarily and knowingly engaged in conduct that one in his position should reasonably know would implicate a legitimate public interest, engendering the real possibility of public attention and scrutiny. ([Wilson v Grant, 297 NJ Super 128, 141, 687 A2d 1009, 1016 \[Super Ct App Div 1996\]](#)[internal citations and quotations omitted]).

Plaintiff's images were intended to be remain private. The images were never intended to be seen by her high school math teacher, nor were they intended to be posted on Anon-IB by him for the world to see. To the extent that the Defendant shared images of Plaintiff's intimate images, he has "revealed" facts that were actually private, and the dissemination of what Plaintiff looks like naked would be offensive to the reasonable person. Defendant had no legitimate reason to share the images.

CONCLUSION

There is no question of fact that Defendant disseminated Plaintiff's intimate images without her permission or consent and intentionally inflicted emotional distress upon her and that, in doing so, he committed a privacy tort. Sworn statements submitted by both parties and documentary evidence all support this Court granting Plaintiff's Motion for Summary Judgment.

Dated: April 18, 2022
New York, New York



Daniel S. Szalkiewicz, Esq.

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Attorneys for Plaintiff

K.C.

Plaintiff,

-against-

CHRISTOPHER DOYLE

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

CERTIFICATION

To: James J. Uliano
Chamlin Uliano & Walsh
268 Norwood Avenue
PO Box 38
West Long Branch, New Jersey 07764
Attorneys for Christopher Doyle

I, DANIEL S. SZALKIEWICZ, ESQ., an attorney duly admitted to practice in the
Courts of the State of New Jersey, does hereby certify as follows:

1. I am a member of DANIEL SZALKIEWICZ & ASSOCIATES, P.C., the
attorneys of record for Plaintiff K.C. (“Plaintiff” or “K.C.”) in this matter.

2. I am fully familiar with the facts and circumstances of the above-referenced case from my firm's file on this matter kept in the ordinary course of business and from information provided by our client.

3. I submit this certification in support of Plaintiff's summary judgment on liability against defendant Christopher Doyle ("Defendant" or "Doyle").

4. A copy of the Plaintiff's Deposition in this action is annexed hereto as Exhibit 1.

5. A copy of the Defendant's Deposition is annexed hereto as Exhibit 2.

6. A copy of Plaintiff's communications with Melissa Edgar, is annexed hereto as Exhibit 3.

7. A copy of Anon-IB's response to Plaintiff's Subpoena is annexed hereto as Exhibit 4.

8. A copy of Plaintiff's Anon-IB Subpoena, is annexed hereto as Exhibit 5.

9. A copy of Plaintiff's Altice Subpoena response is annexed hereto as Exhibit 6.

10. A copy of Plaintiff's Interrogatory Responses is annexed hereto as Exhibit 7.

11. A copy of Plaintiff's Form A Interrogatory Responses is annexed hereto as Exhibit 8.

12. A copy of Plaintiff's Diagnosis and Treatment Plan is annexed hereto as Exhibit 9.

13. A copy of Plaintiff's E-Mails Seeking Therapists is annexed hereto as Exhibit 10.

14. A copy of Plaintiff's Therapy Statements is annexed hereto as Exhibit 11.

15. A copy of Plaintiff's Complaint is annexed hereto as Exhibit 12.

16. A copy of Defendant's Answer is annexed hereto as Exhibit 13.

17. A copy of Defendant's Response to Plaintiff's Document Demands is annexed hereto as Exhibit 14.

18. A copy of Defendant's Response to Plaintiff's Interrogatories is annexed hereto as Exhibit 15.

19. A copy of the subject images is annexed hereto as Exhibit 16.

20. A copy of the unpublished decision in State v. M.D., No. A-5706-17T3, 2020 N.J. Super. Unpub. LEXIS 305 (App. Div. Feb. 12, 2020) is annexed hereto as Exhibit 17.

21. A copy of the unpublished decision in State v. Chow, No. A-0429-18T3, 2019 N.J. Super. Unpub. LEXIS 983 (App. Div. Apr. 30, 2019) is annexed hereto as Exhibit 18.

22. A copy of the unpublished decision in Del Mastro v. Grimado, 2010 N.J. Super. Unpub. LEXIS 2315 is annexed hereto as Exhibit 19.

23. A trial is scheduled for this case on June 6, 2022.

24. The parties have not engaged in non-binding arbitration.

Dated: April 18, 2022

By: 
Daniel Szalkiewicz, Esq.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Plaintiff's Motion for Summary Judgment was served on April 18, 2022 via email to the following counsel of record for Defendant Christopher Doyle:

James J. Uliano, Esq.
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Attorneys for Plaintiff

K.C.

Plaintiff,

-against-

CHRISTOPHER DOYLE

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

Exhibit 1 Submitted in Hard Copy

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-against-

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LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

Exhibit 2 Submitted in Hard Copy

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K.C.

Plaintiff,

-against-

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Defendant.

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LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

Exhibit 3 Submitted in Hard Copy



Daniel Szalkiewicz <daniel@lawdss.com>

Re: New Request

1 message

a-ib <dmca@anon-ib.com>

Fri, Apr 20, 2018 at 10:33 PM

To: Daniel Szalkiewicz <daniel@lawdss.com>

Requested information:

Anonymous [67.86.232.162] 03/21/18 (Wed) 15:09:13 No.125773

Anonymous [67.86.232.162] 03/21/18 (Wed) 15:12:25 No.125774

Anonymous [67.86.232.162] 03/21/18 (Wed) 15:17:04 No.125776

thank you

----- On Fri, 13 Apr 2018 18:56:25 +0000 Daniel Szalkiewicz<daniel@lawdss.com> wrote -----

Good afternoon.

Please find the attached subpoena.

Very Truly Yours,

Daniel S. Szalkiewicz, Esq.

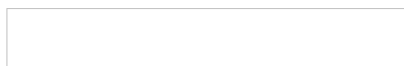
325 W. 38th Street, Suite 810

New York, New York 10018

Office: (212) 706-1007

Cell: (929) 373-2735

Fax: (914) 500-2315

www.lawdss.com

On Wed, Apr 4, 2018 at 8:43 AM, a-ib <dmca@anon-ib.com> wrote:

Hello,

Information has been preserved offline and the content has been deleted from the website.

Please provide the respective subpoena via this email address to proceed with the information release (IP addresses + timestamps).

ATTENTION: To avoid confusion, please attach the subpoena to this email conversation, when you get it. (not in a new email conversation).

thankyou

----- On Fri, 30 Mar 2018 02:40:30 +0000 Daniel Szalkiewicz<daniel@lawdss.com> wrote -----
Good evening.

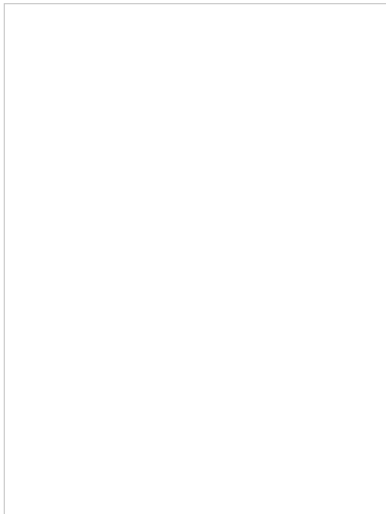
We represent [REDACTED]. The posting of the images violates the law. Can you please remove the photographs and preserve the IP address. I will serve a subpoena signed by a judge shortly. Thank you.

<http://usa.anon-ib.su/nj/res/124640.html#q125776>

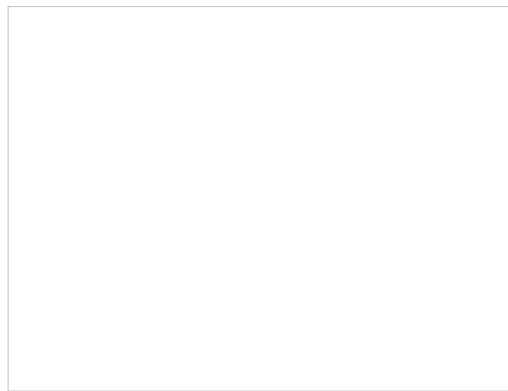
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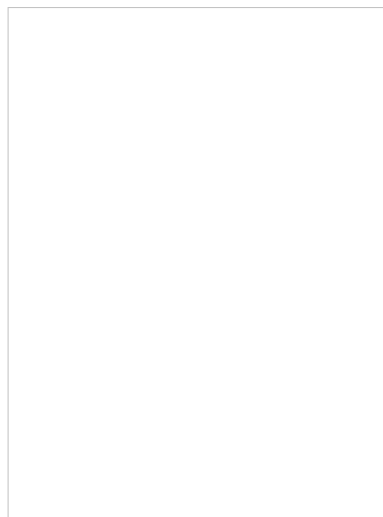
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[ImgOps](#) [ExifGoogle](#)



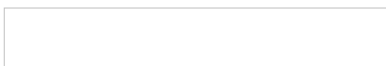
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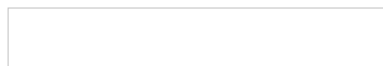
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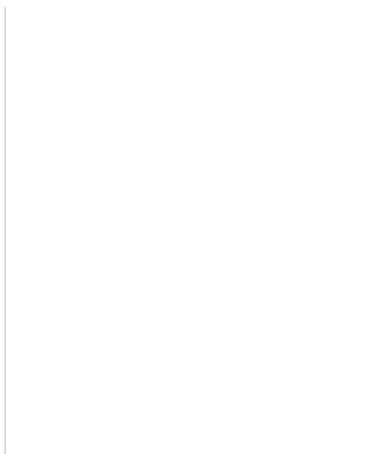
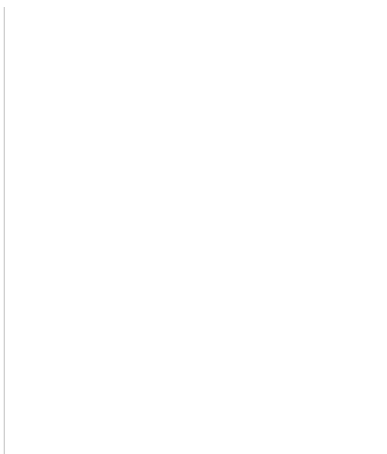


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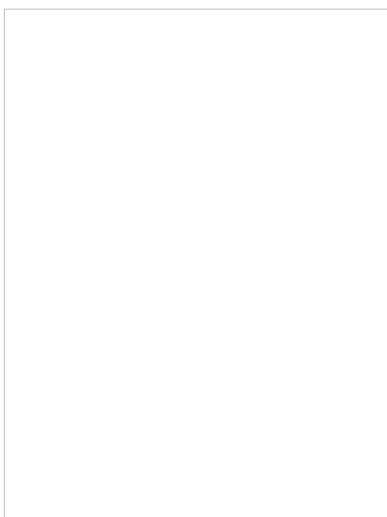




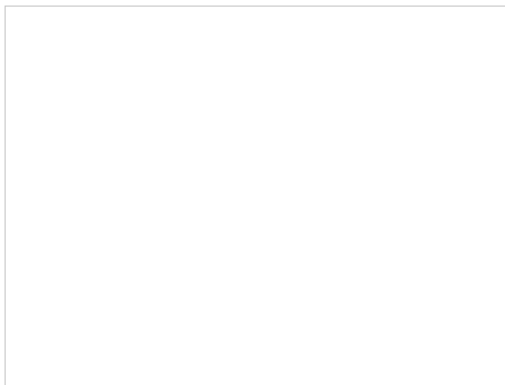
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Anonymous 03/21/18 (Wed) 15:12:25 No.125774

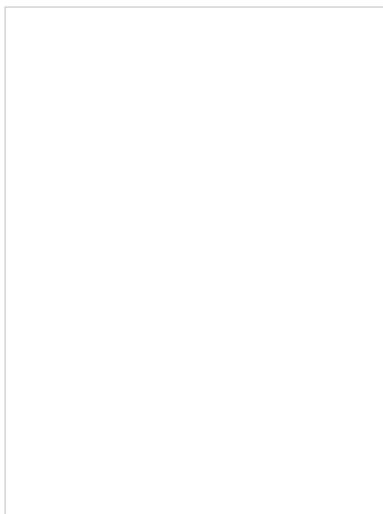
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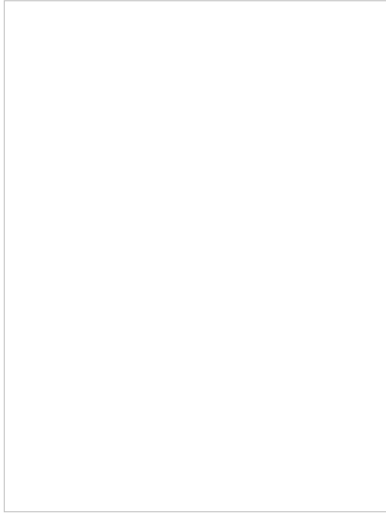
File: [1521645145189-3.jpg](#) (1.32 MB,

Daniel Szalkiewicz & Associates, P.C. Mail - Re: New Request

7/8/20, 12:20 PM

2448x3264, 1513346538251-4.jpg

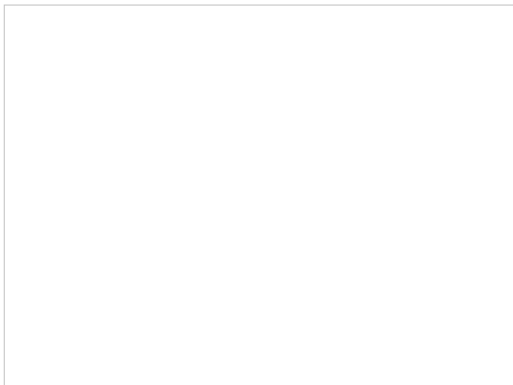
) [ImgOps](#) [ExifGoogle](#)



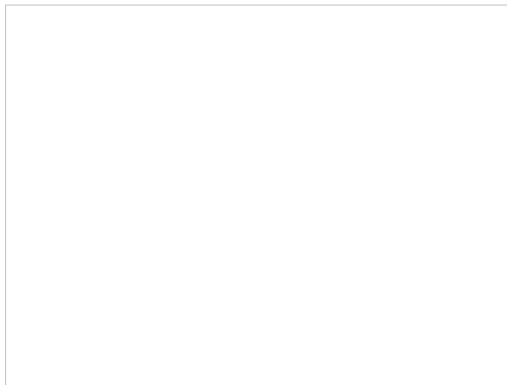
Last ones

Anonymous 03/21/18 (Wed) 15:17:04 No.125776

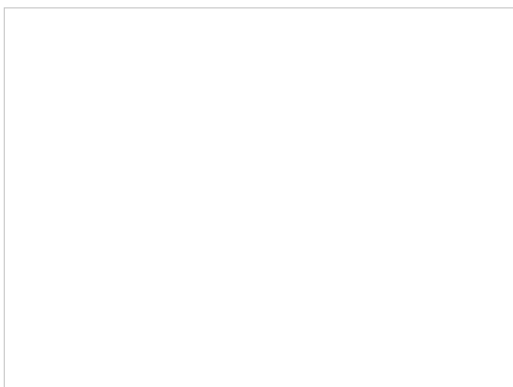
File: [1521645424096-0.jpeg](#) (281.21 KB, 1280x960,1513025760996.jpeg) [ImgOps](#) [Google](#)



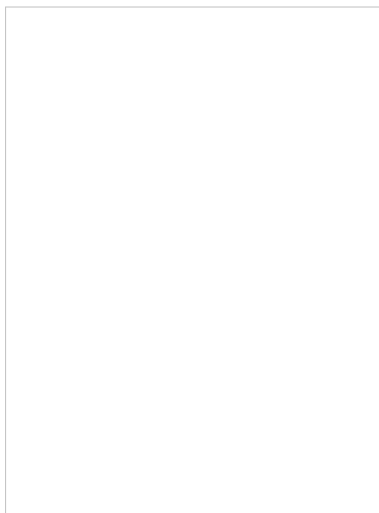
File: [1521645424096-1.jpg](#) (1.46 MB, 3264x2448,1513026057214-0.jpg) [ImgOps](#) [Exif](#) [Google](#)



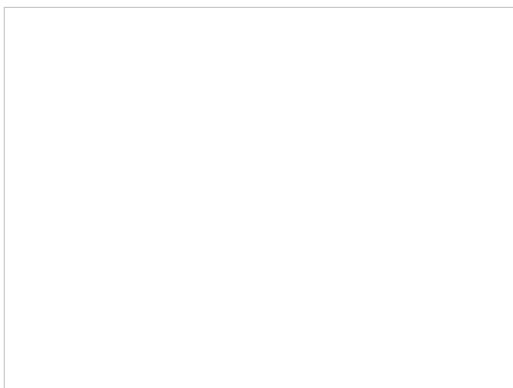
File: [1521645424096-2.jpeg](#) (1.15 MB, 3264x2448,1513026057214-1.jpeg) [ImgOps](#) [Google](#)



File: [1521645424096-3.jpg](#) (1.07 MB, 2448x3264, 1513026057214-2.jpg) [ImgOps](#) [Exif](#) [Google](#)



File: [1521645424096-4.jpeg](#) (1.58 MB, 3264x2448,1513026057214-3.jpeg) [ImgOps](#) [Google](#)



Have some K [REDACTED]...these were first but it didn't post for some reason

Very Truly Yours,

Daniel S. Szalkiewicz, Esq.

325 W. 38th Street, Suite 810

New York, New York 10018

Office: (212) 706-1007

Cell: (929) 373-2735

Fax: (914) 500-2315

www.lawdss.com



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

J.R, V.S, W.S, T.S., and JANE DOES 1-10,

Petitioners,

- against -

GOOGLE INC., TWITTER INC., TUMBLR INC., JOHN
DOE, and XYZ CORP

Respondent(s),

JUDICIAL SUBPOENA
DUCES TECUM

Index No. 36469/2017E

THE PEOPLE OF THE STATE OF NEW YORK

TO: Anon-IB
via email (dmca@anon-ib.com)


GREETING:

WE COMMAND YOU, *that all business and excuses being laid aside, to produce complete and accurate copies of those documents in your possession, custody or control listed in "Documents to be Produced" to Daniel Szalkiewicz, Daniel Szalkiewicz & Associates, P.C., 325 W. 38th Street, Suite 810 New York, New York 10018, attorneys for the Petitioner, on or before April 10, 2018.*

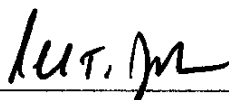
YOUR TESTIMONY AND DOCUMENTS ARE REQUIRED BECAUSE YOU HAVE SPECIAL KNOWLEDGE REGARDING PERTINENT FACTS WHICH ARE IN ISSUE IN THIS MATTER, INCLUDING, BUT NOT LIMITED TO, YOUR KNOWLEDGE OF FACTS AND CONTROL OF DOCUMENTS AND/OR ELECTRONICALLY STORED INFORMATION RELATING TO THE IDENTITY OF THE INDIVIDUALS WHO SHARED THE IMAGES OF PETITIONERS WHILE THEY WERE MINORS AND/OR WITHOUT THEIR CONSENT (K).

Failure to comply with this subpoena shall be punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

Unless this Subpoena Duces Tecum directs the production of original documents for inspection and copying at the place where such items are usually maintained, it shall be sufficient to deliver complete and accurate copies of the items to be produced. The requirements of this subpoena may also be met by delivery of the material by mail or overnight delivery service, or email to the following email address, provided that it is received on or before the return date set forth herein: daniel@lawdss.com.


DANIEL S. SZALKIEWICZ, ESQ.
DANIEL SZALKIEWICZ & ASSOCIATES, P.C.
Attorney for Petitioners
325 W. 38th Street, Suite 810
New York, New York 10018
(212) 706-1007
Fax: (914) 500-2315

SO ORDERED:


HON. 4/2/2018

Documents to be Produced

Any and all subscriber records regarding the identification of, and information sufficient to identify the user data for the individuals who pushed the following photographs at the following urls and anon-ib Ids.

<http://usa.anon-ib.su/nj/res/124640.html#q125776>

<http://usa.anon-ib.su/nj/src/1521644953526-0.jpg>

<http://usa.anon-ib.su/nj/src/1521644953526-1.jpg>

<http://usa.anon-ib.su/nj/src/1521644953526-2.jpg>

<http://usa.anon-ib.su/nj/src/1521644953526-3.jpg>

<http://usa.anon-ib.su/nj/src/1521644953526-4.jpg>

<http://usa.anon-ib.su/nj/src/1521645145189-0.jpg>

<http://usa.anon-ib.su/nj/src/1521645145189-1.jpg>

<http://usa.anon-ib.su/nj/src/1521645145189-2.jpg>

<http://usa.anon-ib.su/nj/src/1521645145189-3.jpg>

<http://usa.anon-ib.su/nj/src/1521645424096-0.jpeg>

<http://usa.anon-ib.su/nj/src/1521645424096-1.jpg>

<http://usa.anon-ib.su/nj/src/1521645424096-2.jpeg>

<http://usa.anon-ib.su/nj/src/1521645424096-3.jpg>

<http://usa.anon-ib.su/nj/src/1521645424096-4.jpeg>

Such identifying information shall include, but is not limited to, the name, address, telephone number, status of account, detailed billing logs, date account opened and closed, method of payment and detailed billing records, registration information, Internet Protocol (IP) addresses, Media Access Control (MAC), telephone numbers, internet connection logs, any email address or alternate email address of the person.



Service for
 Account Number: **07865-100604-03-4**
 MR CHRISTOP DOYLE
 46 DOGWOOD DR
 JACKSON NJ 08527-1342

Your Monthly Statement		
Billing Period	Due Date	Amount
03/15 - 04/14	March 29, 2018	\$110.48

Your account is enrolled for automatic payments.

Your Account Summary	
Includes Payments Received By 03/10/18	
Any payments and other activities after this date will be on the next bill.	
Previous Balance and Payments	
Balance Last Statement	\$110.48
Payment(s) - Thank You	-\$110.48 cr
Previous Balance	\$0.00
New Bill Activity	
Current Monthly Charges (Includes credits and adjustments since last statement)	\$108.88
Total Taxes & Fees	\$1.60
Total Amount Due by March 29, 2018	\$110.48

Total Savings this month = \$5.00. Please see page 3 for details.

Optimum has the internet speeds for every lifestyle – up to 400 Mbps.

Visit optimum.net/speed for more information.

optimum.
a brand of altice

Please turn over for payment.



1111 STEWART AVENUE
 BETHPAGE NY 11714-3581

CHANGE SERVICE REQUESTED

#BWNHGYM
 #PGHFEAPFPDPC1#

MR CHRISTOP DOYLE
 46 DOGWOOD DR
 JACKSON NJ 08527-1342

Optimum has the internet speeds for every lifestyle – up to 400 Mbps.

optimum.net/speed



MR CHRISTOP DOYLE
 Account Number: **07865-100604-03-4**
 Total Amount Due: **\$110.48**

Optimum Updates

As of February 1, the Standard Installation price is \$69 and the Premium Installation price is \$89 for new customers.
 Great news! Starz and StarzEncore are back on Optimum. Visit optimum.net/starz to learn more about your new and expanded TV lineup.
 MiND (WYBE), channel 15, is no longer available.
 Hallmark Drama HD, channel 189 (channel 783 for CableCards) is no longer available.
Basketball fans: Never miss an amazing moment with NBA League Pass! Order today for just \$29! Go to Optimum TV Ch. 902 to order. Restrictions apply. Digital cable box required. Offer ends on 4/11/18.
 Nickelodeon, channel 121 (channel 733 for CableCard customers) is now available in the Optimum Core package.
 MTV, channel 53 (channel 753 for CableCard customers) is now available in the Optimum Core package.
 Comedy Central, channel 50 (channel 750 for CableCard customers) is now available in the Optimum Core package.
 BET, channel 54 (channel 754 for CableCard customers) is now available in the Optimum Core package.
 Paramount Network, channel 41 (channel 741 for CableCard customers) is now available in the Optimum Core package.
 In accordance with state regulation, you may request in writing that a third party be designated to receive any disconnection notice issued on your Optimum account. Contact Customer Support for more information.
 News 12 Varsity is home to the best of high school sports. Catch hundreds of live-streaming games, top analysis and highlights to keep up with all of the excitement. Watch News 12 Varsity on Channel 614, News12Varsity.com or on the News 12 Varsity app.
 Tackle your to-do list with the ultimate get-it-done channel. Discover an easy, entertaining way to learn all about your Optimum services. From tips and shortcuts to movies and show guides, Channel 14 has it all.
 When it comes to Optimum and your services, Explore Optimum helps you find what you're looking for faster. Catch the latest helpful tips, tools and instructional videos to make the most out of your Optimum services. Check it out for yourself, just tune to Channel 900 today.

Optimum Information

Your FCC Community ID# is NJ 0346.
For Optimum Customer Service inquiries, please see the Customer Service box on pg. 3 for important contact information.

Optimum Stores/Payment Locations

You may pay your bill at optimum.net or at any of our Optimum Stores. For store hours by location go to optimum.net/stores.
Optimum Store Near You:
 798 Brewers Bridge Rd, Jackson, NJ 08527
Mail your payment to: PO Box 742698, Cincinnati, OH 45274-2698
 To make changes to your account or pick up new equipment, you need to be an authorized user. This means that your name must be listed on the account, and to ensure account security, you will need to present a photo ID.
To find other locations where you can make a payment, contact any of the following:
 Checkfree Pay 1-855-578-6415 or checkfreepay.com Western Union 1-800-354-0005, option 5 or westernunion.com

Please return this section with your payment. Be sure the address below is in the return envelope window.



Mailing Your Payment

Account Number: **07865-100604-03-4**
 Payment Due Date: **March 29, 2018**
 Total Amount Due: **\$110.48**

000-03-18-C-C

Amount Enclosed \$

Make checks payable to Optimum.

OPTIMUM
 PO BOX 742698
 CINCINNATI OH 45274-2698

07865 100604 03 4 7 011048

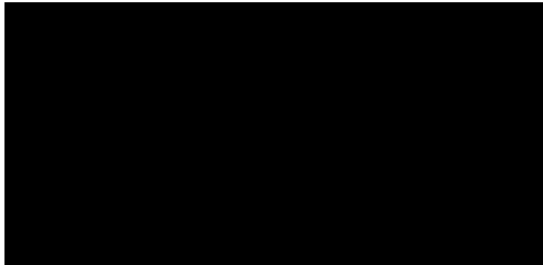
K.C. Bates 000015



MR CHRISTOP DOYLE
 Account Number: 07865-100604-03-4
 Total Amount Due: \$110.48

Your Account Details

BALANCE LAST STATEMENT	\$ 110.48
PAYMENTS	
02/27 Payment-Thank You	-110.48 cr
Total Payment(s) - Thank You	-\$110.48 cr



INTERNET

03/15 - 04/14	Optimum Online (Incl FREE Unlimited access to Optimum WiFi) <i>Incl. \$5.00 Promotional Savings</i>	59.95
	Optimum 100	10.00
	Optimum 200	0.00
	Modem Fee	4.95
	Smart Router	0.00
	Total Internet	\$ 74.90

TAXES & FEES



Internet

03/15 - 04/14	Modem Sales Tax	0.33
	Total Taxes & Fees	\$ 1.60

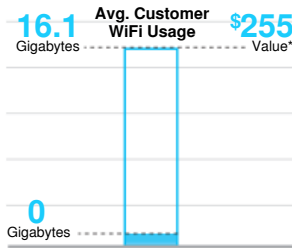
Total Amount Due	\$ 110.48
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Your Monthly Savings = \$5.00

Look in the billing sections on this page to see your monthly savings highlighted in blue.

Plus you have access to lots of extra benefits at no additional cost. Learn more at optimum.net.

The more you use Optimum WiFi the less you'll spend on cellular data.



Your Optimum WiFi Network Usage Last 30 Days

*Value is calculated by multiplying the amount of WiFi usage (in gigabytes) by a \$15 per gigabyte fee for data overages from a Verizon Wireless cellular data plan.

You could be getting more value from your Optimum Online service by using Optimum WiFi.

Find out how to save more on your cellular data plan with WiFi at optimum.net/wifiusage

Customer Service

Be sure to check out optimum.net first, for answers to all your questions.

Need more help?

Online Products & Support
 Online bill pay, optimum.net/paybill
 Channel line up, optimum.net/lineups
 Live chat, optimum.net/livechat
 Help, twitter.com/optimumhelp
 Add services, twitter.com/optimumoffers

Optimum Stores
 For a store nearest you visit, optimum.net/stores

Important Phone Numbers
 732-367-2582

Written Correspondence
 Optimum
 6 Corporate Center Drive
 Melville, NY 11747

Moving?
 Let us make it easy.
 Visit optimum.net/moving
 or call us for special offers for movers.

**MR CHRISTOP DOYLE**Account Number: **07865-100604-03-4**Total Amount Due: **\$110.48****Billing Information**

Billing errors must be reported to us within 30 days, in writing, detailing the error and sent to the Customer Support address on your bill. We'll investigate and reply within 10 days. To avoid service interruption, you should pay the undisputed portion of the bill. If you're not satisfied with our reply, you may write to your Franchising Authority which is the New Jersey Board of Public Utilities (BPU), Office of Cable Television, 44 South Clinton Avenue, 2nd Floor, P.O. Box 350, Trenton, NJ 08625, or contact the Complaint Officer directly at 1-800-624-0331 or via the internet at www.nj.gov/bpu/assistance/complaints/inquiry.html. You may also contact the Office of Cable Television for non-billing related issues. If you live in these areas, contact these complaint officers: Millstone Twp Clerk - (908) 281-6893; Newark City Clerk - (973) 733-4430.

You're billed each month in advance for the next month's services. Service cancellations are effective on the last day of the then-current billing period. For more details, please visit optimum.net/terms.

If any changes are made to your account during the month, partial month charges may apply. Charges for On Demand/Pay Per View (PPV) will appear on the next billing statement following your order.

On Demand/PPV purchases aren't subject to refund or credit. Use parental control features to avoid unwanted purchases.

If your monthly account balance for On Demand/PPV selections exceeds \$55 (\$175 for customers in good standing after 90 days), we reserve the right to limit additional On Demand/PPV orders.

There is an additional monthly charge for equipment, including cable boxes and remote controls. There is also a monthly fee to access premium or digital programming on additional TV sets in your home.

Your monthly bill includes all government fees. These fees are a percentage of your total monthly cable bill paid to your state and local governments under the terms and agreements with them to provide cable service. In addition, the Federal Communications Commission (FCC) collects a small fee from every cable customer to cover the administrative costs related to cable regulation. TV Taxes and Fees includes payments required under Altice's franchise agreement to support public, educational or government channels.

The Senior Discount Program is available in certain NJ areas and requires proof of age and income or proof of PAAD (Pharmaceutical Assistance to the Aged & Disabled). Qualified seniors may be eligible for a discount on Broadcast Basic or Optimum Value service. For more information and availability, please speak with a Customer Support representative.

Payment Information**Authorization to convert your Check to an electronic funds transfer:**

By sending your check to us as payment, you authorize us either to use info from your check to make a one-time electronic funds transfer from your account or to process the payment as a check transaction.

Payment is due by the date indicated on the front of your bill. Payments not received within 15 days of the due date may be sent to collections and will be assessed a late fee if not paid within 30 days of that date. We will continue to charge a fee of \$10 on each subsequent past due bill if payment is not received by the due date indicated. You'll receive written notice of service interruption for non-payment.

Payments can be made at no charge through our automated phone system by calling Customer Support. Follow the phone prompts to set up an automated payment by check or credit card. Entering your Optimum account number and zip code authorizes an ACH debit entry to your bank account that can only be revoked by speaking with a Customer Support representative.

If your service is interrupted for non-payment, payment of the past due amount and applicable restoration charges are required before service is restored. Service interruption will affect TV, internet, and phone services. If your service is disconnected for non-payment, full outstanding balance, a re-installation fee up to \$79.95, and one month's service in advance will be required before a re-connection is scheduled.

You're responsible for lost, damaged or unreturned equipment and will be charged the full replacement fee (Digital Video Recorder - \$265, Cable Box - \$105, Tuning Adapter - \$140, Remote Control - \$2.50, Smart Card - \$75, CableCARD - \$40, Digital Antenna - \$25, Cable Modem - \$100, Wireless Router - \$80, Static IP Router - \$299, Voice Enabled Modem - 4 port \$100; 12 port \$750, SIP Trunk Interface Device - \$750).

If your bank returns your check unpaid, you'll incur a \$20 fee.

Service Information**If you're experiencing an issue with service:**

1. Be sure all of your equipment is plugged in and powered on.
2. For TV issues:
 - A) Check that your TV is on the correct input for your digital cable box by pressing the SOURCE, INPUT or TV/VIDEO button on the remote that came with your TV or the actual TV itself.
 - B) Reboot your cable box. Unplug the power cord from the back of the cable box, wait 5 seconds then plug it back in. When you see "turn" and "on" alternating on the front panel, turn it back on. When a channel or time is displayed on the front panel you are ready to watch TV.
3. For phone/internet issues:
 - A) Reboot your modem and router (if you have one). To do this, unplug the power from your modem and battery backup if you have one. Then unplug the power from your router. Wait 5 seconds, then plug the modem back in. It may take a minute to fully restart. If you're using a battery backup, reconnect it to the modem now. Plug the router back in, wait 30 seconds, then check your connection by opening a web browser.
4. If you are still having a problem, visit optimum.net/support for information.

If you have a cable-related outage that lasts for more than six consecutive hours, you'll receive full credit on your bill for the time lost provided you contact us within 30 days of the outage.

Parental Control: Your cable box allows you to block one or more channels and On Demand/Pay Per View purchases. For information, visit optimum.net/parentalcontrol or optimum.net.

Closed Captioning: For immediate closed captioning issues, contact us: 888-420-0777 (phone), 516-803-1682 (fax) or CCQuestions@alticeusa.com. Written closed captioning complaints should be sent to the address on the front of your bill, attn Marian O'Hagan, Director, Shared Services, 631-846-5360 (phone), 631-846-5347 (fax) or CCQuestions@alticeusa.com.

B35

K.C. Bates 000017



YAANA TECHNOLOGIES

542 Gibraltar Drive

Milpitas, CA 95035 USA

...Bridging the Future

Date: Dec 26 2018 11:18 AM**Altice USA****Control #13978-ALUS**

Yaana Technologies, LLC is an authorized agent of CSC Holdings, LLC ("Altice USA") designated to respond to lawful subpoenas, search warrants, and court orders for the production of customer records.

In response to the attached legal process dated Aug 06 2018. Altice USA conducted a search for documents and information readily available on its systems that would be responsive to your request. Our response is made in accordance with state and federal law, including the Cable Communications Policy Act of 1984 and the Electronic Communications Privacy Act. Attached, please find copies of the following requested records:

- Subscriber Information
- Billing Statement
- Email Address
- IP Logs

Identifier Type	Subscriber	Date From (GMT)	Date To (GMT)	Comments
IPV4 Address	67.86.232.162	Mar 21 2018 3:09 PM	Mar 21 2018 3:17 PM	

Please contact John Hernandez at 408-404-3567 if you have any questions regarding this matter. When calling, please reference Control #13978-ALUS so that we may better respond to your inquiry.

Sincerely,

Alyson Moore
Authorized Agent for CSC Holdings, LLC



YAANA TECHNOLOGIES

542 Gibraltar Drive
Milpitas, CA 95035 USA

...Bridging the Future

DECLARATION OF CUSTODIAN OF RECORDS

Pursuant to 28 U.S.C. § 1746, I, the undersigned, do hereby declare:

1. I am acting on behalf of the Custodian of Records for CSC Holdings, LLC ("Altice USA") and I am authorized to submit this declaration on behalf of Altice USA. I make this declaration pursuant to the Federal Rules of Evidence Rules 803 (6) and 902 (11) and in response to the legal process dated Aug 06 2018.
2. The documents attached hereto are true and correct copies of Altice USA records that were made at or near the time of occurrence by or from information transmitted by a person with knowledge of these matters.
3. The documents attached hereto were kept in the ordinary course of Altice USA's business and made by regularly conducted activity as a regular practice of Altice USA's business.
4. Pursuant to the [Electronic Communications Privacy Act, 18 U.S.C. 2701, et seq. or Cable Communications Policy Act, 47 U.S.C. 551, et seq.], we have redacted information, including removing certain data fields, that exceed the scope of this request, is protected from disclosure, or is otherwise not subject to production.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed: Dec 26 2018 11:18 AM

A handwritten signature in black ink, appearing to read 'John Hernandez'.

John Hernandez
Authorized Agent for CSC Holdings, LLC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

J.R, V.S, W.S, T.S., and JANE DOES 1-10,

Petitioners,

- against -

GOOGLE INC., TWITTER INC., TUMBLR INC., JOHN
DOE, and XYZ CORP

Respondent(s),

JUDICIAL SUBPOENA
DUCES TECUM

Index No. 36469/2017E

THE PEOPLE OF THE STATE OF NEW YORK

TO: CSC Holdings LLC
1111 Stewart Ave
Bethpage, NY 11714

GREETING:

WE COMMAND YOU, *that all business and excuses being laid aside, to produce complete and accurate copies of those documents in your possession, custody or control listed in "Documents to be Produced" to Daniel Szalkiewicz, Daniel Szalkiewicz & Associates, P.C., 325 W. 38th Street, Suite 810 New York, New York 10018, attorneys for the Petitioner, on or before August 26, 2018.*

YOUR TESTIMONY AND DOCUMENTS ARE REQUIRED BECAUSE YOU HAVE SPECIAL KNOWLEDGE REGARDING PERTINENT FACTS WHICH ARE IN ISSUE IN THIS MATTER, INCLUDING, BUT NOT LIMITED TO, YOUR KNOWLEDGE OF FACTS AND CONTROL OF DOCUMENTS AND/OR ELECTRONICALLY STORED INFORMATION RELATING TO THE IDENTITY OF THE INDIVIDUALS WHO SHARED THE IMAGES OF PETITIONERS WHILE THEY WERE MINORS AND/OR WITHOUT THEIR CONSENT.

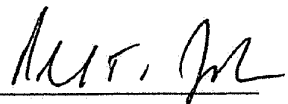
Failure to comply with this subpoena shall be punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

Unless this Subpoena Duces Tecum directs the production of original documents for inspection and copying at the place where such items are usually maintained, it shall be sufficient to deliver complete and accurate copies of the items to be produced. The requirements of this subpoena may also be met by delivery of the material by mail or overnight delivery service, or email to the following email address, provided that it is received on or before the return date set forth herein: daniel@lawdss.com.



DANIEL S. SZALKIEWICZ, ESQ.
DANIEL SZALKIEWICZ & ASSOCIATES, P.C.
Attorney for Petitioners
325 W. 38th Street, Suite 810
New York, New York 10018
(212) 706-1007
Fax: (914) 500-2315

SO ORDERED:


HON.

8/6/2018

Documents to be Produced

Any and all subscriber records regarding the identification of, and information sufficient to identify the user data for the individuals who owned the ~~XXXXXXXXXX~~ account at the exact date and time below.

<u>D/M/Y</u>	<u>Time (UTC)</u>	<u>IP</u>
3/21/18	15:09:13	67.86.232.162
03/21/18	15:12:25	67.86.232.162
03/21/18	15:17:04	67.86.232.162

NO
J.S.C.
11/28/18

Such identifying information shall include, but is not limited to, the name, address, telephone number, status of account, detailed billing logs, date account opened and closed, method of payment and detailed billing records, registration information, Internet Protocol (IP) addresses, Media Access Control (MAC), telephone numbers, internet connection logs, any email address or alternate email address of the person.

PLEASE PROVIDE LOCATION DATA WHERE AVAILABLE

Daniel S. Szalkiewicz, Esq.
 Daniel Szalkiewicz & Associates, P.C.
 325 W. 38th Street, Suite 810
 New York, NY 10018
 Tel: (212) 706-1007
 Fax: (914) 500-2315
Daniel@Lawdss.com
Attorneys for Plaintiff K.C.

<p>K.C.</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>CHRISTOPHER DOYLE</p> <p style="text-align: right;">Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION, CIVIL PART OCEAN COUNTY</p> <p>DOCKET NO. OCN-L-000865-19</p> <p>PLAINTIFF’S RESPONSE TO DEFENDANT’S FIRST REQUEST FOR ANSWERS TO SUPPLEMENTAL INTERROGATORIES</p>
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To: James J. Uliano, Esq.
 Chamlin, Rosen, Uliano & Witherington
 268 Norwood Avenue
 P.O. Box 38
 West Long Branch, NJ 07764
 (732) 229-3200
Attorneys for Defendant Christopher Doyle

Pursuant to Rules 4:17-4 and 4:17-5 of the New Jersey Rules of Court, Plaintiff K.C. hereby responds to Defendant’s First Request for Answers to Supplemental Interrogatories.

GENERAL OBJECTIONS

1. Plaintiff objects to all instructions, definitions, and interrogatories to the extent that they call for Plaintiff to do more than is required under the rules of this Court. Plaintiff further objects to the instructions and definitions accompanying Defendant’s interrogatories to the extent they are overly broad, not relevant, and not reasonably calculated to lead to discoverable evidence.

2. Plaintiff objects to each interrogatory to the extent that it calls for disclosure or publication of any information, communication, and/or document:

- a. Which is protected by any absolute or qualified privilege including, but not limited to, the attorney-client privilege, the work product doctrine, the common interest doctrine, and the identity and work product of non-testifying experts, all of which Plaintiff hereby asserts;
- b. Which is not relevant to the subject matter of this litigation or not reasonably calculated to lead to the discovery of admissible evidence; or
- c. Which is otherwise not subject to discovery pursuant to the New Jersey Rules of Court.

3. In the event that any information, communication, and/or document that is subject to a claim of privilege or protection is inadvertently produced, upon notice from Plaintiff of the inadvertent disclosure, any party receiving the information, communication, and/or document must promptly return or delete the specified information and any copies made thereof as instructed by Plaintiff and may not disclose or use the information. The party shall provide written confirmation of its compliance with Plaintiff's request.

4. Plaintiff objects to these instructions, definitions, and interrogatories to the extent that Defendant is requesting that Plaintiff produce information that is not in the possession, custody, or control of Plaintiff.

5. Plaintiff's investigation and development of all facts and circumstances relating to this matter is ongoing. Accordingly, Plaintiff reserves the right to supplement, clarify, and revise these responses to the extent additional information becomes available or is obtained through discovery.

6. By making the accompanying responses and objections to Defendant's requests, Plaintiff does not waive, and hereby expressly reserves, her right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege. Further, Plaintiff makes responses and objections herein without in any way implying that she considers the requests and responses to be relevant or material to the subject matter of this action.

7. To the extent Defendant's interrogatories seek information that is beyond the permissible scope of discovery, Plaintiff reserves the right to assert any applicable objections.

8. Plaintiff expressly asserts the foregoing objections to each and every interrogatory below and specifically incorporates the general objections enumerated above to each and every response made below as though they were stated in full.

As to objections:

DANIEL S. SZALKIEWICZ & ASSOCIATES, P.C.
Attorneys for Plaintiff



Daniel S. Szalkiewicz, Esq.

Dated: February 10, 2020

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Plaintiff's Objections and Responses to Defendant's First Request for Answers to Supplemental Interrogatories was served on February 13, 2020 via first class mail to the following counsel of record for Defendant Christopher Doyle:

James J. Uliano, Esq.
Chamlin, Rosen, Uliano & Witherington
268 Norwood Avenue
P.O. Box 38
West Long Branch, NJ 07764



Daniel S. Szalkiewicz, Esq.

**PLAINTIFF’S OBJECTIONS AND RESPONSES TO DEFENDANT’S FIRST REQUEST
FOR ANSWERS TO SUPPLEMENTAL INTERROGATORIES**

INTERROGATORY NO. 1:

If Plaintiff has ever been involved in a civil action other than the one that is the subject of this complaint, provide the following for each such lawsuit;

- a. Name and address of the parties to the lawsuit;
- b. The court where the suit was filed and/or judgment entered;
- c. The docket number and caption of the lawsuit;
- d. A description of the nature of the lawsuit;
- e. Its outcome;
- f. The name and address of Plaintiff’s attorney in that lawsuit; and
- g. A copy of any pleadings.

RESPONSE:

Subject to and without waiving the General Objections above as well as with additional objection to the term “involved in” as vague, ambiguous, and undefined, Plaintiff answers as follows: Plaintiff is not aware of any lawsuit in which she is a named party or otherwise involved.

INTERROGATORY NO. 2:

Set forth in detail all facts upon which Plaintiff bases her claims that Defendant has intruded on her seclusion.

RESPONSE:

Plaintiff objects to this interrogatory as premature in that Plaintiff has not yet taken discovery of third-parties and seeks information protected by the attorney client and work product doctrine. Subject to and without waiving the General Objections above Defendant intruded upon the solitude or seclusion of Plaintiff when he uploaded Plaintiff’s intimate images and identified her by name on a board dedicated to intimate images of those associated with a specific geographic region, allowing an unknown number of people to view the images and positively identify Plaintiff as the depicted individual.

INTERROGATORY NO. 3:

With regard to Image 1 referenced in Plaintiff’s Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not

designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2014 and 2015; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 4:

With regard to Image 2 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: Plaintiff does not recall when the photograph was taken; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 5:

With regard to Image 3 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2014 and 2015; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 6:

With regard to Image 4 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2014 and 2015; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 7:

With regard to Image 5 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: Plaintiff does not recall when the photograph was taken; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 8:

With regard to Image 6 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2015 and 2016; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 9:

With regard to Image 7 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and

- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2015 and 2016; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 10:

With regard to Image 8 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2015 and 2016; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 11:

With regard to Image 9 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: Plaintiff does not recall when the photograph was taken; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 12:

With regard to Image 10 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;

- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: Plaintiff does not recall when the photograph was taken; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 13:

With regard to Image 11 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2015 and 2016; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 14:

With regard to Image 12 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2014 and 2015; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 15:

With regard to Image 13 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: The photograph was taken between 2014 and 2015; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 16:

With regard to Image 14 referenced in Plaintiff's Complaint, identify:

- a. The date the photograph was taken;
- b. By whom the photograph was taken;
- c. On whose device the photograph was taken; and
- d. To whom the photograph was distributed.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: Plaintiff does not recall when the photograph was taken; the photograph was taken by Plaintiff; the photograph was taken on Plaintiff's phone; and the photograph was distributed to Jon Lonski.

INTERROGATORY NO. 17:

With regard to each individual referenced in Plaintiff's answer to questions 3-16, above, identify their full name, home address and relationship to Plaintiff.

RESPONSE: Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: With the exception of Plaintiff, the only individual listed above is Plaintiff's then-boyfriend, Jon Lonski; his last known address is 204 Calhoun Street, 17 Clemson, S.C. 29631.

Daniel S. Szalkiewicz, Esq.
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Daniel@Lawdss.com
Attorneys for Plaintiff K.C.

<p>K.C.</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>CHRISTOPHER DOYLE</p> <p style="text-align: right;">Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION, CIVIL PART OCEAN COUNTY</p> <p>DOCKET NO. OCN-L-000865-19</p> <p>PLAINTIFF’S RESPONSE TO DEFENDANT’S FIRST REQUEST FOR ANSWERS TO SUPPLEMENTAL INTERROGATORIES</p>
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To: James J. Uliano, Esq.
Chamlin, Rosen, Uliano & Witherington
268 Norwood Avenue
P.O. Box 38
West Long Branch, NJ 07764
(732) 229-3200
Attorneys for Defendant Christopher Doyle

Pursuant to Rules 4:17-4 and 4:17-5 of the New Jersey Rules of Court, Plaintiff K.C. hereby responds to Defendant’s Form A Interrogatories.

GENERAL OBJECTIONS

1. Plaintiff objects to all instructions, definitions, and interrogatories to the extent that they call for Plaintiff to do more than is required under the rules of this Court. Plaintiff further objects to the instructions and definitions accompanying Defendant’s interrogatories to the extent they are overly broad, not relevant, and not reasonably calculated to lead to discoverable evidence.

2. Plaintiff objects to each interrogatory to the extent that it calls for disclosure or publication of any information, communication, and/or document:

- a. Which is protected by any absolute or qualified privilege including, but not limited to, the attorney-client privilege, the work product doctrine, the common interest doctrine, and the identity and work product of non-testifying experts, all of which Plaintiff hereby asserts;
- b. Which is not relevant to the subject matter of this litigation or not reasonably calculated to lead to the discovery of admissible evidence; or
- c. Which is otherwise not subject to discovery pursuant to the New Jersey Rules of Court.

3. In the event that any information, communication, and/or document that is subject to a claim of privilege or protection is inadvertently produced, upon notice from Plaintiff of the inadvertent disclosure, any party receiving the information, communication, and/or document must promptly return or delete the specified information and any copies made thereof as instructed by Plaintiff and may not disclose or use the information. The party shall provide written confirmation of its compliance with Plaintiff's request.

4. Plaintiff objects to these instructions, definitions, and interrogatories to the extent that Defendant is requesting that Plaintiff produce information that is not in the possession, custody, or control of Plaintiff.

5. Plaintiff's investigation and development of all facts and circumstances relating to this matter is ongoing. Accordingly, Plaintiff reserves the right to supplement, clarify, and revise these responses to the extent additional information becomes available or is obtained through discovery.

6. By making the accompanying responses and objections to Defendant's requests, Plaintiff does not waive, and hereby expressly reserves, her right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege. Further, Plaintiff makes responses and objections herein without in any way implying that she considers the requests and responses to be relevant or material to the subject matter of this action.

7. To the extent Defendant's interrogatories seek information that is beyond the permissible scope of discovery, Plaintiff reserves the right to assert any applicable objections.

8. Plaintiff expressly asserts the foregoing objections to each and every interrogatory below and specifically incorporates the general objections enumerated above to each and every response made below as though they were stated in full.

As to objections:

DANIEL S. SZALKIEWICZ & ASSOCIATES, P.C.
Attorneys for Plaintiff



Daniel S. Szalkiewicz, Esq.

Dated: September 16, 2020

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Plaintiff's Objections and Responses to Defendant's Form A Interrogatories was served on September __, 2020 via first class mail to the following counsel of record for Defendant Christopher Doyle:

James J. Uliano, Esq.
Chamlin, Rosen, Uliano & Witherington
268 Norwood Avenue
P.O. Box 38
West Long Branch, NJ 07764



Daniel S. Szalkiewicz, Esq.

PLAINTIFF'S OBJECTIONS AND RESPONSES TO DEFENDANT'S FIRST REQUEST FOR ANSWERS TO SUPPLEMENTAL INTERROGATORIES

INTERROGATORY NO. 1:

Full name, present address, date of birth, Social Security number, and Medicare number, if applicable. If Medicare number is applicable, attach a copy of the Medicare card.

RESPONSE:

Subject to and without waiving the General Objections above, Plaintiff's name is [REDACTED] Plaintiff's present address [REDACTED] Plaintiff's date of birth is [REDACTED] Plaintiff's [REDACTED] Plaintiff is not [REDACTED]

INTERROGATORY NO. 2:

Describe in detail your version of the accident or occurrence setting forth the date, location, time and weather.

RESPONSE:

Plaintiff objects to this interrogatory as premature in that Plaintiff has not yet taken discovery of third-parties and seeks information protected by the attorney client and work product doctrine. Plaintiff further objects to this interrogatory as information such as the time and weather is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the General Objections above Plaintiff's version of the occurrence is as follows: On March 21, 2018, Defendant Christopher Doyle posted fourteen photographs depicting Plaintiff on Anon.IB, a website devoted to the dissemination of pornographic images of young women organized/sorted by locality or school. Several of the images Christopher Doyle posted of Plaintiff depicted her exposed breasts, genitals, naked buttocks, and/or depicted her in her undergarments; Christopher Doyle also revealed Plaintiff's first name and the first letter of her last name, confirming he was aware of Plaintiff's identity at the time he posted the images.

Plaintiff learned that her intimate images had been posted online on or about March 26, 2018 when she was contacted by a third party who had seen the images and alerted her of their presence on the internet. Though, at the time she learned about the postings Plaintiff was unaware of who had posted the intimate images, a subpoena response received from Optimum established that Christopher Doyle had posted them. Plaintiff's only knowledge of Christopher Doyle was as a teacher and coach at her former high school; Plaintiff never sent any of the images to Christopher Doyle and he did not have her permission or consent to disseminate the images to third parties on the internet. Plaintiff was unaware of the weather at the time her intimate images were shared online by Christopher Doyle.

INTERROGATORY NO. 3:

Detailed description of nature, extent and duration of any and all injuries.

RESPONSE:

Following Mr. Doyle’s actions, Plaintiff has experienced what her therapist describes as “adjustment disorder with anxiety” which presents in “persistent and unreasonable fear of a specific object or situation that promotes avoidance behaviors because an encounter with the phobic stimulus provokes an immediate anxiety response. Unexpected sudden debilitating panic symptoms (e.g., shallow breathing, sweating, heart racing or pounding, dizziness, depersonalization or derealization, trembling, chest tightness, fear of dying or losing control, nausea) that have occurred repeatedly, resulting in persisting concern about having additional attacks or behavioral changes to avoid attacks.”

Plaintiff’s therapist reported that Plaintiff has felt “zero control over anxiety” that she “feels anxious about being stalked, of others knowing about or seeing photos, and has anxiety attacks [] during which she feels intrusive thoughts related to people looking at them, [and experiences] heavy breathing, and crying.” Plaintiff lost 10 pounds following the incident.

Plaintiff first sought psychological treatment in September of 2018 and began receiving treatment from her current provider in January of 2019. Plaintiff’s treatment is ongoing.

INTERROGATORY NO. 4:

Detailed description of injury or condition claimed to be permanent together with all present complaints.

RESPONSE:

See Plaintiff’s response to Interrogatory No. 3.

INTERROGATORY NO. 5:

If confined to a hospital, state its name and address, and dates of admission and discharge.

RESPONSE:

N/A.

INTERROGATORY NO. 6:

If any diagnostic tests were performed, state the type of test performed, name and address of place where performed, date each test was performed and what each test disclosed. Attach a copy of the test results.

RESPONSE:

N/A.

INTERROGATORY NO. 7:

If treated by any health care provider, state the name and present address of each health care provider, the dates and places where treatments were received and the date of last treatment. Attach true copies of all written reports provided to you by any such health care provider whom you propose to have testify in your behalf.

RESPONSE:

Plaintiff is currently seeing Jessie Ogienko, LCSW of Caladrius 5960 Fairview Road Suite 404 Charlotte, NC 28210. As of February 10, 2020, Plaintiff's treatment dates are as follows: 1/3/19, 1/10/19, 1/16/19, 1/24/19, 1/30/19, 3/6/19, 4/25/19, 5/15/19, 5/23/19, 5/28/19, 6/6/19, 6/11/19, 8/8/19, 8/27/19, 9/3/19, 9/5/19, 9/26/19, 10/17/19, 12/13/19, 1/9/20, 2/4/20 and continuing.

INTERROGATORY NO. 8:

If still being treated, the name and address of each doctor or health care provider rendering treatment, where and how often treatment is received and the nature of the treatment.

RESPONSE:

See Plaintiff's response to Interrogatory No. 7. Plaintiff is receiving psychotherapy.

INTERROGATORY NO. 9:

If a previous injury, disease, illness or condition is claimed to have been aggravated, accelerated or exacerbated, specify in detail the nature of each and the name and present address of each health care provider, if any, whoever provided treatment for the condition.

RESPONSE:

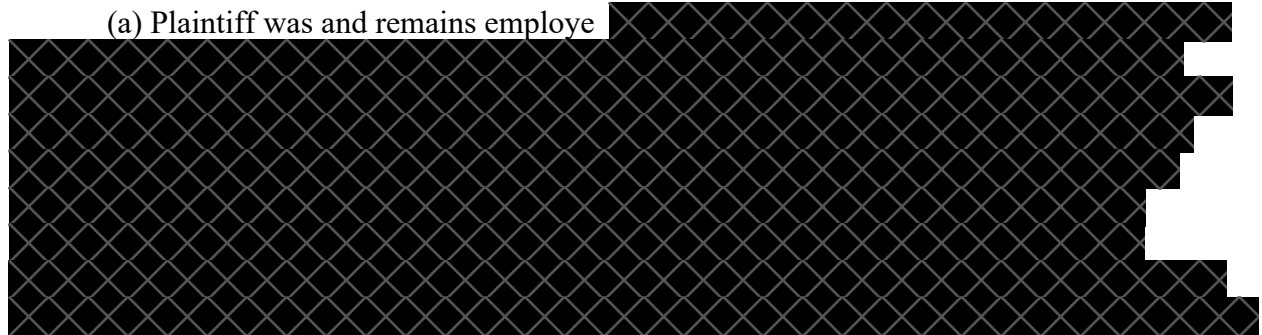
N/A.

INTERROGATORY NO. 10:

If employed at the time of the accident, state: (a) name and address of employer; (b) position held and nature of work performed; (c) average weekly wages for past year; (d) period of time lost from employment, giving dates; and (e) amount of wages lost, if any.

RESPONSE:

(a) Plaintiff was and remains employe



INTERROGATORY NO. 11:

If there has been a return to employment or occupation, state: (a) name and address of present employer; (b) position held and nature of work performed; and (c) present weekly wages, earning, income or profit.

RESPONSE:

There has been no return to employment as Plaintiff never left her employment.

INTERROGATORY NO. 12:

If other loss of income, profit or earnings is claimed: (a) state total amount of the loss; (b) give a complete detailed computation of the loss; and (c) state the nature and source of the loss of income, profit and earnings, and the dates of the deprivation.

RESPONSE:

N/A

INTERROGATORY NO. 13:

Itemize in complete detail any and all moneys expended or expenses incurred for hospitals, doctors, nurses, diagnostic tests or health care providers, x-rays, medicines, care and appliances and state the name and address of each payee and the amount paid and owed each payee.

RESPONSE:

See Plaintiff's Discovery Documents.

INTERROGATORY NO. 14:

Itemize any and all other losses or expenses incurred not otherwise set forth.

RESPONSE:

Plaintiff reserves the right to obtain attorney fees, as permitted by statute.

INTERROGATORY NO. 15:

Identify all documents that may relate to this action, and attach copies of each such document.

RESPONSE:

The documents contained in Plaintiff's Discovery Documents include:

- A Facebook post from Christopher Doyle atoning for his mistakes made in 2018;
- E-mails exchanged between Plaintiff's counsel and Anon-IB concerning a subpoena for the IP address belonging to the individual who posted Plaintiff's intimate images;
- Response from Optimum by Altice provided to Plaintiff's counsel identifying Mr. Christopher Doyle of 46 Dogwood Drive Jackson, NJ 08527 as the individual who was assigned IP address used to post Plaintiff's images;
- Plaintiff's "Diagnosis & Treatment Plan" as well as Chart Notes, Progress Notes, and Intake Questionnaire;
- Cover letter from from Yaana, an authorized agent of CSC Holdings, LLC ("Altice USA") which accompanied the response identifying Christopher Doyle as the account holder;
- Copy of subpoena sent to CSC Holding LLC requesting information for the IP address that posted the intimate images;
- E-mail sent from Plaintiff's counsel to Anon-IB requesting the removal of Plaintiff's intimate images pending the website's receipt of a judicially signed subpoena;
- E-mail received from Anon-IB to Plaintiff's counsel confirming preservation and containing copy of subpoena;
- Copies of text messages exchanged between Plaintiff and her ex-boyfriend, Jon Lonski;
- Copies of Facebook messages exchanged between Plaintiff and her ex-boyfriend, Jon Lonski;
- Facebook message from "Mel Edgar" to Plaintiff alerting her of intimate images online;
- Copies of e-mails confirming Plaintiff's attempt to seek therapy;
- Copies of text messages exchanged between Plaintiff and her ex-boyfriend, Jon Lonski;
- Copies of messages exchanged between Plaintiff and "Mel Edgar" about intimate images;
- Copies of intimate images as seen on Anon-IB;
- Copies of text messages exchanged between Plaintiff and her ex-boyfriend, Jon Lonski;
- Plaintiff's psychotherapy bills through February 10, 2020;
- Copies of the intimate images depicting Plaintiff which appeared on Anon-IB;
- Additional psychotherapy bills.

INTERROGATORY NO. 16:

State the names and addresses of all eyewitnesses to the accident or occurrence, their relationship to you and their interest in this lawsuit.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: As this is not a car accident or slip and fall, there are no eyewitnesses in the traditional sense.

INTERROGATORY NO. 17:

State the names and addresses of all persons who have knowledge of any facts relating to the case.

RESPONSE:

Plaintiff objects to this demand as overly broad and unduly burdensome. Plaintiff further objects to this interrogatory as it is irrelevant and immaterial to the instant action, and not designed to lead to admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: Plaintiff's therapists, addresses for whom have already been provided, and authorized agents of CSC Holdings LLC/Altice.

INTERROGATORY NO. 18:

If any photographs, videotapes, audio tapes or other forms of electronic recording, sketches, reproductions, charts or maps were made with respect to anything that is relevant to the subject matter of the complaint, describe: (a) the number of each; (b) what each shows or contains; (c) the date taken or made; (d) the names and addresses of the persons who made them; (e) in whose possession they are at present; and (f) if in your possession, attach a copy, or if not subject to convenient copying, state the location where inspection and copying may take place.

RESPONSE:

Information responsive to this request can be found in Plaintiff's Response to Defendant's First Request for Answers to Supplemental Interrogatories dated February 10, 2020 which identifies each photo, the date the photo was taken, by whom the photo was taken, on whose device the photo was taken, and to whom the photo was distributed.

INTERROGATORY NO. 19:

If you claim that the defendant made any admissions as to the subject matter of this lawsuit, state: (a) the date made; (b) the name of the person by whom made; (c) the name and address of the person to whom made; (d) where made; (e) the name and address of each person present at the time the admission was made; (f) the contents of the admission; and (g) if in writing, attach a copy.

RESPONSE:

On December 31, 2018, Christopher Doyle created a Facebook post which stated that he was "usually a pretty private person so not a lot of you know the issues I've dealt with, the

troubles I've had or the mistakes that I've made." The post continued, stating that "everyone makes mistakes in their life. Everyone makes a bad decision here and there" and "You never know what someone else is going through that leads them to act the way they do. This doesn't necessarily make them a bad person, just someone who made a mistake or a bad decision." Christopher Doyle further stated that "For any of you I have hurt, or you perceived that I hurt, I am truly sorry and I can only hope you can forgive me as well."

INTERROGATORY NO. 20:

If you or your representative and the defendant have had any oral communication concerning the subject matter of this lawsuit, state: (a) the date of the communication; (b) the name and address of each participant; (c) the name and address of each person present at the time of such communication; (d) where such communication took place; and (e) a summary of what was said by each party participating in the communication.

RESPONSE:

Neither Plaintiff nor Plaintiff's counsel has had any direct communication with Christopher Doyle concerning the subject matter of the lawsuit.

INTERROGATORY NO. 21:

If you have obtained a statement from any person not a party to this action, state: (a) the name and present address of the person who gave the statement; (b) whether the statement was oral or in writing and if in writing, attach a copy; (c) the date the statement was obtained; (d) if such statement was oral, whether a recording was made, and if so, the nature of the recording and the name and present address of the person who has custody of it; (e) if the statement was written, whether it was signed by the person making it; (f) the name and address of the person who obtained the statement; and (g) if the statement was oral, a detailed summary of its contents.

RESPONSE:

N/A

INTERROGATORY NO. 22:

If you claim that the violation of any statute, rule, regulation or ordinance is a factor in this litigation, state the exact title and section.

RESPONSE:

See Complaint.

INTERROGATORY NO. 23:

State the names and addresses of any and all proposed expert witnesses. Set forth in detail the qualifications of each expert named and attach a copy of each expert's current resume. Also attach true copies of all written reports provided to you by any such proposed expert witnesses.

With respect to all expert witnesses, including treating physicians, who are expected to testify at trial and with respect to any person who has conducted an examination pursuant to Rule 4:19, who may testify, state each such witness's name, address and area of expertise and attach a true copy of all written reports provided to you.

State the subject matter on which your experts are expected to testify.

State the substance of the facts and opinions to which your experts are expected to testify and a summary of the grounds for each opinion.

RESPONSE:

Plaintiff objects to this demand as premature, overly broad, and unlikely to lead to the discovery of any admissible evidence. Subject to and without waiving the aforementioned objections, Plaintiff responds as follows: Plaintiff has not yet retained the services of any expert witnesses

INTERROGATORY NO. 24:

State whether you have ever been convicted of a crime. YES () or NO (). If the answer is “yes”, state: (a) date; (b) place; and (c) nature.

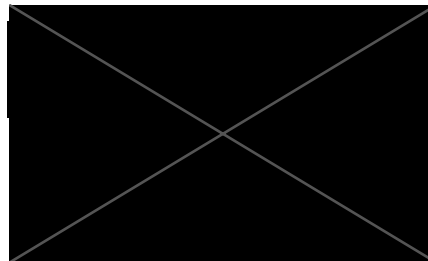
RESPONSE:

No.

CERTIFICATION

I hereby certify that foregoing statements made by me in the Interrogatories annexed hereto are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment for contempt of court I further certify that the copies of the reports annexed hereto rendered by either treating physicians or proposed expert witnesses are exact copies of the entire report or reports rendered by them; that the existence of other reports of said doctors or experts., either written or oral, are unknown to me, and if such become later known or available, I shall serve them promptly on the propounding party.

Dated: 9/18/2020



Daniel Szalkiewicz, Esq.
NJ Attorney ID Number 021472009
Daniel Szalkiewicz & Associates, PC
23 W. 73rd Street, Suite 102
New York, NY 10023
(212) 706-1007
daniel@lawdss.com

Attorneys for Plaintiff

K.C.

Plaintiff,

-against-

CHRISTOPHER DOYLE

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

Exhibit 9 Submitted in Hard Copy

Daniel Szalkiewicz, Esq.
NJ Attorney ID Number 021472009
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(212) 706-1007
daniel@lawdss.com

Attorneys for Plaintiff

K.C.

Plaintiff,

-against-

CHRISTOPHER DOYLE

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

Exhibit 10 Submitted in Hard Copy

Daniel Szalkiewicz, Esq.
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daniel@lawdss.com

Attorneys for Plaintiff

K.C.

Plaintiff,

-against-

CHRISTOPHER DOYLE

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

Exhibit 11 Submitted in Hard Copy

Daniel Szalkiewicz, Esq.
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New York, NY 10018
(212) 706-1007
daniel@lawdss.com

Attorneys for Plaintiff

<p>K.C.</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>CHRISTOPHER DOYLE</p> <p style="text-align: right;">Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION, CIVIL PART OCEAN COUNTY</p> <p>DOCKET NO.</p> <p>CIVIL ACTION VERIFIED COMPLAINT AND JURY DEMAND</p>
---	---

Plaintiff K.C.¹ (hereinafter “Plaintiff”), by her attorneys, Daniel Szalkiewicz & Associates, P.C., as and for her Verified Complaint hereby alleges, upon information and belief, as follows:

PRELIMINARY STATEMENT

1. K.C. is a recent graduate of Wall High School, a public school in Monmouth County, New Jersey. In March of last year, K.C.’s intimate images were shared on Anon-IB, a website devoted to the accumulation of naked images of young women; in addition to her face

¹ Given the extremely graphic nature of the images shared by the Defendant, Plaintiff requests the ability to proceed by her initials.

being clearly visible in some of the images, the post further identified her by her complete first name and last initial.

2. Immediately upon learning that her images were online for the world to see, K.C. retained the services of an attorney to have the images removed and learn who had posted them on the website.

3. Anon-IB provided K.C.'s attorneys with the IP address of the individual. A subpoena response from Optimum for the account information for whom the IP address was assigned unveiled that the individual responsible for posting her images was Christopher Doyle, a math teacher and tennis coach at her former high school.

4. The instant lawsuit ensues.

THE PARTIES

5. Plaintiff is not a public official or public figure.

6. Defendant Christopher Doyle ("Mr. Doyle") is a resident of the State of New Jersey, County of Ocean. Mr. Doyle has been a math teacher at Wall High School since 2004 and has also coached both the boys and girls tennis teams. Upon information and belief, he continues to serve in both capacities.

STATEMENT OF FACTS PERTAINING TO ALL CAUSES OF ACTION

7. In March 2018, K.C. came to learn that on March 21, 2018, fourteen photos of her had been posted online at the URL <http://usa.anon-ib.su/nj/res/124640.html#q125776>.

8. While a couple photos depicted only K.C.'s face, several others showed her exposed breasts, genitals, naked buttocks, or in only her undergarments².

9. The images were uploaded in three posts onto the Anon-IB website by an anonymous user who identified her by her full first name and last initial.

10. K.C. did not consent to her naked images being shared online.

11. On March 29, 2018, K.C.'s attorneys notified Anon-IB that the images were posted without K.C.'s consent and requested their removal along with information concerning the IP address used to post the images online.

12. The images were removed on April 4, 2018, and on April 20, 2018, a representative from Anon-IB provided to K.C.'s attorneys the IP address used to upload K.C.'s images online, 67.86.232.162.

13. K.C.'s attorneys subpoenaed Optimum Cable for identifying information concerning the account holder to whom the aforementioned IP address had been assigned at the time of the posts. In response, Optimum Cable provided K.C.'s attorneys with the following information:

Subscriber:	CHRISTOP DOYLE
Address:	46 DOGWOOD DR JACKSON, NJ 08527
Telephone #(s):	(609)203-4391

² Image 1 depicts K.C. in only her underwear; Image 2 depicts K.C.'s partially covered genitals; Image 3 depicts K.C.'s exposed breast; Image 4 depicts K.C.'s exposed breast; Image 5 depicts K.C.'s partially exposed buttocks; Image 6 depicts K.C.'s exposed buttocks; Image 7 depicts K.C.'s exposed breasts and genitals; Image 8 depicts K.C.'s exposed breast and buttocks; Image 9 depicts K.C.'s exposed buttocks; Image 10 depicts K.C.'s face; Image 11 depicts K.C.'s face while she is wearing a bra; Image 12 depicts a portion of K.C.'s face; Image 13 depicts K.C.'s partially exposed buttocks and face; and Image 14 depicts K.C.'s entire face while dressed in only a towel.

14. Upon learning the name of the individual who had posted her intimate images online for the world to see, K.C. realized that the person responsible was a teacher at her high school.

15. K.C., who never sent Mr. Doyle her images, did not consent to him sharing them online.

16. The written portion of Mr. Doyle's post which states "Have some of [first name and last initial]...these were first but it didn't post for some reason" paired with Mr. Doyle's decision to post the images on a board devoted to images of young women associated with the Town of Wall confirms that he was aware of K.C.'s identity when he posted the images and wanted others to know her true identity as well.

FIRST CAUSE OF ACTION
(Violation of N.J.S.A. 2A:58D-1)

17. Plaintiff repeats and realleges the allegations stated above as if fully set forth herein.

18. New Jersey Statute 2A:58D-1 states:

a. An actor who, in violation of section 1 of P.L.2003, c. 206 (C.2C:14-9), photographs, films, videotapes, records, or otherwise reproduces in any manner, the image of another person who is engaged in an act of sexual penetration or sexual contact, the exposed intimate parts of another person, or the undergarment-clad intimate parts of another person shall be liable to that person, who may bring a civil action in the Superior Court.

b. An actor who, in violation of section 1 of P.L.2003, c. 206 (C.2C:14-9), discloses any photograph, film, videotape, recording or any other reproduction of the image of another person who is engaged in an act of sexual penetration or sexual contact, the exposed intimate parts of another person, or the undergarment-clad intimate parts of another person shall be liable to that person, who may bring a civil action in the Superior Court. For purposes of this section: (1) "disclose" means sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, offer, share, or make available via

the Internet or by any other means, whether for pecuniary gain or not; and
(2) “intimate parts” has the meaning ascribed to it in N.J.S.2C:14-1.

c. The court may award:

(1) actual damages, but not less than liquidated damages computed at the rate of \$1,000 for each violation of this act;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

A conviction of a violation of section 1 of P.L.2003, c. 206 (C.2C:14-9) shall not be a prerequisite for a civil action brought pursuant to this section.

19. Eleven of Defendant’s photographs mentioned above depict Plaintiff’s exposed intimate parts or undergarment-clad intimate parts.

20. Defendant distributed the pictures on the internet for the world to see without Plaintiff’s consent.

21. Defendant has violated New Jersey Statute 2A:58D-1.

22. As a result of Defendant’s actions, the Plaintiff demands judgment for any actual damages which exceeds the jurisdictional limits of all lower courts which would have otherwise have jurisdiction of this matter, together with damages for pain and suffering and punitive damages, attorney’s fees, costs of this litigation and such other relief as the Court deems equitable and just.

SECOND CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

23. Plaintiff repeats and realleges the allegations stated above as if fully set forth herein.

24. Plaintiff experienced significant emotional distress when she learned that her intimate images had been uploaded online for the world to see; this only intensified when she learned that the individual responsible for her distress was a teacher at her high school and who has been and continues to be entrusted with the care of teenagers.

25. Defendant engaged in the intentional, extreme, and outrageous conduct of cyber harassing in an effort to destroy Plaintiff's good name and cause her severe emotional harm. Defendant's conduct was so extreme in degree and so outrageous in character that it goes beyond all possible bounds of decency.

26. Defendant's sole purpose of posting the picture online was to humiliate and harass Plaintiff.

27. Defendant intended to cause severe, emotional distress or recklessly disregarded the likelihood that such conduct would tend to cause severe emotional distress. Such outrageous behavior is beyond the limits of decency and is intolerable in a civilized society.

28. Defendant's actions have caused Plaintiff to experience two bouts of severe emotional distress, the first being when she initially realized that untold numbers of people had seen her naked images and later when Plaintiff learned that the individual responsible for her humiliation was a man who she, her family, and countless others looked to and trusted as a principled teacher and coach for young people.

29. Plaintiff has devoted extensive time and resources to relieving her mental anguish but continues to suffer from anxiety and trust issues caused by Defendant sharing her images without her consent.

30. As a direct and proximate result of Defendant's conduct, Plaintiff suffered severe emotional distress.

31. Defendant acted with the intent to cause severe emotional distress, or alternatively, disregarded the substantial probability that his actions would cause severe emotional distress.

32. Here, the acts of Defendant were so egregious and were done so clearly with malice and/or reckless indifference in the face of a perceived risk that his actions would harm Plaintiff's reputation and mental wellbeing, that, in addition to all the damages inflicted upon Plaintiff and in addition to all the measure of relief to which Plaintiff may properly be entitled herein, Defendant should also be required to pay punitive damages to punish him for his reckless conduct in the further amount greater than the jurisdictional limit of all lower courts to be determined by the trier of fact, in order to deter it and others similarly situated from engaging in such conduct in the future.

33. Plaintiff demands judgment against Defendant in an amount to be determined upon the trial of this action; said amount being sufficient to compensate Plaintiff for her severe injuries as well as an amount sufficient to punish Defendant for his willful, wanton, reckless, and unlawful conduct constituting a complete and reckless disregard for Plaintiff, together with interest, attorneys' fees, costs and disbursements in this action; and said amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

THIRD CAUSE OF ACTION
(Invasion of Privacy Intrusion Upon Seclusion)

34. Plaintiff repeats and realleges the allegations stated above as if fully set forth herein.

35. By publishing the pictures online, the Defendant intruded on Plaintiff's physical solitude and seclusion.

36. The images depicting K.C. in various states of undress constitute a public disclosure of private facts.

37. It is clear that Defendant has publicly disclosed private facts by uploading the pictures on website devoted to the dissemination of scantily-clad and often naked young women, generally organized by hometown or high school.

38. Defendant violated Plaintiff's New Jersey constitutional right of privacy, in particular, Plaintiff's rights against (1) intrusion (e.g., intrusion on plaintiff's physical solitude or seclusion, as by invading his or her home, illegally searching, eavesdropping, or prying into personal affairs); and (2) public disclosure of private facts (e.g., making public private information about plaintiff).

39. Defendant intruded upon and violated the privacy of the Plaintiff knowingly, recklessly, and with malice aforethought particularly when, without her knowledge and consent, when he uploaded the highly intimate images, many of which contained her face, along with her complete first name and last initial.

40. By distributing the pictures, Defendant sought to embarrass and humiliate the Plaintiff and such embarrassment and humiliation was reasonably foreseeable.

41. By distributing the pictures, Defendant also sought to harm the reputation of the Plaintiff and such harm from his actions was reasonably foreseeable.

42. As a proximate and direct cause of Defendant's actions which violated Plaintiff's rights of privacy, the Plaintiff suffered emotional distress, pain and suffering, and a harm to her reputation.

43. As a result of Defendant's actions, Plaintiff demands judgment for any actual damages which exceeds the jurisdictional limits of all lower courts which would have otherwise have jurisdiction of this matter, together with damages for pain and suffering and punitive damages, attorney's fees, costs of this litigation, and such other relief as the Court deems equitable and just.

WHEREFORE, Plaintiff demands judgment against Defendant on all causes of action in the sum of the amount greater than the jurisdictional limit of all lower courts to be determined by the trier of fact, plus punitive damages, the costs of this action, pre-judgment interest and reasonable attorney's fees as permitted under the law, together with such other and further relief as the Court may deem just and proper,

Dated: New York, New York
April 5, 2019

Daniel Szalkiewicz & Associates, P.C.

By: 
Daniel Szalkiewicz, Esq.

CERTIFICATION PURSUANT TO RULE 4:5-1

I certify that the matter in controversy in the within action is not the subject of any other action pending in any Court or pending arbitration proceeding, nor is any such court action or arbitration proceeding presently contemplated. I further certify that there are no other persons who should be joined in this action at this time.

Daniel Szalkiewicz & Associates, P.C.
Attorney for Plaintiff, K.C.

Dated: April 5, 2019

By: 
Daniel Szalkiewicz, Esq.

DESIGNATION OF TRIAL ATTORNEY

Daniel Szalkiewicz, Esq. is hereby designated as trial counsel for the Plaintiff, in the above matter.

Law Office of
Daniel Szalkiewicz & Associates, P.C.
Attorney for Plaintiff, K.C.

Dated: April 5, 2019

By: 
Daniel Szalkiewicz, Esq.

Daniel Szalkiewicz, Esq.
NJ Attorney ID Number 021472009
Daniel Szalkiewicz & Associates, PC
325 W. 38th Street, 810
New York, NY 10018
(212) 706-1007
daniel@lawdss.com

Attorneys for Plaintiff

<p>K.C.</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>CHRISTOPHER DOYLE</p> <p style="text-align: right;">Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION, CIVIL PART OCEAN COUNTY</p> <p>DOCKET NO.</p> <p>CIVIL ACTION VERIFIED COMPLAINT AND JURY DEMAND</p>
---	---

Plaintiff K.C.¹ (hereinafter “Plaintiff”), by her attorneys, Daniel Szalkiewicz & Associates, P.C., as and for her Verified Complaint hereby alleges, upon information and belief, as follows:

PRELIMINARY STATEMENT

1. K.C. is a recent graduate of Wall High School, a public school in Monmouth County, New Jersey. In March of last year, K.C.’s intimate images were shared on Anon-IB, a website devoted to the accumulation of naked images of young women; in addition to her face

¹ Given the extremely graphic nature of the images shared by the Defendant, Plaintiff requests the ability to proceed by her initials.

being clearly visible in some of the images, the post further identified her by her complete first name and last initial.

2. Immediately upon learning that her images were online for the world to see, K.C. retained the services of an attorney to have the images removed and learn who had posted them on the website.

3. Anon-IB provided K.C.'s attorneys with the IP address of the individual. A subpoena response from Optimum for the account information for whom the IP address was assigned unveiled that the individual responsible for posting her images was Christopher Doyle, a math teacher and tennis coach at her former high school.

4. The instant lawsuit ensues.

THE PARTIES

5. Plaintiff is not a public official or public figure.

6. Defendant Christopher Doyle ("Mr. Doyle") is a resident of the State of New Jersey, County of Ocean. Mr. Doyle has been a math teacher at Wall High School since 2004 and has also coached both the boys and girls tennis teams. Upon information and belief, he continues to serve in both capacities.

STATEMENT OF FACTS PERTAINING TO ALL CAUSES OF ACTION

7. In March 2018, K.C. came to learn that on March 21, 2018, fourteen photos of her had been posted online at the URL <http://usa.anon-ib.su/nj/res/124640.html#q125776>.

8. While a couple photos depicted only K.C.'s face, several others showed her exposed breasts, genitals, naked buttocks, or in only her undergarments².

9. The images were uploaded in three posts onto the Anon-IB website by an anonymous user who identified her by her full first name and last initial.

10. K.C. did not consent to her naked images being shared online.

11. On March 29, 2018, K.C.'s attorneys notified Anon-IB that the images were posted without K.C.'s consent and requested their removal along with information concerning the IP address used to post the images online.

12. The images were removed on April 4, 2018, and on April 20, 2018, a representative from Anon-IB provided to K.C.'s attorneys the IP address used to upload K.C.'s images online, 67.86.232.162.

13. K.C.'s attorneys subpoenaed Optimum Cable for identifying information concerning the account holder to whom the aforementioned IP address had been assigned at the time of the posts. In response, Optimum Cable provided K.C.'s attorneys with the following information:

Subscriber:	CHRISTOP DOYLE
Address:	46 DOGWOOD DR JACKSON, NJ 08527
Telephone #(s):	(609)203-4391

² Image 1 depicts K.C. in only her underwear; Image 2 depicts K.C.'s partially covered genitals; Image 3 depicts K.C.'s exposed breast; Image 4 depicts K.C.'s exposed breast; Image 5 depicts K.C.'s partially exposed buttocks; Image 6 depicts K.C.'s exposed buttocks; Image 7 depicts K.C.'s exposed breasts and genitals; Image 8 depicts K.C.'s exposed breast and buttocks; Image 9 depicts K.C.'s exposed buttocks; Image 10 depicts K.C.'s face; Image 11 depicts K.C.'s face while she is wearing a bra; Image 12 depicts a portion of K.C.'s face; Image 13 depicts K.C.'s partially exposed buttocks and face; and Image 14 depicts K.C.'s entire face while dressed in only a towel.

14. Upon learning the name of the individual who had posted her intimate images online for the world to see, K.C. realized that the person responsible was a teacher at her high school.

15. K.C., who never sent Mr. Doyle her images, did not consent to him sharing them online.

16. The written portion of Mr. Doyle's post which states "Have some of [first name and last initial]...these were first but it didn't post for some reason" paired with Mr. Doyle's decision to post the images on a board devoted to images of young women associated with the Town of Wall confirms that he was aware of K.C.'s identity when he posted the images and wanted others to know her true identity as well.

FIRST CAUSE OF ACTION
(Violation of N.J.S.A. 2A:58D-1)

17. Plaintiff repeats and realleges the allegations stated above as if fully set forth herein.

18. New Jersey Statute 2A:58D-1 states:

a. An actor who, in violation of section 1 of P.L.2003, c. 206 (C.2C:14-9), photographs, films, videotapes, records, or otherwise reproduces in any manner, the image of another person who is engaged in an act of sexual penetration or sexual contact, the exposed intimate parts of another person, or the undergarment-clad intimate parts of another person shall be liable to that person, who may bring a civil action in the Superior Court.

b. An actor who, in violation of section 1 of P.L.2003, c. 206 (C.2C:14-9), discloses any photograph, film, videotape, recording or any other reproduction of the image of another person who is engaged in an act of sexual penetration or sexual contact, the exposed intimate parts of another person, or the undergarment-clad intimate parts of another person shall be liable to that person, who may bring a civil action in the Superior Court. For purposes of this section: (1) "disclose" means sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, offer, share, or make available via

the Internet or by any other means, whether for pecuniary gain or not; and
(2) “intimate parts” has the meaning ascribed to it in N.J.S.2C:14-1.

c. The court may award:

(1) actual damages, but not less than liquidated damages computed at the rate of \$1,000 for each violation of this act;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

A conviction of a violation of section 1 of P.L.2003, c. 206 (C.2C:14-9) shall not be a prerequisite for a civil action brought pursuant to this section.

19. Eleven of Defendant’s photographs mentioned above depict Plaintiff’s exposed intimate parts or undergarment-clad intimate parts.

20. Defendant distributed the pictures on the internet for the world to see without Plaintiff’s consent.

21. Defendant has violated New Jersey Statute 2A:58D-1.

22. As a result of Defendant’s actions, the Plaintiff demands judgment for any actual damages which exceeds the jurisdictional limits of all lower courts which would have otherwise have jurisdiction of this matter, together with damages for pain and suffering and punitive damages, attorney’s fees, costs of this litigation and such other relief as the Court deems equitable and just.

SECOND CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

23. Plaintiff repeats and realleges the allegations stated above as if fully set forth herein.

24. Plaintiff experienced significant emotional distress when she learned that her intimate images had been uploaded online for the world to see; this only intensified when she learned that the individual responsible for her distress was a teacher at her high school and who has been and continues to be entrusted with the care of teenagers.

25. Defendant engaged in the intentional, extreme, and outrageous conduct of cyber harassing in an effort to destroy Plaintiff's good name and cause her severe emotional harm. Defendant's conduct was so extreme in degree and so outrageous in character that it goes beyond all possible bounds of decency.

26. Defendant's sole purpose of posting the picture online was to humiliate and harass Plaintiff.

27. Defendant intended to cause severe, emotional distress or recklessly disregarded the likelihood that such conduct would tend to cause severe emotional distress. Such outrageous behavior is beyond the limits of decency and is intolerable in a civilized society.

28. Defendant's actions have caused Plaintiff to experience two bouts of severe emotional distress, the first being when she initially realized that untold numbers of people had seen her naked images and later when Plaintiff learned that the individual responsible for her humiliation was a man who she, her family, and countless others looked to and trusted as a principled teacher and coach for young people.

29. Plaintiff has devoted extensive time and resources to relieving her mental anguish but continues to suffer from anxiety and trust issues caused by Defendant sharing her images without her consent.

30. As a direct and proximate result of Defendant's conduct, Plaintiff suffered severe emotional distress.

31. Defendant acted with the intent to cause severe emotional distress, or alternatively, disregarded the substantial probability that his actions would cause severe emotional distress.

32. Here, the acts of Defendant were so egregious and were done so clearly with malice and/or reckless indifference in the face of a perceived risk that his actions would harm Plaintiff's reputation and mental wellbeing, that, in addition to all the damages inflicted upon Plaintiff and in addition to all the measure of relief to which Plaintiff may properly be entitled herein, Defendant should also be required to pay punitive damages to punish him for his reckless conduct in the further amount greater than the jurisdictional limit of all lower courts to be determined by the trier of fact, in order to deter it and others similarly situated from engaging in such conduct in the future.

33. Plaintiff demands judgment against Defendant in an amount to be determined upon the trial of this action; said amount being sufficient to compensate Plaintiff for her severe injuries as well as an amount sufficient to punish Defendant for his willful, wanton, reckless, and unlawful conduct constituting a complete and reckless disregard for Plaintiff, together with interest, attorneys' fees, costs and disbursements in this action; and said amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

THIRD CAUSE OF ACTION
(Invasion of Privacy Intrusion Upon Seclusion)

34. Plaintiff repeats and realleges the allegations stated above as if fully set forth herein.

35. By publishing the pictures online, the Defendant intruded on Plaintiff's physical solitude and seclusion.

36. The images depicting K.C. in various states of undress constitute a public disclosure of private facts.

37. It is clear that Defendant has publicly disclosed private facts by uploading the pictures on website devoted to the dissemination of scantily-clad and often naked young women, generally organized by hometown or high school.

38. Defendant violated Plaintiff's New Jersey constitutional right of privacy, in particular, Plaintiff's rights against (1) intrusion (e.g., intrusion on plaintiff's physical solitude or seclusion, as by invading his or her home, illegally searching, eavesdropping, or prying into personal affairs); and (2) public disclosure of private facts (e.g., making public private information about plaintiff).

39. Defendant intruded upon and violated the privacy of the Plaintiff knowingly, recklessly, and with malice aforethought particularly when, without her knowledge and consent, when he uploaded the highly intimate images, many of which contained her face, along with her complete first name and last initial.

40. By distributing the pictures, Defendant sought to embarrass and humiliate the Plaintiff and such embarrassment and humiliation was reasonably foreseeable.

41. By distributing the pictures, Defendant also sought to harm the reputation of the Plaintiff and such harm from his actions was reasonably foreseeable.

42. As a proximate and direct cause of Defendant's actions which violated Plaintiff's rights of privacy, the Plaintiff suffered emotional distress, pain and suffering, and a harm to her reputation.

43. As a result of Defendant's actions, Plaintiff demands judgment for any actual damages which exceeds the jurisdictional limits of all lower courts which would have otherwise have jurisdiction of this matter, together with damages for pain and suffering and punitive damages, attorney's fees, costs of this litigation, and such other relief as the Court deems equitable and just.

WHEREFORE, Plaintiff demands judgment against Defendant on all causes of action in the sum of the amount greater than the jurisdictional limit of all lower courts to be determined by the trier of fact, plus punitive damages, the costs of this action, pre-judgment interest and reasonable attorney's fees as permitted under the law, together with such other and further relief as the Court may deem just and proper,

Dated: New York, New York
April 5, 2019

Daniel Szalkiewicz & Associates, P.C.

By: 
Daniel Szalkiewicz, Esq.

CERTIFICATION PURSUANT TO RULE 4:5-1

I certify that the matter in controversy in the within action is not the subject of any other action pending in any Court or pending arbitration proceeding, nor is any such court action or arbitration proceeding presently contemplated. I further certify that there are no other persons who should be joined in this action at this time.

Daniel Szalkiewicz & Associates, P.C.
Attorney for Plaintiff, K.C.

Dated: April 5, 2019

By: 
Daniel Szalkiewicz, Esq.

DESIGNATION OF TRIAL ATTORNEY

Daniel Szalkiewicz, Esq. is hereby designated as trial counsel for the Plaintiff, in the above matter.

Law Office of
Daniel Szalkiewicz & Associates, P.C.
Attorney for Plaintiff, K.C.

Dated: April 5, 2019

By: 
Daniel Szalkiewicz, Esq.

JAMES J. ULIANO, ESQ., ID #022872007
CHAMLIN ULIANO & WALSH
268 Norwood Avenue
P.O. Box 38
West Long Branch, NJ 07764
(732) 229-3200
Attorneys for Defendant, Christopher Doyle

	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION, CIVIL PART
K.C.	:	OCEAN COUNTY
Plaintiff,	:	
	:	
V.	:	DOCKET NO. OCN-L-000865-19
	:	
CHRISTOPHER DOYLE	:	<u>Civil Action</u>
	:	
Defendant.	:	DEFENDANT’S REPSONSE TO NOTICE TO PRODUCE
	:	

To: Daniel Szalkiewicz, Esq.
Daniel Szalkiewicz & Associates, PC
325 W. 38th Street, 810
New York, NY 10018
Attorneys for Plaintiff

Defendant, Christopher Doyle, hereby provides certified answers to Plaintiff’s first demand for the production of documents with regard to the above matter.

CHAMLIN ULIANO & WALSH
Attorneys for Defendant

By: /s/ James J. Uliano
JAMES J. ULIANO

Dated: September 30, 2020

1. All objections as to competency, relevancy, materiality, privilege and admissibility of responses and the subject matter thereof as evidence for any purposes in any further proceeding in this action or any other action;
2. The right to object to the use of any response, or the subject matter thereof, on any ground in any further proceeding of this action or any other action;
3. The right to object to a demand or request for further response;
4. The right at any time to revise, correct, add to, supplement or clarify any of the responses contained herein; and
5. The right to assert attorney-client privilege or attorney work product protection during the course of this litigation or any subsequent proceeding in the event that Defendants inadvertently produces any responses or documents which would have otherwise be privileged or protected.

GENERAL OBJECTIONS

The specific objections described below are intended to clarify Defendants' position with respect to each request. Accordingly, where applicable, Defendants' responses to a request will include one or more of the following objections:

- A. Defendants object to each request to the extent that it is overly broad; unintelligible; not tailored to this matter; or seeks the disclosure of information or data which is unduly burdensome to obtain or which can be obtained from other documentation more readily available without causing unnecessary expense and hardship.
- B. Defendants object to each request to the extent that it seeks the disclosure of documents, information or data which are irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, including that the request is beyond the applicable time frame.
- C. Defendants object to each request to the extent that it requests the disclosure of information or documents incorporating or containing information which is protected by the attorney-client privilege, the work product privilege or other privileges, or calls for Defendants to reach a legal conclusion or apply facts to legal theory.
- D. Defendants object to each request to the extent that it is vague, ambiguous or otherwise lacks sufficient precision or particularity to permit formulation of a response.
- E. Defendants object to each request to the extent that it requires them to obtain information from persons or entities over whom Defendants have no control.
- F. Defendants object to each request to the extent that it seeks disclosure of information already known or available to claimants or of documentation in Claimants' possession which may be obtained more readily by Claimants or of documentation in Claimants' possession which may be obtained more readily by Claimants without unreasonable burden and expense.
- G. Defendants object to those requests which seek information that is confidential, or is subject to Defendants' privacy rights or is otherwise proprietary in nature, the disclosure of which would or could harm Defendants or provide a competitive advantage to Defendants' rivals.

H. Defendants object to each request to the extent it requests documents Defendants no longer possess or which Defendants have never possessed. Defendants' responses to these demands should not be deemed to constitute an admission that Defendants currently or at any point in time possessed or utilized in any manner the requested documents. Defendants specifically reserve their rights to deny that, at any point in time, they possessed or utilized the requested documents.

I. Defendants object to any instructions, definitions and time periods to the extent they are lacking, unintelligible, overly broad or otherwise unreasonable.

RESPONSES TO NOTICE TO PRODUCE DOCUMENTS

1. None
2. None
3. None
4. Please see the attached letter of resignation.
5. No images of Plaintiff are in Defendant's possession or control.
6. No documents sent from or to any cable company regarding subpoenas are in Defendant's possession.
7. None
8. None
9. None
10. No documents from said devices are in Defendant's possession.
11. To be provided
12. To be provided
13. To be provided
14. None
15. None
16. Defendant objects to this request as it is overly broad and ambiguous, however, without waiving same, Defendant is no longer in possession of the device from the alleged incident of March 2018.
17. No images, videos or media of Plaintiff are in Defendant's possession, custody or control.
18. None
19. None
20. None
21. Defendant is not in possession of any documents concerning his alleged internet browser activity on anon-ib.
22. Defendant is not in possession of any images of any individuals that he allegedly posted and/or published on anon-ib.

April 11, 2019

Ms. Cheryl Dyer, Superintendent
Wall Public Schools Board of Education
1620 18th Ave.
Wall, NJ 07719

Dear Ms. Dyer:

Please accept this as my irrevocable letter of resignation for my position in the Wall Township school district, effective June 30, 2019. It has been a pleasure to serve the district.

Thank you.

Sincerely,



Christopher Doyle



CHAMLIN ULIANO & WALSH

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OF COUNSEL
NJ BAR

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September 14, 2020

Via Email & Regular Mail

Daniel S. Szalkiewicz, Esq.
Daniel Szalkiewicz & Associates, P.C.
325 W. 38th Street
New York, NY 10018

**Re: K.C. v Christopher Doyle
Docket No. OCN-L-865-19
Our File No. 51564**

Dear Mr. Szalkiewicz:

Enclosed please find a copy of my client's answers to interrogatories.

Should you require anything further, please do not hesitate to contact me.

Thank you.

Very truly yours,

JAMES J. ULIANO

JJU/eet

Encl.

Cc: Mr. Christopher Doyle (Via Email Only)

IN MEMORIAM:


GEORGE M. CHAMLIN
(1960-2001)

JAMES J. ULIANO, ESQ., ID #022872007
CHAMLIN ULIANO & WALSH
268 Norwood Avenue
P.O. Box 38
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(732) 229-3200
Attorneys for Defendant, Christopher Doyle

K.C.	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION, CIVIL PART
Plaintiff,	:	OCEAN COUNTY
	:	
V.	:	DOCKET NO. OCN-L-000865-19
	:	
CHRISTOPHER DOYLE	:	<u>Civil Action</u>
	:	
Defendant.	:	DEFENDANT'S ANSWERS TO INTERROGATORIES

To: Daniel Szalkiewicz, Esq.
Daniel Szalkiewicz & Associates, PC
325 W. 38th Street, 810
New York, NY 10018
Attorneys for Plaintiff

Defendant, Christopher Doyle, hereby provides certified answers to Plaintiff's first request for interrogatories with regard to the above matter.

CHAMLIN ULIANO & WALSH
Attorneys for Defendant
By: 
JAMES J. ULIANO

Dated: 4/15/2020

GENERAL OBJECTIONS

1. Defendant objects to each Interrogatory to the extent that it is overly broad and/or seeks information which is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence.

2. Defendant further objects to each Interrogatory to the extent that it seeks information and documents protected by the attorney-client privilege, the attorney work product doctrine or any other legally recognizable privilege or immunity from discovery.

3. Defendant further objects to each Interrogatory to the extent that it is duplicative, unreasonably cumulative, unduly burdensome, oppressive and expensive.

4. Defendant further objects to each Interrogatory to the extent that the information sought is not in Defendant's possession or control and/or is already in the possession or control of the Plaintiff, or is readily obtainable by the Plaintiff from a source other than Defendant in a more convenient, less burdensome and less expensive manner.

5. Defendant further objects to each Interrogatory to the extent that it is vague, ambiguous, overly broad or otherwise lacks sufficient precision or particularity to permit formulation of a responsive answer.

6. Defendant further objects to each Interrogatory to the extent that it imposes upon Defendant's obligations beyond those imposed by the New Jersey Court Rules.

7. Defendant further objects to each Interrogatory to the extent that it seeks to impose upon Defendant an obligation to review documents that are in the possession of others.

8. Defendant reserves the right to challenge the competency, relevance, materiality and applicability of the information set forth herein and/or documents provided herewith in any subsequent

proceeding or trial of this or any other action and object to the use of these answers and/or documents in any subsequent proceeding or trial of this or any other action.

9. Defendant is continuing his review and investigation of this matter and reserves the right to supplement, amend or correct these responses in the future if additional information is discovered.

10. The fact that Defendant has responded to an Interrogatory is not to be construed as an admission or acceptance of any fact set forth or assumed by such Interrogatory. The responses and all documents produced pursuant hereto are solely for the purpose of and in relation to this suit and no dissemination of said information or documents is authorized.

11. Defendant's answers are subject to all pertinent objections as to admissibility that may be interposed at trial, and no waiver of any objection is intended.

12. The responses are based on the knowledge of the individuals preparing them at the time they are served. Further information may be obtained, including through discovery of said individuals, prior to the trial of this matter. In that event, the responses will be supplemented, revised, or amended as required by the Rules.

ANSWERS TO INTERROGATORIES

1. State the full name and residence of the defendant.

Christopher Doyle. 46 Dogwood Drive Jackson, NJ 08527

2. If you intend to set up or plead or have set up or pleaded negligence or any other separate defense as to the plaintiff or if you have or intend to set up a counterclaim, cross-claim, or third-party action, (a) state the facts upon which you intend to predicate such defenses, counterclaim, cross-claim, or third-party action; and (b) identify a copy of every document relating to such facts.

Objection, the answer calls for a legal conclusion; however, without waiving the same Defendant does not intend to file a counter-claim against Plaintiff at this time. Defendant reserves right to amend this answer up to and including time of trial.

3. State the names and addresses of all persons who have knowledge of any relevant facts relating to the case.

Christopher Doyle. 46 Dogwood Drive Jackson, NJ 08527

4. State (a) the name and address of any person who has made a statement regarding this lawsuit; (b) whether the statement was oral or in writing; (c) the date the statement was made; (d) the name and address of the person to whom the statement was made; (e) the name and address of each person present when the statement was made; and (f) the name and address of each person who has knowledge of the statement. Unless subject to a claim of privilege, which must be specified: (g) attach a copy of the statement, if it is in writing; (h) if the statement was oral, state whether a recording was made and, if so, set forth the nature of the recording and the name and address of the person who has custody of it; and (i) if the statement was oral and no recording was made, provide a detailed summary of its contents.

N/A

5. If you claim that the plaintiff made any statements or admissions as to the subject matter of this lawsuit, state: (a) the date made; (b) the name of the person by whom made; (c) the name and address of the person to whom made; (d) where made; (e) the name and address of each person present at the time the admission was made; (f) the contents of the admission; and (g) if in writing, attach a copy.

None.

6. If you contend that the Plaintiff's damages were caused or contributed to by the negligence of any other person, set forth the name and address of the other person and the facts upon which you will rely in establishing that negligence.

Objection, the interrogatory calls for a legal conclusion; however, without waving the objection, Plaintiff's damages were caused or contributed by herself when she took the pictures; Jonathan Lonski, whom she electronically sent the pictures to. Whomever the former boyfriend shared the pictures, and whomever previously uploaded the pictures to internet website accessible by general public.

7. If any photographs, videotapes, audio tapes or other forms of electronic recording, sketches, reproductions, charts or maps were made with respect to anything that is relevant to the subject matter of the complaint, describe: (a) the number of each; (b) what each shows or contains; (c) the date taken or made; (d) the names and addresses of the persons who made them; e) in whose possession they are at present; and (f) if in your possession, attach a copy, or if not subject to convenient copying, state the location where inspection and copying may take place

N/A

8. State the names and addresses of any and all proposed expert witnesses. Set forth in detail the qualifications of each expert named and attach a copy of each expert's current resume. Also attach true copies of all written reports provided to you by any such proposed expert witnesses.

With respect to all expert witnesses, including treating physicians, who are expected to testify at trial, and with respect to any person who has conducted an examination pursuant to Rule 4:19, state each such witness's name, address and area of expertise and attach a true copy of all written reports provided to you.

State the subject matter on which your experts are expected to testify.

State the substance of the facts and opinions to which your experts are expected to testify and provide a summary of the factual grounds for each opinion.

None at this time, however, Defendant reserves the right to amend this answer up to and including time of trial.

9. If you intend to rely on any statute, rule, regulation or ordinance, state the exact title and section.

None at this time, however, Defendant reserves the right to amend this answer up to and at time of trial.

10. Please identify the name and title of the individual(s) answering these demands.

Christopher Doyle. 46 Dogwood Drive Jackson, NJ 08527

11. Please identify any and all documents and or records used in preparation of these demands.

None.

12. Please identify any and all documents and or records, that You intend to rely on or have relied on in support of any claim, contention, or defense in this lawsuit.

To be provided.

13. Please state how and when You came to know or know of Plaintiff and/or other members of Plaintiffs family.

I knew the plaintiff's sister in 2004, she was a member of the varsity tennis team and I was the junior varsity coach. She worked at a tennis camp I ran as well. I met the plaintiff in 2008 as a student in a class I taught. While I don't know the plaintiff's mother, she was a member of the Board of Education where I used to work.

14. Please state how You came to learn about the anon-ib website and Your understanding of the purpose of the website.

I learned about this website through a website called 4chan. I understood that the website anon-ib was a website like 4chan that provided a variety of pages based on interest including but not limited to random, advice, do it yourself, and pornography.

15. Please identify the addresses of the dwellings in which you have resided, the dates you resided in each residence, and, where applicable, the names and current addresses of the individuals with whom you resided as well as the dates you lived with the named individuals.

46 Dogwood Drive Jackson, NJ 08527 from 2013-present

Alexandra Joesten lived in my house from 2017-2018. Last known address was at Post and Coach apartments in Freehold NJ .

16. Please identify each and every internet provider, the name in which the account was held, and the dates of service on each account for every residence in which you have resided in the applicable time frame.

Optimum Internet, which is now Altice. It is in my name and has been the only internet provider in the applicable time frame

17. Please identify and set forth the IP. address, or addresses, assigned to Your home, the name of Your network(s), whether it is or has been password protected and, if so, the individuals who have been provided with the password to Your wireless network(s) and approximate dates of when they received the passwords to Your network(s).

Objection, this interrogatory is overly broad and burdensome, however, without waiving same, the network name in the applicable time frame was TennisChris621.

18. Please identify all computer devices used in Your house, apartment, or dwelling, or which are or have been under Your possession, custody or control, or which You have utilized.

All computer devices that have been in my possession during this time frame.

HP Laptop for personal use until 2019

HP Laptop for work use until 2019

HP Laptop for personal use 2019-2020

19. Please identify any and all electronic storage lockers used in Your house, apartment, or dwelling, or which are or have been under Your possession, custody, or control, or which You have utilized.

None.

20. Please identify any and all external hard drives, memory sticks, or other data storing devices which are or have been under Your possession, custody, or control.

I don't use external hard drives or data storing devices. I used to use memory sticks for work related documents years ago but no longer have them.

21. Please identify any and all cloud-based data storage used by You.

None.

22. Please identify any and all forensic software You have used that may be used to preserve or delete files, search histories, software, or other electronic data.

None.

23. Please identify any and all cellphones You have used during the applicable time frame or which are or have been under Your possession, custody, or control.

Iphone 6 is the only phone I have had during this applicable time frame.

24. Please identify any and all e-mail account(s) You have utilized.

TennisChris621@yahoo.com and cdoyle621@gmail.com are the only personal email addresses I have used during this time.

25. Please identify any and all internet browsers You have used.

Google Chrome, Firefox, Microsoft Edge.

26. Please identify any and all images, video, or other media depicting Plaintiff under Your possession, custody, or control.

I have no images, video, or media depicting Plaintiff.

27. Please identify all persons who You have shared images of the Plaintiff with, or those who have shared Plaintiffs images with You.

I have not shared these images of the plaintiff with any persons and have not had the plaintiffs images shared with me by any persons. The plaintiff's images were posted to the anon-ib website prior to me allegedly posting them to the same website.

28. Please state how and when You came into possession of Plaintiffs images and the manner and/or location in which you stored them.

I viewed the plaintiff's images on the anon-ib website. I most likely saved the images on my personal computer at the time. This computer was destroyed in a motor vehicle accident on or about February 20, 2019.

29. Please identify each website You have posted images of the Plaintiff on, state whether these webpages are still active.

I have not posted the Plaintiff's images to any other website or shared these pictures using any other platform.

30. If any of the photos at the heart of this litigation are no longer in Your possession, please state why they are no longer in Your possession, the time and date when they were deleted, lost, or stolen, and how they were stored.

None of these photos are in my possession. The computer being used at the time of this incident was destroyed in a car accident and fire in February 2019.

31. Please identify each website, blog, group, or board You have visited which contains nonconsensual pornography; if You are a member, subscribe to, have posted to, commented on, or otherwise interacted with the content or people involved, please so specify.

I am not a member of any website that contains nonconsensual pornography, otherwise the website would not exist. Furthermore I am not a member of any website, group, blog, etc. I

have viewed posts on anonib and 4chan but I do not post or interact with the people nor do I know these websites to contain nonconsensual pornography.

32. Please identify all other social media and porn-based sites (including, but not limited to, Tumblr, Twitter, Pornhub, and Facebook) with which You had or have accounts; if the account is no longer active, specify the date upon which You closed the account.

I do not have any accounts with porn-based sites. I do not have an account on Tumblr or Twitter. I have a Facebook account that uses my name "Christopher Doyle"

33. Please identify the usernames and e-mail addresses associated with the social media and porn-based sites referenced above.

See answer to number 32.

34. Please identify any and all Virtual Private Network (VPN) Providers You have used.

None.

35. Please identify all persons known to You who have any information or knowledge concerning the subject matter of this litigation, and for each such person, provide a summary of all facts known to that person regarding the subject matter of the litigation.

N/A

36. Please identify each person (including, without limitation, their name(s), relationship to You, address(es), telephone number(s), and other contact information) whom You intend to call as a witness at the trial of this Action.

None at this time, however, Defendant reserves the right to amend this answer up to and including time of trial.

37. Please state the negligent act attributable to Plaintiff and your basis for calling upon the court to diminish Plaintiff's damages by the "percentage of negligence attributed to Plaintiff[.]"

Objection, the answer calls for a legal conclusion.

38. Please state why You believe that "Plaintiff's claims are barred by the Doctrine of Unclean Hands."


Objection, the answer calls for a legal conclusion.

39. Identify if you possess any other photographs of any individuals who went to Wall High School that depict them nude or engaged in a sexual act. If so, state how you came into possession of them and if you shared them with other individuals.

I do not have any in my possession

CERTIFICATION

I hereby certify that foregoing statements made by me in the Interrogatories annexed hereto are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment for contempt of court. I further certify that the copies of the reports annexed hereto rendered by either treating physicians or proposed expert witnesses are exact copies of the entire report or reports rendered by them; that the existence of other reports of said doctors or experts, either written or oral, are unknown to me, and if such become later known or available, I shall serve them promptly on the propounding party.



CHRISTOPHER DOYLE

DATED: 9/15/2020

Daniel Szalkiewicz, Esq.
NJ Attorney ID Number 021472009
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(212) 706-1007
daniel@lawdss.com

Attorneys for Plaintiff

K.C.

Plaintiff,

-against-

CHRISTOPHER DOYLE

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
OCEAN COUNTY

DOCKET NO. OCN-L-000865-19

Exhibit 16 Submitted in Hard Copy

No *Shepard's* Signal™

As of: April 7, 2022 3:24 PM Z

State v. M.D.

Superior Court of New Jersey, Appellate Division

December 9, 2019, Submitted; February 12, 2020, Decided

DOCKET NO. A-5706-17T3

Reporter

2020 N.J. Super. Unpub. LEXIS 305 *; 2020 WL 703482

STATE OF NEW JERSEY, Plaintiff-Respondent, v. M.D., Defendant-Appellant.

Notice: NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE APPELLATE DIVISION.

PLEASE CONSULT NEW JERSEY [RULE 1:36-3](#) FOR CITATION OF UNPUBLISHED OPINIONS.

Prior History: [*1] On appeal from the Superior Court of New Jersey, Law Division, Morris County, Accusation No. 18-03-0219.

Core Terms

pre-indictment, indictment, grand jury, plea offer, sentence, recommendation, non-custodial, probation, withhold, reasons

Counsel: Joseph E. Krakora, Public Defender, attorney for appellant (Alicia J. Hubbard, Assistant Deputy Public Defender, of counsel and on the brief).

Fredric M. Knapp, Morris County Prosecutor, attorney for respondent (Tiffany M. Russo, Assistant Prosecutor, of counsel and on the brief).

Judges: Before Judges Sumners and Geiger.

Opinion

RECORD IMPOUNDED

Daniel Szalkiewicz

2020 N.J. Super. Unpub. LEXIS 305, *1

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PER CURIAM

Defendant appeals from the Law Division's order denying his request for admission into the pretrial intervention program (PTI) because the State did not provide objections supporting its opposition to his admission. We affirm because when defendant accepted a pre-indictment plea offer from the State, the court rule in effect did not require the State to provide its reasons for opposing defendant's entry into PTI prior to an indictment. In addition, we conclude defendant's challenge was waived when he did not seek interlocutory review of the judge's order and he did not reserve his right to appeal when he knowingly and intelligently entered his guilty plea.

I

Angered by the end of his three-year relationship with his girlfriend, an inebriated defendant [*2] posted on a website four photographs showing her face and exposed breasts that she had texted to him during their relationship.

Defendant removed the photos after being confronted by the victim's mother. Meanwhile, the victim reported the online postings to the police, asserting defendant was the only person she had given the photographs to. As a result of defendant's admission to police that he posted the photographs, he was charged with third-degree invasion of privacy, knowingly disclosing a photograph of a sexual act without consent, [N.J.S.A. 2C:14-9\(c\)](#), and fourth-degree cyber-harassment, posting obscene material with the intent to harm or fear, [N.J.S.A. 2C:33-4.1\(a\)\(2\)](#).

At defendant's pre-indictment conference on December 18, 2017, conducted by Judge Stephen J. Taylor, the State extended an offer that if defendant pled guilty to cyber-harassment it would dismiss the invasion of privacy charge and recommend a non-custodial probation sentence. Defendant replied he was interested in applying to PTI. The State responded that it would object to his entry into PTI if he applied.

With the State holding off pursuit of a grand jury presentation, defendant applied to PTI. On January 8, 2018, the Criminal Division Manager's Office [*3] issued a recommendation that defendant be accepted into PTI if the victim voiced no objection.

At the next pre-indictment conference on January 29, the State repeated its objection to defendant's admission into PTI. Defendant demanded the State formalize the objection by providing its reasons in writing. Citing [Rule 3:28\(h\)](#), the State claimed it did not need to do so

Daniel Szalkiewicz

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because "where [a PTI] application is made pre-indictment, the prosecutor may withhold action on the application until the matter has been presented to the [g]rand [j]ury." Without resolving the issue, Judge Taylor continued the conference to another date because defense counsel indicated he needed time to consult with defendant about accepting the State's pre-indictment plea offer.

On March 6, defendant pled guilty to fourth-degree cyber-harassment and the State dismissed the invasion of privacy charge and promised to recommend a non-custodial probation sentence with defendant having no contact with the victim and her family. The judge accepted defendant's plea.

On April 13, defendant moved to be placed into PTI based on the State's failure to timely provide a written objection to his PTI admission. He argued that without the State's [*4] formal objection, he could not perfect his appeal to being denied into PTI. In fact, he charges the State with intentionally "set[ting] it up so [defendant] could not perfect a PTI appeal." The State opposed; reiterating its position that [Rule 3:28\(h\)](#) did not require it to take action where the charges had not been presented to the grand jury and defendant accepted the pre-indictment plea offer.

Judge Taylor denied defendant's request. He agreed with the State's interpretation of [Rule 3:28\(h\)](#) that it had the right to withhold a formal objection to defendant's PTI application until he was indicted. Based on the rule's express language, the judge simply remarked, "the rule is what the rule is." The judge explained defendant would likely not have had the benefit of the pre-indictment plea offer with a non-custodial probation sentence, instead of a possible sentence of 180 to 364 days in jail, if he had allowed the State to indict him. As an alternative, the judge gave defendant the option to retract his plea, allowing the State to move forward with a grand jury presentment. The judge advised defendant if he was indicted, the State would have to formally object to his PTI application thereby giving him the right [*5] to appeal the State's

opposition. Defendant chose not to retract his plea and the judge sentenced him in accordance with the plea agreement.

In his order denying defendant's request to be admitted into PTI, the judge memorialized the parties' [Rule 3:28\(h\)](#) arguments and confirmed the reasoning he set forth on the record. In pertinent part, he wrote:

Daniel Szalkiewicz

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b. Because . . . defendant made application pre-indictment, [Rule 3:28\(h\)](#) permits the prosecutor to "withhold action on application until the matter has been presented to the grand jury," and the prosecutor here was well within her rights to withhold consideration pending indictment;

c. [D]efendant's decision to accept a pre-indictment plea to a fourth degree charge of cyber-harassment of non-custodial probation did not require the prosecutor to also consider the PTI application, as the matter had not been presented to the grand jury and the filing of the accusation and entry of the plea is not a functional equivalent of a grand jury presentation as argued by defendant;

d. There is no evidence that the prosecutor has used a "disgraceful ploy" as defendant argues to prevent defendant from perfecting a PTI appeal. [D]efendant's decision to accept a more lenient pre-indictment [*6] plea offer, rather than await [an] indictment plea offer, and pursue any PTI appeal, obviated the need for the State to consider the application.

II

This appeal implicates the interpretation of a court rule, [Rule 3:28\(h\)](#). Hence, we review the trial court's interpretation of the court rule de novo. See [Washington Commons, LLC v. City of Jersey City, 416 N.J. Super. 555, 560, 7 A.3d 225 \(App. Div. 2010\)](#) (citation omitted).

Defendant contends the court's application of the rule violated his due process rights because the State's refusal to provide its reasons for objecting to his PTI admission kept him from being able to appeal the State's "rejection or [to] confirm that the State took into account all of the [statutory] factors it should have considered" in denying his PTI request. He asserts that without

a statement of reasons, the State "denied [him] the opportunity to respond to the rejection of application, the court the opportunity for judicial review, and everyone the assurance that the decision was not the result of arbitrariness." Defendant maintains the State's non-action was in effect a rejection of his PTI application. He requests that we remand his claim and order the State to provide a statement of reasons for its decision, thus allowing him to perfect his PTI appeal. Defendant's contentions [*7] have no merit.

"PTI is a 'diversionary program through which certain offenders are able to avoid criminal prosecution by receiving early rehabilitative services expected to deter future criminal behavior.'" [*State v. Roseman*, 221 N.J. 611, 621, 116 A.3d 20 \(2015\)](#) (quoting [*State v. Nwobu*, 139 N.J.](#)

Daniel Szalkiewicz

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[*236, 240, 652 A.2d 1209 \(1995\)*](#)). The criteria for admission to PTI, as well as the procedures concerning applications for admission to the program, are set forth in [*N.J.S.A. 2C:43-12*](#) to - 22 and, at the time of defendant's application, [*Rule 3:28\(h\)*](#) (repealed July 1, 2018) applied.

The rule provided:

Application for pretrial intervention shall be made at the earliest possible opportunity, including before indictment, but in any event no later than twenty-eight days after indictment. The criminal division manager shall complete the evaluation and make a recommendation within twenty-five days of the filing of the application. The prosecutor shall complete a review of the application and inform the court and defendant within fourteen days of the receipt of the criminal division manager's recommendation.

An appeal by the defendant shall be made on motion to the Presiding Judge of the Criminal Division or to the judge to whom the case has been assigned within ten days after the rejection and shall be made returnable at the next status conference [*8] or at such time as the judge determines will promote expeditious disposition of the case.

Where application is made pre-indictment, the prosecutor may withhold action on the application until the matter has been presented to the grand jury.

[*R. 3:28\(h\)*](#) (emphasis added).]

We discern no legal support for defendant's challenge of Judge Taylor's order. The explicit language of [Rule 3:28\(h\)](#) allows the State not to issue a written objection to defendant's PTI application prior to indictment. There is no other reasonable interpretation. Defendant had the right and repeated opportunities to reject the State's pre-indictment plea offer, which would have put the onus on the State to present the charges to the grand jury. Instead, he declined the judge's offer to withdraw his plea in order to take advantage of the State's offer of non-custodial probation and avoid a potential jail sentence. Defendant has cited no constitutional right that was abridged by the State's application of [Rule 3:28\(h\)](#).

Moreover, we agree with the State that defendant's challenge was waived because he did not seek interlocutory review of the judge's order and did not preserve his right to appeal prior to pleading guilty pursuant to the plea agreement. See [*9] [State v. Moraes-Pena, 386 N.J. Super. 569, 578, 902 A.2d 318 \(App. Div. 2006\)](#) (holding [Rule 3:28](#) "contemplates that the issue

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concerning enrollment into PTI shall be resolved before or at the pretrial conference and, in any event, *before* a plea or verdict." (emphasis in original)); [State v. Owens, 381 N.J. Super. 503, 508-09, 886 A.2d 1112 \(App. Div. 2005\)](#) (ruling "a guilty plea waives all issues, including constitutional claims, that were or could have been raised in prior proceedings.") (citing [Tollett v. Henderson, 411 U.S. 258, 267, 93 S. Ct. 1602, 36 L. Ed. 2d 235, \(1973\)](#)).¹

Affirmed.

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¹ There are exceptions to this general rule, but defendant does not argue that any apply here. [*Moreas-Pena, 386 N.J. Super at 579-80.*](#)

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No *Shepard's* Signal™

As of: April 12, 2022 2:33 PM Z

State v. Chow

Superior Court of New Jersey, Appellate Division

February 28, 2019, Submitted; April 30, 2019, Decided

DOCKET NO. A-0429-18T3

Reporter

2019 N.J. Super. Unpub. LEXIS 983 *; 2019 WL 1914919

STATE OF NEW JERSEY, Plaintiff-Appellant, v. CALVIN J. CHOW, Defendant-Respondent.

Notice: NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE APPELLATE DIVISION.

PLEASE CONSULT NEW JERSEY [RULE 1:36-3](#) FOR CITATION OF UNPUBLISHED OPINIONS.

Prior History: [*1] On appeal from Superior Court of New Jersey, Law Division, Middlesex County, Indictment No. 18-07-1091.

Core Terms

posting, factors, prosecutor's decision, rehabilitation, nude photograph, supervisory, Revenge, criminal justice system, trial court, photographs, motivation

Counsel: Andrew C. Carey, Middlesex County Prosecutor, attorney for appellant (Patrick F. Galdieri, Assistant Prosecutor, of counsel and on the brief).

Law Office of Howard S. Teitelbaum, LLC, attorneys for respondent (David A. Parinello, of counsel and on the brief).

Judges: Before Judges Simonelli and Whipple.

Opinion

PER CURIAM

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The State appeals from the September 14, 2018 order of the Law Division admitting defendant Calvin Chow into the Middlesex County Pretrial Intervention Program (PTI) over its objection. We reverse.

Defendant and M.M. were in a one-week relationship in 2014 or 2015.¹ M.M. sent defendant several nude photographs during the course of their relationship. At the time, M.M. was eighteen or nineteen years old and defendant was twenty-eight or twenty-nine years old. A year later, M.M. discovered her nude photographs with her name and address on an Internet website that permitted users to submit anonymous naked pictures. M.M. did not give permission for her photos to be posted. She reported this to the police, but the police could not determine who posted them.

On December 2, 2017, more nude photographs [*2] of M.M. were posted on the same website. M.M. recognized the user name as defendant's. She confronted him through Facebook Messenger, and he responded, "I know you're right [I] fucked up, it's not [going to] happen again. . . . [I] [d]idn't know what I was thinking and how it would [affect people]." M.M. reported defendant to the police, and he was charged with two counts of third-degree invasion of privacy, [N.J.S.A. 2C:14-9\(c\)](#), for the 2017 posts.

Defendant applied to PTI. Admission into PTI requires recommendation by the program manager and acceptance by the prosecutor. [N.J.S.A. 2C:43-12\(e\)](#). Both the program manager and prosecutor "shall consider" the following factors in rendering an admission decision:

- (1) The nature of the offense;
- (2) The facts of the case;
- (3) The motivation and age of the defendant;
- (4) The desire of the complainant or victim to forego prosecution;
- (5) The existence of personal problems and character traits which may be related to the applicant's crime and for which services are unavailable within the criminal justice system, or which may be provided more effectively through supervisory treatment and the probability that the causes of criminal behavior can be controlled by proper treatment;

¹ The facts are derived from a combination of the police report, the probation officer's interview with and assessment of defendant, and the prosecutor's PTI letter. No sworn testimony was given in this case.

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- [*3] (6) The likelihood that the applicant's crime is related to a condition or situation that would be conducive to change through his participation in supervisory treatment;
- (7) The needs and interests of the victim and society;
- (8) The extent to which the applicant's crime constitutes part of a continuing pattern of anti-social behavior;
- (9) The applicant's record of criminal and penal violations and the extent to which he may present a substantial danger to others;
- (10) Whether or not the crime is of an assaultive or violent nature, whether in the criminal act itself or in the possible injurious consequences of such behavior;
- (11) Consideration of whether or not prosecution would exacerbate the social problem that led to the applicant's criminal act;
- (12) The history of the use of physical violence towards others;
- (13) Any involvement of the applicant with organized crime;
- (14) Whether or not the crime is of such a nature that the value of supervisory treatment would be outweighed by the public need for prosecution;
- (15) Whether or not the applicant's involvement with other people in the crime charged or in other crime is such that the interest of the State would be best served by processing [*4] his case through traditional criminal justice system procedures;
- (16) Whether or not the applicant's participation in pretrial intervention will adversely affect the prosecution of codefendants; and
- (17) Whether or not the harm done to society by abandoning criminal prosecution would outweigh the benefits to society from channeling an offender into a supervisory treatment program.

[*Ibid.*]

PTI is intended for defendants in need of rehabilitative services and "when there is an apparent causal connection between the offense charged and the rehabilitative need, without which cause both the alleged offense and the need to prosecute might not have occurred." Guidelines for Operation of Pretrial Intervention, Pressler & Verniero, *Current N.J. Court Rules*, Guideline 1,

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following *R. 3:28* at 1289 (2018).² Thus, a PTI determination requires an "individualized assessment of the defendant considering his or her 'amenability to correction' and potential 'responsiveness to rehabilitation.'" [State v. Roseman, 221 N.J. 611, 621-22, 116 A.3d 20 \(2015\)](#) (quoting [State v. Watkins, 193 N.J. 507, 520, 940 A.2d 1173 \(2008\)](#)); see also [State v. Nwobu, 139 N.J. 236, 255, 652 A.2d 1209 \(1995\)](#) (quoting [State v. Sutton, 80 N.J. 110, 119, 402 A.2d 230 \(1979\)](#)) ("PTI decisions are 'primarily individualistic in nature").

During his interview, defendant asserted he was a good candidate for PTI because this was his first adult offense, he maintains [*5] full-time employment, he is a college graduate, and PTI would deter him from future criminal activity. The Middlesex County Criminal Division Manager declined to recommend defendant to PTI.

The prosecutor agreed and denied defendant's PTI application. The prosecutor provided defendant with a statement of reasons, listed each statutory factor, as required by [N.J.S.A. 2C:43-12\(e\)](#), and explained why each factor worked in favor of or against defendant's admission. The prosecutor afforded weight to the nature of the offense—the non-consensual posting of nude photographs—and the facts of the case. No weight was given to the motivation and age of defendant because he offered no evidence or explanation as to why he acted but only mentioned that he was thirty-one years old. Factor five—the existence of personal problems for which services in the criminal justice system are not available—was inapplicable because "[d]efendant has provided nothing to suggest that he is in need of services that are unavailable in the criminal justice system." Nor was any weight placed on factor eleven—whether prosecution would exacerbate a social problem that led to the defendant's actions—because defendant "provided nothing to suggest [*6] that this is the case." The prosecutor also

discussed the public policy interest in the need to deter the act of posting nude photographs without the subject's consent.

M.M. wrote a victim statement and explained that seeing her nude photographs posted online traumatized her, caused her to develop "anxiety, depression and PTSD," and "crushed every

²Effective July 1, 2018, the former [Rule 3:28](#), which contained several guidelines for PTI assessments, was revised and replaced by [Rules 3:28-1 to - 10](#). The new rules more closely track the statutory factors and case law. However, because defendant's PTI assessment was made on June 19, 2018, the former version of the rules apply. [RSI Bank v. Providence Mut. Fire Ins. Co.](#), 234 N.J. 459, 473 n.4, 191 A.3d 629 (2018) (applying "version of [Rule 3:28](#) and the accompanying Guidelines and Comments that governed when [the defendant] was admitted to PTI").

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ounce of self-esteem [she] had." Thus, the prosecutor cited factor four—the victim's resistance to the defendant's admission into PTI—as weighing against defendant's admission.

Defendant appealed to the trial court and argued the charged offense "involves the defendant 'posting' a photo which the alleged victim had apparently . . . taken with her consent and which the alleged victim provided to the defendant through electronic means." Defendant expressed his remorse , motivation not to re-offend, college education and his steady employment as reasons for admission into PTI. In support of factor five, defendant explained, "[he] is a member of a new generation wherein the lines are blurred with the explosion of social media." Defendant admitted to "a huge lapse in judgment" and stated, "[t]he PTI program is ideal in this respect as counseling [*7] would undoubtedly be a requirement of admission therein."

After hearing oral argument on September 14, 2018, the trial judge addressed each factor concerning PTI admission and made his own findings as to whether each favored the State or defendant. In discussing factors three and six, the trial judge faulted the prosecutor for "parroting" the statutory language and not offering a substantive reason as to why these factors did not favor defendant's admission. When discussing factor six, the judge stated, "[i]t is likely that [d]efendant's crime is related to a condition or situation that would be conducive to change through his participation in a supervisory program. As the defense alleges, [d]efendant is in need of counseling and he could get counseling through a supervisory treatment program"

The judge found factors seven and fourteen, both concerning societal interests, favored defendant. The judge faulted the prosecutor for only considering the general need for deterrence of crimes like the one defendant was alleged to have committed and not the facts of the case, and, as a result, he found the prosecutor's analysis of defendant's application a categorical exclusion from [*8] PTI based solely on the nature of the offense.

During the hearing, defendant's counsel argued "that in this day and age the lines are very blurred when it comes to social media," to which the prosecutor responded "there[] were no blurred lines. This was revenge porn." The judge asked "[t]his is what kind of porn? [A:] Revenge porn. [Q:] Revenge for what? I don't know anything about revenge." The prosecutor explained the "victim was particularly traumatized by the incident," which the judge minimized by making a joke. Thereafter, the judge found the prosecutor committed a gross abuse of discretion and ordered defendant into PTI.

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The prosecutor immediately asked the judge to reconsider his decision, which the judge declined to do. The State appealed and argues that because defendant did not establish by clear and convincing evidence that the State's decision to reject his PTI application was a patent and gross abuse of discretion, the trial court erred by admitting defendant into PTI. We agree.

A defendant denied access to PTI can appeal the decision to the trial judge, but the prosecutor's decision "is entitled to a great deal of deference." [Roseman, 221 N.J. at 624](#). "Trial courts may overrule a prosecutor's [*9] decision to accept or reject a PTI application only when the circumstances 'clearly and convincingly establish that the prosecutor's refusal to sanction admission into the program was based on a patent and gross abuse of . . . discretion.'" [Id. at 624-25](#) (quoting *State v. Wallace*, 146 N.J. 576, 582, 684 A.2d 1355 (1996)); see also [State v. Leonardis, 73 N.J. 360, 380 n.10, 375 A.2d 607 \(1977\)](#) ("While we expect that the prosecutor's decision rarely will be overturned, review will guarantee that the judge's skill in assessing the various factors enumerated in Guideline 3 and in drawing legal conclusions from them are fully utilized."). A showing of "a patent and gross abuse of discretion" requires proof "that a prosecutorial veto (a) was not premised upon a consideration of all relevant factors, (b) was based upon a consideration of irrelevant or inappropriate factors, or (c) amounted to a clear

error in [judgment.]" [Roseman, 221 N.J. at 625](#) (quoting [State v. Bender, 80 N.J. 84, 93, 402 A.2d 217 \(1979\)](#)). A trial court can admit a defendant into PTI over the prosecutor's objection upon such a showing. *Ibid.* We apply the same standard as the trial court and review its decision de novo. [State v. Waters, 439 N.J. Super. 215, 226, 107 A.3d 693 \(App. Div. 2015\)](#).

The State argues the judge did not apply the appropriate level of deference to the PTI review but rather substituted his own judgment. The State contends the judge did not recognize that the prosecutor addressed [*10] all the relevant factors and considered defendant's amenability to rehabilitation. The prosecutor ultimately concluded defendant's motivation to seek rehabilitative services was "unclear" because, other than expressing remorse, defendant provided no evidence he wanted to engage with services. Moreover, the State argues it was proper to take the nature of defendant's offense into account.

The State characterizes defendant's alleged actions as "revenge porn" and provides several citations defining the term "as nonconsensual pornography: the distribution of sexually graphic images of individuals without their consent ," (quoting [Patel v. Hussain, 485 S.W. 3d 153, 157 n.1 \(Tex. App. 2016\)](#)). Revenge is not an element of the charged offense but describes the act

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of posting an ex-romantic partner's nude photographs on the Internet in retaliation. For purposes of the crime charged, invasion of privacy, what matters is the victim's lack of consent.

[State v. Nicholson, 451 N.J. Super. 534, 169 A.3d 990 \(App. Div. 2017\)](#), is instructive. There, the defendant was charged with third-degree invasion of privacy for posting a photo of a woman's intimate parts on the Internet without her consent and was denied entry into the PTI program. [Id. at 539-40](#). We explained it was appropriate for the prosecutor to account for the effect the offense had [*11] on the victim. [Id. at 554](#). The State argues, here, that the trauma defendant's actions caused M.M. was a relevant and weighty consideration. We agree.

Defendant seeks to distinguish *Nicholson* by arguing, in this case, M.M. volitionally sent photographs to defendant, while the victim in *Nicholson* did not consent to being photographed. We reject defendant's premise.³ M.M.'s consent, as to both the taking and posting of her photographs, goes to defendant's culpability and is unrelated to defendant's amenability to rehabilitation. Rather, in *Nicholson* we said, "If the prosecutor properly considered the

devastating effect of defendant's conduct on the victim, who became withdrawn and frightened and who opposed PTI to deter defendant from victimizing anyone else." *Ibid.* Here, it was wholly appropriate for the prosecutor to place weight on M.M.'s victim impact statement. It was inappropriate for the trial judge to conclude factor seven favored defendant.

A reviewing court does not evaluate the prosecutor's PTI decision "as if it [stands] in the shoes of the prosecutor." [*State v. Hoffman, 399 N.J. Super. 207, 216, 943 A.2d 910 \(App. Div. 2008\)*](#) (alteration in original) (quoting *Wallace, 146 N.J. at 589*). "The question is not whether [the court] agree[s] or disagree[s] with the prosecutor's decision, [*12] but whether the prosecutor's decision could not have been reasonably made upon weighing the relevant factors." [*Nwobu, 139 N.J. at 254*](#). Thus, the analysis consists of determining whether the prosecutor's decision was arbitrary, not evaluating the substantive weight the prosecutor placed on relevant factors. See [*Roseman, 221 N.J. at 625*](#). After reviewing the record, we agree with the State that the judge exceeded his scope of review by making findings as to which factor he thought favored the respective parties. The role of the reviewing court is to police for a "patent and gross abuse of discretion" by the prosecutor, not to substitute its judgment for the prosecutor's. [*Nwobu, 139 N.J. at 254-55*](#).

³ We also put aside defendant's suggestion that we adopt the thought that consent in one context is consent in all contexts.

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We reject the argument the prosecutor's decision constituted a categorical exclusion based on the crime charged. The basis for exclusion was that defendant put forth no evidence indicating his amenability to rehabilitation. The only individualized information defendant provided to the prosecutor was that he was thirty-one years old, a college graduate, and steadily employed. He reported being in good physical and mental health and denied needing any form of treatment. Based on this information, the prosecutor concluded his motivation to commit the offense was "unclear" [*13] and "[d]efendant has provided nothing to suggest he is in need of services that are unavailable in the criminal justice system." Ultimately, the prosecutor afforded factor three—the defendant's age and motivation—no weight because defendant's submissions were inconclusive. We do not consider this an arbitrary decision.

Perhaps the most troubling aspect of the trial judge's decision was the minimization of the impact on the victim. Defendant suggested M.M's role in sending photographs to him actually absolves him of wrongdoing and justifies leniency. For the judge to find factor seven—which considers the victim's interests—to favor defendant not only exceeds the scope of review but undermines the PTI program as an extension of the prosecutor's charging authority. [*State v. Baynes, 148 N.J. 434, 443, 690 A.2d 594 \(1997\)*](#).

Reversed.

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Daniel Szalkiewicz



Neutral

As of: April 7, 2022 3:23 PM Z

Del Mastro v. Grimado

Superior Court of New Jersey, Chancery Division, Bergen County

March 5, 2010, Argued; March 8, 2010, Decided

DOCKET No. BER-C-247-09

Reporter

2010 N.J. Super. Unpub. LEXIS 2315 *

RHONDA DEL MASTRO, Plaintiff, v. PHILIP B. GRIMADO; INDUSTRIAL CONCEPTS, INC., T/A ICI, INC.; DAVID MCKEE; PRECISION DEVICES ASSOCIATES, INC.; JOHN DOES 1-5 AND ABC CORPS 1-5 (fictitious defendants, individuals and entities which have engaged in fraudulent transfers and/or concealment of assets to prevent Plaintiff from satisfying money Judgment against Philip B. Grimado), Defendant(s).

Notice: NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE COMMITTEE ON OPINIONS.

PLEASE CONSULT NEW JERSEY [RULE 1:36-3](#) FOR CITATION OF UNPUBLISHED OPINIONS.

Core Terms

Chancery, equitable, ancillary, legal issue, fraudulent, jury trial, equitable relief, remedies, damages, constructive trust, cause of action, tortious, alleges, matters

Counsel: [*1] Peter L. MacIsaac, Esq., on behalf of the plaintiff, Rhonda Del Mastro (Chasan, Leyner & Lamparello).

Stuart J. Moskovitz, Esq., appearing on behalf of the defendants, Philip B. Grimado, Industrial Concepts, Inc., t/a ICI, Inc., David McKee, Precision Devices Associates, Inc. (Law Offices of Stuart J. Moskovitz, Esq.).

Judges: Honorable Peter E. Doyne, A.J.S.C.

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Opinion by: Peter E. Doyne

Opinion

CIVIL ACTION

OPINION

Honorable Peter E. Doyne, A.J.S.C.

Introduction

Before the court is a motion requesting all triable issues currently before the Chancery Division be heard before a jury and further requesting this court sua sponte transfer the matter to the Law Division pursuant to [R. 4:3-1\(b\)](#). Oral argument was requested and entertained on March 5, 2010.

Statement of Facts and Procedural History

On August 31, 2005, this court ended an eight day bench trial. Thereafter, a written decision was issued finding the defendant, Philip B. Grimado ("Grimado") liable for intentional infliction of emotional distress and invasion of privacy resulting from his mailing and/or delivering Christmas cards filled with explicit photographs of Rhonda Del Mastro ("Del Mastro" or "plaintiff"), with whom he had had an intimate relationship for nine-months, [*2] to Del Mastro's family, friends, neighbors, and business clients, among others, without her knowledge or consent. This court's sixty-two page written decision dated August 19, 2005 is incorporated herewith as if set forth at length. By way of an order entering judgment dated August 30, 2005 this court awarded the plaintiff \$ 531,820.47. The matter was affirmed on appeal. This judgment remains unsatisfied and is the subject of the current complaint.

On July 21, 2009 a two count complaint was filed on plaintiff's behalf in the Chancery Division

On July 31, 2009 a two count complaint was filed on plaintiff's behalf in the Chancery Division against the defendants, Grimado, Industrial Concepts, Inc., t/a ICI, Inc., David McKee, Precision Devices Associates, Inc. ("ICI", "McKee", "Precision", when addressed individually; "defendants" collectively with Grimado). Plaintiff alleges Grimado, and the other defendants, engaged in a

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conspiracy to fraudulently transfer or conceal his assets. Specifically, Grimado was the sole owner of an electric motor company, ICI, which reported net profits of about \$ 370,000 in 2004. ICI was thereafter "closed" the month after a judgment was awarded against Grimado. Grimado then accepted employment with Precision with a salary of \$ 60,000 a year, a fraction [*3] of his prior earnings with ICI. Precision's business thereafter grew proportionally to that which ICI had previously done. As such, plaintiff understandably alleges when the judgment against Grimado was entered, Grimado, in effect, transferred the business of ICI to Precision and accepted a lesser salary to create the appearance Grimado lacked the ability to satisfy the judgment. Therefore, plaintiff alleges Grimado, ICI, Precision and its owner, McKee, conspired to defraud plaintiff of fair consideration for ICI's assets and business and to "hinder, frustrate and delay her ability to satisfy her Judgment from Grimado's true assets." By so doing, "the Defendants and their acts and conduct in furtherance of their conspiracy has [sic] tortiously interfered with Plaintiff's economic advantage, causing her damage."

Plaintiff therefore sought:

[T]hat judgment be entered against the Defendants, jointly, severally and in the alternative for:

- (a) The appointment of a Special Fiscal Agent to take possession and control of Precision and ICI, and to garner the assets of Precision and ICI, including but not limited to inventory, customer lists, accounts receivable and bank accounts;
- (b) The imposition [*4] of constructive trust upon the business and assets of Precision and ICI to the extent necessary to satisfy the balance of the subject Judgment, including interest to day of payment;
- (c) The imposition of a constructive trust, for the benefit of the Plaintiff, on all monies received by or owed to McKee by way of salary, commissions, or bonuses for sale made by Precision from 2005 to the present time;

- (d) The assessment of both compensatory and punitive damages against the Defendants in favor of Plaintiff for their intentional tortious and fraudulent conduct;
- (e) That if the actual conveyance of assets has been determined to have occurred, the conveyance be set aside as a fraudulent conveyance and that a constructive trust be imposed on said assets for the benefit of the Plaintiff;
- (f) Costs and Attorneys' fees;

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- (g) Such other relief as the Court may deem equitable and proper.

No jury was requested.

Defendants filed their answer on September 24, 2009 denying "anyone engaged in fraudulent transfers in order to avoid paying Plaintiff's judgment." Counsel additionally claimed seventeen separate one sentence defenses and demanded a trial by jury "as to all issues raised by the pleadings that are [*5] triable by a jury."

This matter was thereafter forwarded to this court in light of its initial ruling. By way of a status conference conducted on January 21, 2010, counsel were directed to submit a motion to maintain the defendants' request for a jury trial by February 23, 2010, or else the request would be deemed waived.

On February 18, 2010 counsel for defendants filed the present motion seeking a jury trial and stating "it is respectfully requested that the Court exercise its prerogative pursuant to [Rule 4:3-1\(b\)](#) to transfer this matter to the law division and to permit Defendants' demand for a jury trial to stand."

Counsel for defendants asserts this "is an action seeking monetary damages for an Intentional Tort" and the other requests for relief are ancillary to the legal claims as "if only the equitable relief requested were granted, that would essentially be no remedy to Plaintiff." Counsel furthers "[p]laintiff needs no equitable determination to recover relief. The claim never should have been brought in the Chancery Division to begin with and that improper filing should not be the basis for removing the right of Defendants, all but one of whom has nothing to do with the judgment [*6] upon which this case is based."

Counsel adds "[w]hile some of these remedies, such as the appointment [sic] of a constructive trust, might support the ultimate award, ... they are not the remedy that provides the relief actually sought by Plaintiff, which is the payment of money towards the judgment obtained in another action in which most of the Defendants here were not parties." Furthermore, the only claim against all the defendants, apart from Grimado, is an intentional tort and the conclusion of the legal issues "would negate the need to deal with the equitable issues. ... Either monetary damages will be awarded or they will not. If they are not, the most likely scenario, the case is over."

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On February 22, 2010, counsel for plaintiff submitted his brief in opposition to the request for a jury trial. Counsel asserts the primary relief sought, pursuant to [R. 4:3-1\(a\)\(1\)](#), "is the equitable imposition of a constructive trust over Defendant's accounts receivables." As secondary relief plaintiff requests the appointment of a special fiscal agent and the conveyance of assets. Counsel asserts the entire matter should be examined when determining if it is legal or equitable and thereafter matter-of-factly [*7] provides the legal issues are ancillary to the equitable rights.

On March 1, 2010, the defendants provided their reply agreeing with the plaintiff's analysis of the law but differing as to the ultimate question. Counsel propounds "[t]he basis of the case is an allegation of tortuous [sic] interference, an action at law... What equitable relief Plaintiff has sought is sought not as an end in of itself, but as a means of securing the primary relief requested, payment of money." Counsel also reasserts its support of this court's October 13, 2006 decision of *J.D. Levin & Assoc. v. Levin* in which this court did find a complaint seeking monetary damages and declaratory relief defining a parties' rights pursuant to a mortgage note should reprise in the Law Division. *But see*, [R. 1:36-3](#). Finally counsel concludes the defendants should be provided their "constitutionally guaranteed right of a jury trial in such common law actions."

Oral argument was entertained on March 5, 2010.

Analysis

A party to a civil action is entitled to a trial by jury only if that right existed at common law when the New Jersey Constitution was adopted. See, *Shaner v. Horizon Bank Corp.*, 116 N.J. 433, 447, 561 A.2d 1130 (1989). Traditionally, [*8] the right to a jury trial attaches in legal, but not equitable actions. See, *State v. One 1990 Honda Accord*, 154 N.J. 373, 377, 712 A.2d 1148 (1998). Accordingly, the right to trial by jury depends on whether the cause of action is primarily legal or equitable. *Id.* In determining whether a cause of action is primarily legal or equitable, the critical considerations are the nature of the relief requested and the historical basis of the cause of action. *Id. at 378*.

Under the doctrine of ancillary jurisdiction, once the Chancery Division assumes jurisdiction over a complaint seeking equitable relief, it has the ability to adjudicate all legal claims and award damages. *Mantell v. Int'l Plastic Harmonica Corp.*, 141 N.J. Eq. 379, 393, 55 A.2d 250 (E. & A.

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1947). This is true whether damages are in addition to, or in lieu of, equitable relief. *Id. at 393*; see also, *Buttinghausen v. Rappeport*, 131 N.J. Eq. 252, 256, 24 A.2d 877 (Ch. Div. 1942). Conversely, the Law Division has the same panoply of equitable remedies available as in Chancery.

The presence of legal issues in a primarily equitable case does not automatically give rise to a jury trial. Rather, any jury demand in the Chancery Division is subject to the Chancery court's jurisdiction [*9] to adjudicate ancillary legal issues. *Fleischer v. James Drug Stores*, 1 N.J. 138, 150, 62 A.2d 383 (1948). The Chancery Division has ancillary jurisdiction over legal issues to the extent that those issues are "'incidental or essential to the determination of some equitable question.'" *Lyn-Anna Properties, Ltd. v. Harborview Dev.*, 145 N.J. 313, 330, 678 A.2d 683 (1996). See also, *Eckerd Drugs of New Jersey, Inc. v. S.R. 215, Rite-Aid Corp.*, 170 N.J. Super. 37, 43, 405 A.2d 474 (Ch. Div. 1979).

In addition, however, the "the rule granting a Chancery Division judge ancillary jurisdiction over legal matters is equally applicable to a Law Division judge to adjudicate ancillary equity matters." *Ward v. Merrimack Mut. Fire Ins. Co.*, 312 N.J. Super. 162, 169, 711 A.2d 394 (App. Div. 1998) (internal citations omitted). The Appellate Division in *Ward* sets forth the 1947 New Jersey

Constitution provides both divisions have "co-equal, and often concurrent jurisdiction". As such

Subject to the rules of the Supreme Court, the Law Division and the Chancery Division shall each exercise the powers and functions of the other division when the ends of justice so require, and legal and equitable relief may be granted in any cause so that all matters in controversy [*10] between the parties may be completely determined. [[N.J. Const. art. VI, § 3, P 4.](#)] Thus, if there are ancillary equitable issues to be decided, the judge may take them from the jury and sit in equity to decide those issues.

[Id. at 170.](#)

Legal issues are ancillary if they are "germane to or grow out of the subject matter of the equitable jurisdiction." [Fleischer, supra, 1 N.J. at 150.](#) Further, a germane counterclaim otherwise triable in the Law Division should clearly be retained by the Chancery Division. [Leisure Tech. v. Klingbeil, 137 N.J. Super. 353, 349 A.2d 96 \(App. Div. 1975\).](#)

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In [Steiner v. Stein, 2 N.J. 367, 66 A.2d 719 \(1949\)](#), the New Jersey Supreme Court held as follows:

It is plain from the letter and spirit of the Constitution and the Rules that actions which formerly were cognizable in the Court of Chancery--those 'maintainable in the Court of Chancery,' where the 'primary right or the principal relief sought is equitable'--are now to be brought in the Chancery Division and, as under the old practice, once the jurisdiction of equity has attached 'it may retain the cause for all purposes, and proceed to a final determination of the entire controversy and, except where the jurisdiction of equity depends [*11] on the prior establishment of a right at law, settle purely legal rights and grant legal remedies.' Accordingly, where an action is brought which in the first instance is cognizable in the Chancery Division, it should be retained in that division irrespective of the fact that before or during the trial the equitable phases of the cause have been fully disposed of, leaving only purely legal issues remaining for determination.

Id. at 378 (internal citations omitted).

In *Ward* the court noted that:

When faced with claims that seek both legal and equitable remedies, the Chancery Division judge must 'consider the nature of the underlying controversy as well as the remedial relief sought.' If the court concludes that the 'predominant relief being sought by the complainant is equitable in nature, and if there are ancillary legal issues presented that are 'incidental or essential' to the court's determination of that equitable issue, then the Chancery Division judge may decide those ancillary legal issues by way of a bench trial, even if all of the issues in equity have been resolved.

Id. at 166 (citing *Lyn-Anna, supra, 145 N.J. at 331*).

In this case the issue that need be determined is whether [*12] the principal relief sought is equitable in nature. If so, the matter properly reposes and shall remain in the Chancery Division. If not, the matter should be transferred to the Law Division.

The application is controlled by R. 4:3-1(a)(1) which provides, in pertinent part, actions in which the plaintiff's primary right or the principal relief sought is equitable in nature are to be brought in

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the Chancery Division, General Equity, even if legal relief is demanded in addition or alternative to the equitable relief sought.

R. 4:3-1(b) provides as follows:

A motion to transfer an action from one trial division of the Superior Court or part thereof to another...shall be made within ten days after expiration of the time prescribed by R.4:6-1 for service of the last permissible responsive pleading...unless so made, objections to the trial of the action in the division specified in the complaint are waived, but the court on its own motion may thereafter order such transfer. Actions transferred shall not be retransferred.

The decision whether to retain or transfer a claim to the Law Division rests in the sound

discretion of the Chancery Court. See, e.g., *May Stores Shopping Ctrs., Inc. v. Hartz Mountain-Free Zone Ctr.*, 162 N.J. Super. 130, 135, 392 A.2d 251 (Chan. Div. 1978).

If, [*13] though, the matter was properly filed in the Chancery Division, it should generally remain there even if the equitable issues have been resolved and only legal issues remain, when the matter has reposed under the Chancery's stewardship. See, *Steiner v. Steiner*, 2 N.J. 367, 378, 66 A.2d 719 (1949). Also see, *G.E.I. Int'l Corp. v. St. Paul Fire & Marine Ins. Co.*, 287 N.J. Super. 385, 394, 671 A.2d 171 (App. Div. 1996). At the same time, Chancery courts are obligated to remain vigilant not to retain matters that should not be addressed in the Chancery Division.

The Chancery Division must not become clogged or burdened with the weight of actions properly cognizable in the Law Division. It must remain alert to the bounds of its jurisdiction, otherwise, Chancery's inherent flexibility and ability to operate with dispatch when the occasion demands will be seriously impaired.

Gov't Employees Ins. Co. v. Butler, 128 N.J. Super. 492, 497, 320 A.2d 515 (Ch. Div. 1974).

This is particularly so when many Chancery courts are experiencing the burden of ever increasing complex litigation requiring continuing judicial review and the "explosion" of foreclosure filings.

To be timely, a motion for change of venue must be filed "within 10 days after [*14] expiration of the time prescribed by R. 4:6-1 for the service of the last permissible responsive pleading. . . ." R. 4:3-1(b). According to the applicable portion of R. 4:6-1, "the defendant shall serve an answer

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within 35 days after service of the summons and complaint on that defendant." Any objections not made by that time "are waived, but the court on its own motion may thereafter order such transfer." *Ibid*. The present complaint was filed on July 31, 2009 and the answer on September 24, 2009. The present motion was not filed until February 18, 2010. As such, based on R. 4:3-1(b) this motion, by way of the request to transfer, was untimely. However, although counsel does not provide an explanation why his application was not brought earlier, this rule does permit the court to order a transfer on its own motion.

Considering the complaint and the facts provided, the relief sought is primarily legal. To begin, apart from Grimado, one of four named defendants, the remaining defendants were not parties to the initial chancery action. As such, the focus of this action is the current complaint alone and the relief sought.

Plaintiff's first count alleges fraudulent transfer and/or fraudulent [*15] concealment of debtor's assets and alleges the defendants have engaged in a conspiracy to tortiously interfere with plaintiff's economic advantage. A claim of tortious interference with economic advantage rests in the civil division as it is a tort related cause of action. R. 4:3-1. There is no question tort matters are heard by juries, and were heard by juries at common law. R. 4:35-1; see also, Shaner, supra, 116 N.J. at 447.

On the other hand, although a claim of a fraudulent transfer, at common law, is commonly addressed by a court of equity, see Smith v. Whitman, 75 N.J. Super. 228, 236, 183 A.2d 89 (App. Div. 1962), this cause of action applies only to Grimado. While counsel may allege the other defendants conspired to fraudulently transfer, the complaint nonetheless sounds in tortious interference with economic advantage which must reside in the Law Division.¹

Plaintiff requests judgment be entered against defendants [*16] "and in the alternative" seeks several "equitable" remedies which are listed above. Although counsel seeks specific equitable remedies, no remedy can be provided until there is an adjudicated finding the defendants are liable for damages resulting from tortious interference, fraudulent transfer, or conspiracy to fraudulently transfer. Remedies are ancillary to the result, which in this case would be a finding

¹ Although a single claim of fraudulent transfer against Grimado would likely repose in the Chancery Division, as discussed at oral argument, this court makes no finding as to whether the other parties would be indispensable parties in that application as that question is not presented.

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of tortious interference. Without such a predicate finding, equitable remedies will not be implicated.

The Law Division has the power to provide both legal and equitable relief as justice requires and the "judge may take [ancillary equitable matters] from the jury and sit in equity to decide those

issues." Ward, supra, 312 N.J. Super. at 170; see also Massari v. Einsiedler, 6 N.J. 303, 306, 78 A.2d 572 (1951) ("Where adequate relief can be obtained in the Law Division, there is no need for intercession by the Chancery Division since the entire controversy can be determined in the Law Division in one and the same suit."). As such, the court is satisfied transfer to the Law Division is appropriate. Defendants thereby shall be permitted to proceed with a jury trial.

Accordingly, movant's application [*17] to maintain its jury demand and to transfer the matter, in its entirety, to the Law Division, is granted.

Defendants' counsel shall submit the appropriate order pursuant to the 5-day rule.

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