

1 Alan J. Jackson, Esq. (State Bar No. 173647)  
Elizabeth S. Little, Esq. (State Bar No. 307944)  
2 WERKSMAN JACKSON & QUINN, LLP  
888 West Sixth Street, Fourth Floor  
3 Los Angeles, California, 90017  
Telephone: (213) 688-0460  
4 Facsimile: (213) 624-1942

5 Attorneys for Defendant  
Justin Gimelstob

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LORNA MCGREGGOR, DEPUTY

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

11 THE PEOPLE OF THE STATE OF  
12 CALIFORNIA,  
13 Plaintiff,  
14 v.  
15 JUSTIN GIMELSTOB,  
16 Defendant.  
17  
18

Case No.: SA099545-01

DEFENDANT JUSTIN GIMELSTOB'S  
POSITION ON RESTITUTION;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT  
THEREOF

Date: September 16, 2019  
Time: 8:30 a.m.  
Dept.: 70

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1 Alan J. Jackson, Esq. (State Bar No. 173647)  
2 Elizabeth S. Little, Esq. (State Bar No. 307944)  
3 WERKSMAN JACKSON & QUINN, LLP  
4 888 West Sixth Street, Fourth Floor  
5 Los Angeles, California, 90017  
6 Telephone: (213) 688-0460  
7 Facsimile: (213) 624-1942

8 Attorneys for Defendant  
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Date: September 16, 2019  
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20 **TO THE HONORABLE UPINDER KALRA JUDGE OF THE CALIFORNIA  
21 SUPERIOR COURT FOR THE COUNTY OF LOS ANGELES, AND TO DEPUTY  
22 DISTRICT ATTORNEY LUCRECIA BOADO:**

23 Defendant Justin Gimelstob ("Mr. Gimelstob"), by and through his counsel of  
24 record, Werksman Jackson & Quinn LLP, hereby submits the instant Memorandum of  
25 Points and Authorities in Support of his Position on Restitution.  
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.  
3 INTRODUCTION

4 California Courts have long held that a “*restitution order is not intended to*  
5 *provide the victim with a windfall; instead, a victim is entitled to reimbursement only for*  
6 *his or her actual loss.*” (*Walker v. App. Div. of the Superior Court* (2017) 14 Cal.App.5th  
7 651, 656, italics added, citing *People v. Millard* (2009) 175 Cal.App.4th 7, 28; *People v.*  
8 *Fortune* (2005) 129 Cal.App.4th 790, 794-795.) Justin Gimelstob has admitted  
9 responsibility for the altercation that occurred between himself and longtime  
10 acquaintance, Randall Kaplan, on October 31, 2018, which Mr. Kaplan provoked by  
11 making an obscene comment about Mr. Gimelstob’s recently-deceased father and then  
12 initiating physical contact by pushing Mr. Gimelstob after yelling “F\*\*\* you” at him.  
13 Mr. Kaplan’s actual injuries from that evening were minimal and temporary, as  
14 evidenced by the initial police report and photographs taken on the night in question.  
15 (Exhibit A, Oct. 31, 2018 Police Report; Exhibit B, 10/31/2018 Photographs of Injuries.)

16 As explained below, Mr. Kaplan has a history of engaging in violent and  
17 confrontational behavior,<sup>1</sup> and has made prior threats against Mr. Gimelstob. For years,  
18 Mr. Kaplan developed an unnatural obsession with Mr. Gimelstob, manifesting itself in  
19 diatribes and emails by Mr. Kaplan starting in 2012 because Mr. Gimelstob did not attend  
20 his birthday party. By May 2018, Mr. Kaplan had reached his boiling point, and when he

21 \_\_\_\_\_  
22  
23 <sup>1</sup> For example, around the time of the altercation, Mr. Kaplan was taken to court after he  
24 punched a man in the face for smoking in public, resulting in the entry of a civil  
25 restraining order against him. (Exhibit C, Sept. 26, 2018 Temporary Restraining Order in  
26 *Fidel Gerardo v. Randall Kaplan* (Case No. 18STR007015).) His out-of-control behavior  
27 continued after the altercation. As recently as June 21, 2019, Mr. Kaplan caused a melee  
28 to erupt at an exclusive country club in Idaho when he violently threw an orange at a  
group inside a packed nightclub, striking a woman in the forehead. (See Exhibit D,  
August 21, 2019 Inv. Report of Interview with Valary Sanders; Exhibit E, Aug. 21, 2019,  
Inv. Report of Interview with Matthew Sanders.) His conduct was so out of control that  
patrons had to chase and confront him before security could toss him out of the nightclub.  
(See Exhibit D; Exhibit E.)

1 ran into Mr. Gimelstob in a local restaurant, stuck his finger in Mr. Gimelstob's face and  
2 threatened, "I'm going to put you in jail the rest of your life."

3 Since the altercation, Mr. Kaplan's personal vendetta and obsession with  
4 destroying Mr. Gimelstob's professional reputation, career, and livelihood has spun out  
5 of control and taken on a life of its own. Mr. Kaplan now blames this 30-second  
6 encounter for everything under the sun—post-concussive syndrome, anxiety, his wife's  
7 miscarriage, even his son's declining grades. Indeed, Mr. Kaplan's vendetta spun so far  
8 out of control that the Kaplans' then-current nanny, Ms. Celeste Pete, felt compelled in  
9 April 2019 to reach out to Mr. Gimelstob and his attorney in order to expose  
10 Mr. Kaplan's web of lies. Her sworn testimony set forth below shows who Mr. Kaplan  
11 really is and the terrible things he has done to Mr. Gimelstob.

12 Common sense, statements of percipient witnesses, the physical evidence in this  
13 case, and new evidence obtained post-plea, demonstrate that Mr. Kaplan has deliberately  
14 misled law enforcement and this Court by exaggerating his injuries, engaging in witness  
15 tampering, and spinning lies. This Court has the power to take control of the court  
16 process and prevent further abuse. Given the extraordinary misconduct engaged in by  
17 Mr. Kaplan throughout the course of these proceedings, Mr. Gimelstob respectfully  
18 requests that this Court deny an award of restitution in this case. To do otherwise, would  
19 result in an unjust windfall for the Kaplans.

20 **II.**  
21 **STATEMENT OF FACTS**

22 On April 22, 2019, Mr. Gimelstob entered a no contest plea to a violation of Penal  
23 Code § 243(d), Battery Resulting in Serious Bodily Injury, a Misdemeanor. As a  
24 condition of his plea, this Court ordered Mr. Gimelstob to pay restitution in an amount to  
25 be determined by this Court at a subsequent restitution hearing.  
26  
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1 The instant case arises out of a longstanding feud between former acquaintances,  
2 Justin Gimelstob and Randall Kaplan.<sup>2</sup> On October 31, 2018, Mr. Gimelstob, his son, and  
3 his girlfriend, Austin Ruth, were out trick-or-treating with a group of friends in a  
4 neighborhood in Brentwood. At approximately 6:20 p.m., Mr. Gimelstob was chatting on  
5 the side of the road with a group of individuals who were fans of tennis. (Exhibit F,  
6 Excerpt of Reporter’s Transcript from Videotaped Deposition of Justin Gimelstob in  
7 Case No. BR624849, at 26:19-27:10.) Shortly thereafter, he observed Mr. Kaplan  
8 walking towards him on the street with his wife and their two-year-old daughter.  
9 (Exhibit F, 26:19-27:15.) As Mr. Kaplan passed, he made an obscene comment about  
10 Mr. Gimelstob’s father, who had died just four days prior, stating, “I heard your dad just  
11 dropped dead and he was an even bigger asshole than you.” (Exhibit F, 28:1-8; see  
12 Exhibit G, Decl. of Austin Ruth at ¶4.) Mr. Kaplan and his family proceeded to walk  
13 down the street. (Exhibit F, 29:22-30:4.)

14 Understandably upset, Mr. Gimelstob went to find his girlfriend, Ms. Ruth, and  
15 asked her to watch his son so that he could confront Mr. Kaplan about the snide remark—  
16 a rash decision that he has since come to regret. (Exhibit G, at ¶4.) Ms. Ruth, noticing  
17 that Mr. Gimelstob was upset, asked another parent to watch his son and proceeded to  
18 follow him down the street. (Exhibit G, at ¶5.) She followed Mr. Gimelstob for  
19 approximately two to three minutes, trailing ten yards behind, until she saw him approach  
20 a couple with a stroller. (Exhibit G, at ¶6.) As set forth in Ms. Ruth’s declaration, she  
21 observed Mr. Gimelstob say something to the man (Mr. Kaplan), at which point he turned  
22 and said “Fu\*\* you” before pushing Mr. Gimelstob’s chest with both hands. (Exhibit G,  
23 at ¶6.) The only other individuals to witness the start of this altercation—and to  
24 contradict Ms. Ruth’s recitation of the events, were Mr. Kaplan and his wife.<sup>3</sup> (Exhibit G,

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26 <sup>2</sup> A history of Mr. Kaplan’s relationship with Mr. Gimelstob is set forth in Section II.A.,  
27 *infra*.

28 <sup>3</sup> During the course of the investigation, the police interviewed four independent  
witnesses who were present on the night in question—R. Greenberg, S. Shahzad, R.  
Hillman, and L. Hillman. Notably, none of these witnesses observed the start of the fight

1 at ¶6.) Mr. Gimelstob then tackled Mr. Kaplan, and they proceeded to wrestle in the grass  
2 for approximately twenty to thirty seconds. (Exhibit G, at ¶6.) A four-second cell phone  
3 video taken by Mrs. Kaplan depicts the two men wrestling on the ground, while  
4 Mr. Gimelstob swings at Mr. Kaplan, who was lying face-up on the ground, on his  
5 side/back. On the video, Mr. Gimelstob can be heard yelling, “If you talk about my  
6 fucking family again!” Photographs taken of Mr. Kaplan immediately thereafter show  
7 him smirking with a minor bruise/contusion on either side of his forehead.

8 (See Exhibit B.)

9 Mr. Gimelstob has accepted responsibility for his conduct that night and regrets  
10 ever engaging with Mr. Kaplan. (Exhibit F, RT 65:24-66:3.) However, as set forth herein,  
11 Mr. Kaplan has made numerous misrepresentations to law enforcement and to this Court.  
12 As such, Mr. Gimelstob respectfully requests that this Court find that extraordinary  
13 circumstances support a finding that restitution should not be awarded in this case. In the  
14 alternative, Mr. Gimelstob requests that this Court give no weight to Mr. Kaplan’s self-  
15 serving claims in support of restitution.

16 **A. A HISTORY OF MR. KAPLAN’S FIXATION WITH MR. GIMELSTOB**  
17 **AND HIS MOTIVE TO LIE**

18 Mr. Kaplan and Mr. Gimelstob have been acquaintances for many years,  
19 occasionally socializing, going to dinners, and attending social events. Mr. Kaplan  
20 enjoyed the company of Mr. Gimelstob, because it increased his social status and access  
21 to women and allowed him to associate with other high-profile individuals.  
22 As Mr. Kaplan boasted to police, he was invited to Mr. Gimelstob’s wedding in 2012,  
23 which he “attended to see possible celebrity athletes.” (Exhibit H, at 3.)  
24  
25

26 between the two men. (Exhibit H, Nov. 5, 2018, LAPD Follow-Up Investigation Report,  
27 at 3-4.) Notably, R. Greenberg, told the police that he heard “what sounded like two men  
28 fighting” and, although he did not witness the start of the physical altercation, Mr. Kaplan  
told him, after the fact, that he was “attacked out of nowhere.” (Exhibit H, at 3.) Clearly,  
Mr. Kaplan has attempted to influence the narrative of this case since its inception.



1 One evening in early 2012, Mr. Gimelstob reluctantly agreed to meet with  
2 Mr. Kaplan at Katsuya for dinner, but made clear that he wanted a quiet night between  
3 friends rather than a social night out (as Mr. Kaplan typically preferred). At the  
4 restaurant, Mr. Gimelstob saw two women at an adjacent table he knew, and briefly left  
5 the table to greet them. When he returned to their table, Mr. Kaplan suggested they invite  
6 the women to eat with them. Mr. Gimelstob declined, and said that he preferred to have a  
7 quiet, early night. Against Mr. Gimelstob's wishes, Mr. Kaplan approached the women  
8 and invited them to join their table for dinner. Mr. Kaplan spent the rest of the evening  
9 flirting with the women, while Mr. Gimelstob spent the meal annoyed and disengaged.  
10 When the women asked why Mr. Gimelstob was in such a bad mood, he replied that,  
11 with all due respect, he had specifically asked Mr. Kaplan not to invite them because he  
12 had wanted a quiet night out. The women turned to Mr. Kaplan, stating, "He asked you  
13 not to invite us and you still did?" The women then stood up, cursed at him, and threw  
14 their drinks at Mr. Kaplan. Mr. Gimelstob immediately left the restaurant.

15 Similarly, in the summer of 2012, Mr. Gimelstob had dinner with a group of  
16 friends, including Mr. Kaplan, at R and D Kitchen in Santa Monica. After dinner,  
17 Mr. Kaplan repeatedly asked Mr. Gimelstob to set him up with one of his friends who  
18 had attended the dinner. Mr. Gimelstob agreed, but his friend indicated she was not  
19 interested. Although Mr. Gimelstob informed Mr. Kaplan that his friend did not want to  
20 go on a date with him, Mr. Kaplan wrote and called him for weeks repeatedly asking  
21 about this woman, and reminding him to be sure to mention how wealthy he was.  
22 Mr. Gimelstob became increasingly uncomfortable with Mr. Kaplan's persistence, and  
23 began to distance himself from the relationship. Mr. Kaplan, hurt by this perceived slight,  
24 became obsessed with involving himself in Mr. Gimelstob's social circle.<sup>4</sup>

25 In November 2012, Mr. Kaplan invited Mr. Gimelstob to his annual birthday party  
26 at his home in Brentwood. Mr. Gimelstob was unable to attend because he had work at

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27  
28 <sup>4</sup> As set forth in Section II.C., *infra*, Mr. Kaplan has a long history of engaging in this  
type of obsessive and destructive behavior.

1 the Tennis Channel Studio early the next morning for the Davis Cup Final, which was  
2 being broadcasted live at 4:00 or 5:00 a.m. Mr. Kaplan took Mr. Gimelstob's lack of  
3 attendance extremely personally, causing him to become increasingly unhinged. As set  
4 forth in John Christensen's declaration, Mr. Christensen attended Mr. Kaplan's birthday  
5 in November 2012 at his home in Brentwood, California. (Exhibit I, Decl. of John  
6 Christensen.) Shortly after the party began, Mr. Kaplan appeared agitated and pulled  
7 Mr. Christensen aside, stating that he was extremely upset because Mr. Gimelstob had  
8 not arrived. (Exhibit I.) Mr. Christensen explained that it was his understanding that  
9 Mr. Gimelstob had to wake up early the next morning to broadcast a tennis match.  
10 (Exhibit I.) Approximately 45 minutes later, Mr. Kaplan approached Mr. Christensen  
11 "and was again visibly upset and . . . began ranting about how much money he had spent  
12 attending Mr. Gimelstob's wedding and that he had given up his custodial time to attend  
13 the wedding." (Exhibit I.) Mr. Christensen was so uncomfortable with Mr. Kaplan's  
14 reaction to Mr. Gimelstob's failure to attend that he left the party. (Exhibit I.) Over the  
15 course of the next few years, every time Mr. Christensen "saw or heard from Mr. Kaplan  
16 he raised the subject of Mr. Gimelstob . . . not attending his party and/or the fact that  
17 Mr. Gimelstob did not seem to make time for him[.]" (Exhibit I.)

18 After Mr. Gimelstob failed to attend his 2012 birthday party, Mr. Kaplan's  
19 behavior became increasingly paranoid and obsessive. On November 18, 2013,  
20 Mr. Kaplan sent Mr. Gimelstob a lengthy email berating him for not being a more  
21 attentive friend. (See Exhibit J, Nov. 18, 2013 Email from Mr. Kaplan.) In that email he  
22 writes:

23 I've emailed you, called you, texted you – both pre-baby and post-baby –  
24 and you 90% of the time you don't even respond. . . . You feel comfortable  
25 talking with me about sacred, incredibly personal things . . . . But where are  
26 you? You're busy but I'm not? That's actually insulting. Do you know how  
27 many hours I work / what kind of responsibilities I have? . . . I see you at  
28 the Brentwood, and see you posting at events and things locally – but you  
don't show up at things that aren't convenient or important enough to  
you. . . . I saw JC who said you had to be up or online at 5 am to go do your  
Davis Cup radio show? Same excuse as last year – and same result. . . .

1 Do you know how many red-eyes I've taken to make my friends events? Or  
2 sacrifices?

3 (Exhibit J.) That same day, Mr. Gimelstob politely replied: "Sorry buddy, life has taken a  
4 new level of chaos since the little man [i.e., Mr. Gimelstob's son] and work are both  
5 pulling me 24/7. Hope you had a great party." (Exhibit J.)

6 Notwithstanding that exchange, Mr. Kaplan continued to fixate on  
7 Mr. Gimelstob's lack of attendance at his party, So much so that, at the end of 2013,  
8 Mr. Kaplan informed John Christensen "that he had the ability to tell Mr. Gimelstob's  
9 wife and family that Mr. Gimelstob was having an affair." (Exhibit I.) Mr. Christensen  
10 immediately called Mr. Gimelstob to warn him about this threat, but, according to  
11 Mr. Gimelstob, Kaplan had already made the same threat to him. (Exhibit I; see also  
12 Exhibit F, at 71:24-72:3.) Mr. Christensen ran into Mr. Kaplan outside SoulCycle in  
13 Brentwood again in 2015. (Exhibit I.) *Two years later*, Mr. Kaplan still immediately  
14 asked about Mr. Gimelstob and brought up the story about how he had failed to attend his  
15 2012 birthday party. (Exhibit I.)

16 On May 1, 2018, someone Mr. Gimelstob knows ran into Mr. Kaplan at an event  
17 in Los Angeles. At the time, Mr. Gimelstob and his estranged wife, Cary Sinnott, were  
18 engaged in a contentious divorce (which is ongoing today). Mr. Kaplan told this person  
19 that given his unique relationship with Mr. Gimelstob and the Sinnotts, he believed he  
20 was the only person who could successfully mediate the divorce action. This message  
21 was relayed to Mr. Gimelstob, but when he called Mr. Kaplan, his calls were not  
22 returned. (Exhibit F, at 74:7-75:8.)

23 Shortly thereafter, on May 10, 2018, Mr. Gimelstob attended a meeting with his  
24 attorney at The Brentwood Restaurant. This attorney will be subpoenaed to testify at the  
25 restitution hearing, and Mr. Gimelstob and the attorney will testify as to what transpired  
26 at this restaurant on May 10, 2018. Mr. Kaplan, who knows the attorney, came over to  
27 say hello. Mr. Gimelstob, who was seated, greeted Mr. Kaplan and asked why he never  
28 returned his call. (Exhibit F, at 75:12-15.) Without provocation, Mr. Kaplan became  
aggressive and antagonistic, leaned in close to Mr. Gimelstob, and pointed a finger within

1 an inch of his face. (Exhibit F, at 75:15-19.) Mr. Gimelstob, who remained seated,  
2 repeatedly asked Mr. Kaplan to get his finger out of his face in a calm and serious  
3 manner, but Mr. Kaplan refused and became more agitated. Mr. Gimelstob then stood up  
4 and asked Mr. Kaplan, “What is your problem?” Both Mr. Gimelstob and the attorney-  
5 witness will testify that Mr. Kaplan replied, in a continuing aggressive manner, that  
6 “I’m going to put you in jail the rest of your life.” (Exhibit F, at 75:20-76:12.)

7 The attorney-witness, who was present throughout the encounter, will testify and confirm  
8 that Mr. Kaplan—not Mr. Gimelstob—was the only person acting in an aggressive  
9 manner that evening, and that contrary to Mr. Kaplan’s later statements, Mr. Gimelstob  
10 never threatened Mr. Kaplan’s life, never threatened to “kick his ass,” and never  
11 threatened that he would “kill him.”

12 The following day, on May 11, 2018, the attorney-witness received a threatening  
13 text message from Mr. Kaplan, misstating what had occurred the prior evening. (Exhibit  
14 K, May 11, 2019 Text Message from Kaplan.) In that message, Mr. Kaplan falsely states  
15 that Mr. Gimelstob threatened him at The Brentwood Restaurant (a statement the  
16 attorney-witness completely contradicts); that Mr. Kaplan has “substantially more  
17 money” than Mr. Gimelstob; references a possible “criminal lawsuit or a civil lawsuit”;  
18 and states that he could be “incredibly damaging” to Mr. Gimelstob if called as a  
19 character witness in his custody trial. Four months later, Mr. Kaplan made good on that  
20 promise.

## 21 **B. MR. KAPLAN DELIBERATELY DECEIVED AND MANIPULATED LAW** 22 **ENFORCEMENT**

### 23 **1. THE OCTOBER 31, 2018 REPORT**

24 Mr. Kaplan first reported the alleged assault to the Los Angeles Police Department  
25 approximately one hour after the altercation occurred on October 31, 2018. According to  
26 the initial report, Mr. Kaplan told police that Mr. Gimelstob approached him from behind  
27 and punched him in the face and head approximately *fifty* times before fleeing on foot to  
28 an unknown location. (See Exhibit A, at 2.) Mr. Kaplan’s wife, Madison Kaplan, who  
was also interviewed that evening, indicated that she observed Mr. Gimelstob attack

1 Mr. Kaplan from behind and recorded a video of the fight on her cell phone. (Exhibit A,  
2 at 2.) However, the cell phone video was not turned over to the police until days later.  
3 Notably, according to the police, Mrs. Kaplan “could not state specifically what caused  
4 the incident.” (Exhibit A, at 2.) Moreover, the report was devoid of any information  
5 concerning Mr. Gimelstob and Mr. Kaplan’s prior relationship. (See Exhibit A.)

6 Mr. Kaplan’s claim that he was struck in the face and head fifty times, is belied by  
7 the responding officers’ observations of Mr. Kaplan at the scene immediately following  
8 the altercation. To be clear, the officers who responded just one hour after the incident at  
9 7:20 p.m., specifically noted that there was “*no serious injury to the victim.*” (Exhibit A,  
10 at 1.) As set forth in the October 31, 2018 Report, officers observed only “swelling and  
11 an abrasion above [Mr. Kaplan’s] left eye.”<sup>5</sup> (Exhibit A, at 2.) Mr. Kaplan’s injuries,  
12 which were photographed on the night in question, do not appear to rise to the level of  
13 “serious bodily injury.” (See Exhibit B.) Moreover, Mr. Kaplan was offered but declined  
14 medical treatment. (Exhibit A, at 2.) Indeed, after speaking with Mr. and Mrs. Kaplan,  
15 Officer Miller and Officer Perez classified the crime as a *simple battery*. (Exhibit A, at 1.)  
16 Mr. Gimelstob was not arrested until nearly a month later. (Exhibit H, at 3.)

17 **2. MR. KAPLAN’S MISREPRESENTATIONS TO LAW ENFORCEMENT**  
18 **THROUGHOUT THE INVESTIGATION**

19 On November 2, 2018, Detective Saafir contacted Mr. Kaplan to let him know that  
20 he had been assigned to investigate the case. (Exhibit H, at 1.) Mr. Kaplan indicated to  
21 the Detective that he wanted to add information to his initial statement. (Exhibit H, at 1.)  
22 This time, Mr. Kaplan indicated that Mr. Gimelstob struck him *over fifty times*, and—for  
23 the very first time—also told the Detective that Mr. Gimelstob stated he was “going to  
24

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25  
26 <sup>5</sup> The report improperly states that the “Susp had a scratch to her forehead and bruising  
27 above her left eye she stated was caused by Victim.” (Exhibit A, at 2.) This sentence  
28 appears to have been left in the report inadvertently; Mr. Gimelstob is not a female and  
was not arrested until nearly a month later on November 21, 2018. Thus, he was never  
examined for injuries

1 kill him.” (Exhibit H, at 1.) Mr. Kaplan further requested a meeting with the Detective in  
2 order to provide him with additional information. (Exhibit H, at 1.)

3 Detective Saafir met with Mr. Kaplan at his residence the next day, on November  
4 3, 2018. (Exhibit H, at 1.) During that meeting, Mr. Kaplan falsely reported to the police  
5 that he was threatened by Mr. Gimelstob in May 2018. Mr. Kaplan informed officers that,  
6 five months prior to the attack, he ran into Mr. Gimelstob and his attorney at The  
7 Brentwood Bar and Grill. (Exhibit H, at 1-2.) Mr. Kaplan stated that Mr. Gimelstob  
8 tapped him on the shoulder while he was speaking to the attorney and questioned why he  
9 had not returned his phone calls the week prior. (Exhibit H, at 2.) When Mr. Kaplan did  
10 not respond, Mr. Gimelstob purportedly stated “You are either with the Gimelstob’s or  
11 the Sinnott’s.”<sup>6</sup> (Exhibit H, at 2.) Then, according to Mr. Kaplan’s statement, without any  
12 provocation, Mr. Gimelstob stated “Don’t ever point your finger in my face again, or I’ll  
13 fucking kick your ass and I’ll fucking kill you.” (Exhibit H, at 2.) However, as the  
14 testimony at the restitution hearing by Mr. Gimelstob and his attorney will establish,  
15 Mr. Kaplan’s story is a complete fabrication; in actuality, Mr. Kaplan became aggressive  
16 and antagonistic upon seeing Mr. Gimelstob, pointed his finger one-inch from Mr.  
17 Gimelstob’s face, and threatened to put him in jail for the rest of his life.

18 That same day, Detective Saafir also re-interviewed Mrs. Kaplan. Mrs. Kaplan  
19 stated that she saw a man tackle her husband and, at first, thought they were “playing”  
20 but then saw Mr. Gimelstob punch her husband. (Exhibit H, at 2.) She further stated that  
21 she recorded a portion of the fight on her cell phone, which she emailed Detective Saafir  
22 that day. (Exhibit H, at 2.) The fact that the police left the only video evidence in  
23 Mrs. Kaplan’s possession for *four days* following the incident raises serious questions as  
24 to whether the video was manipulated and edited to show only a short portion of the  
25 fight. (Exhibit H, at 2.)

26  
27  
28 <sup>6</sup> As set forth above, Cary Sinnott is Mr. Gimelstob’s wife; they are presently engaged in  
dissolution proceedings.

1 On November 21, 2018, Detective Saafir notified Mr. Kaplan of Mr. Gimelstob's  
2 arrest. According to Detective Saafir's report, that very same day, Mr. Kaplan informed  
3 the detective that "his wife was pregnant at the time of the incident and suffered a  
4 miscarriage after the incident," suggesting that Mr. Gimelstob had somehow caused this  
5 unfortunate event. (Exhibit H, at 3.) This inflammatory and misleading remark  
6 unquestionably changed the tone of the investigation and contributed to the government's  
7 decision to charge Mr. Gimelstob with Felony Battery Resulting in Serious Bodily Injury  
8 in violation of Penal Code § 243(d), rather than a misdemeanor. As set forth in Section  
9 II.D.5, *infra*, Mr. Kaplan's suggestion that Mr. Gimelstob caused this event was a  
10 complete fabrication.

11 **3. EVIDENCE OBTAINED POST-PLEA FURTHER SHOWS MR.  
12 KAPLAN'S INTERFERENCE WITH THE INSTANT  
13 INVESTIGATION**

14 Information obtained post-plea further establishes that Mr. Kaplan dissuaded the  
15 family's live-in housekeeper and nanny, Celeste Pete, from cooperating with Mr.  
16 Gimelstob's defense. As explained below, Ms. Pete's observations of Mr. Kaplan in the  
17 days and months following the altercation confirm Mr. Kaplan's fixation and personal  
18 vendetta against Mr. Gimelstob, and his repeated misrepresentations concerning the state  
19 of his injuries and his family's emotional well-being.

20 Ms. Pete served as the Kaplan's live-in housekeeper and nanny for approximately  
21 one year, beginning in April 2018. (Exhibit L, June 1, 2019 Decl. Celeste Pete, ¶1;  
22 Exhibit M, June 4, 2019 Reporter's Transcript of Videotaped Deposition of Celeste Pete,  
23 at 7:24-8:2.) As set forth in Ms. Pete's declaration, Mr. and Mrs. Kaplan arrived at their  
24 residence at approximately 8:30 p.m. on October 31, 2018, just two hours after the  
25 altercation. (Exhibit L, ¶2.) Ms. Pete observed no contusions or bruises on Mr. Kaplan's  
26 face. (Exhibit L, ¶2.) Moreover, the Kaplans did not appear to be in distress. (Exhibit L,  
27 ¶2.) In fact, they requested that Ms. Pete babysit their child so that they could attend a  
28 party that evening, where they stayed for several hours. (Exhibit L, ¶2.)

1 Ms. Pete first learned about the altercation between Mr. Kaplan and  
2 Mr. Gimelstob the next day, November 1, 2018, because Mr. Kaplan asked her to go to  
3 his office and take a photograph of the arrest report. (Exhibit L, ¶3.) According to  
4 Ms. Pete, for the next several months, Mr. Kaplan spoke incessantly about  
5 Mr. Gimelstob. He repeatedly discussed the topic with his children at the dinner table,  
6 who listened for the first two nights and “eventually . . . started going, ‘Dad, we don’t  
7 care,’ and, you know, just change the subject.” (Exhibit M, at 16:13-16:24.) Moreover,  
8 Ms. Pete recounts that at Thanksgiving dinner on November 22, 2018 (which also  
9 happens to be Mr. Kaplan’s birthday), at Gozzer Ranch in Idaho, Mr. Kaplan raised his  
10 glass and toasted something to the effect of, “This is the best birthday of my life. I finally  
11 was able to stick my hand all the way up Justin’s asshole and twist[ ] it.” (Exhibit L, ¶8;  
12 Exhibit M, at 34:2-10.) Ms. Pete also heard Mr. Kaplan state, on multiple occasions that  
13 he wanted to make sure Mr. Gimelstob had no money left. (Exhibit M, at 27:20-25.)

14 As Ms. Pete learned more about the serious allegations Mr. Kaplan was making,  
15 she formed the opinion that Mr. Kaplan was lying about what happened between himself  
16 and Mr. Gimelstob. (RT 19:11-14.) In the months following the attack, Mr. Kaplan  
17 exhibited no physical injuries and maintained his normal workout routine—using his  
18 Peloton equipment, attending lessons with a personal trainer, and traveling to Aspen.  
19 (Exhibit M, at 35:10-16, 35:25-36:2, 36:20-25, 39:5-14; Exhibit L, at ¶10.)  
20 Photographs taken of Mr. Kaplan on his birthday, November 22, 2018, confirm that any  
21 injuries he suffered were completely healed. (Exhibit N, 11/22/2018 Social Media Posts.)  
22 Moreover, Ms. Pete never witnessed Mrs. Kaplan or the children express that they were  
23 afraid of Mr. Gimelstob. (Exhibit M, at 16:25-17:8.)

24 After reading the numerous false statements Mr. Kaplan was making online,  
25 Ms. Pete reached out to Mr. Gimelstob and his attorney in March 2019 to let them know  
26 that she had exculpatory information. (Exhibit O, March 8, 2019, Facebook Message  
27 from Celeste Pete.) When Mr. Kaplan discovered that Ms. Pete had contacted  
28 Mr. Gimelstob’s attorney, he immediately took steps to silence her: (1) terminating her  
employment on April 10, 2019; (2) forcing her to sign a non-disclosure agreement on



1 April 12, 2019; (3) drafting an email for her to send to Mr. Gimelstob's attorney stating  
2 that she would no longer cooperate; (4) forcing her to sign a Separation and Release  
3 Agreement on April 24, 2019; and (5) drafting a self-serving 14-page declaration for her  
4 to sign for use in the ongoing restraining order proceedings between Mr. Kaplan and  
5 Mr. Gimelstob. (Exhibit L, ¶¶12-15.) Clearly, Ms. Pete had information that Mr. Kaplan  
6 did not want to get out.

7 **C. MR. KAPLAN HAS A HISTORY OF VIOLENT, CONFRONTATIONAL,**  
8 **AND MANIPULATIVE BEHAVIOR**

9 In spite of Mr. Kaplan's age, he continues to engage in violent confrontations and  
10 act out in a manner that is unusual for someone who is 50 years old. Indeed, just one  
11 month before the instant offense, on September 28, 2018, a 56-year-old man named  
12 Fidel Gerardo was forced to obtain a temporary restraining order ("TRO") against  
13 Mr. Kaplan as a result of his continued harassment. (See Exhibit C.) According to the  
14 declaration submitted in support of Mr. Gerardo's request for a TRO, Mr. Kaplan  
15 repeatedly approached him in an outdoor courtyard to harass him for smoking. When  
16 Mr. Gerardo refused to comply, Mr. Kaplan's behavior escalated. On two occasions,  
17 Mr. Kaplan stood in front of him in the courtyard and videotaped him on his cell phone  
18 while he smoked. According to Mr. Gerardo, on September 11, 2018, Mr. Kaplan walked  
19 up to him with his phone in hand and, when Mr. Gerardo refused to put out his cigarette,  
20 punched him in the face. The Court granted Mr. Gerardo's request for a TRO on  
21 September 26, 2018. (See Exhibit C.)

22 Similarly, Ms. Pete recounts a recent occasion where a friend of Mr. Kaplan's  
23 daughter was complaining about a coach at Brentwood High School. Mr. Kaplan  
24 overheard the girls discuss speaking to a principal or headmaster to file a complaint about  
25 the coach's behavior, and inserted himself into the conversation suggesting they create a  
26 plan to get the coach fired. (Exhibit M, at 39:11-40:20.) Mr. Kaplan then suggested that  
27 they create an anonymous Facebook account and smear the coach on social media.  
28 (Exhibit M, at 40:19-41:8.) Fortunately, Mr. Kaplan's daughter and her friends rejected  
his suggestion. (Exhibit M, at 41:11-14.)

1 Even after the instant altercation, Mr. Kaplan has continued to engage in violent,  
2 confrontational, and out of control behavior. On June 21, 2019, Mr. Kaplan was drinking  
3 and dancing at the Gozzer Ranch bar, an exclusive country club in Idaho. At one point,  
4 Mr. Kaplan got so intoxicated that he climbed up onto the top of the bar and was dancing  
5 and playing "air guitar." This scene was caught on film and is attached hereto as  
6 Exhibit P. As set forth in the statements of Matthew and Valary Sanders ("Mr. and Mrs.  
7 Sanders"), who were dining at the restaurant that evening, an unknown man approached  
8 their table and stated, "I hate that guy!" directing their attention to Mr. Kaplan, who was  
9 making a spectacle of himself dancing on top of the bar 20 feet away. (Exhibit D, at 1;  
10 Exhibit E, at 1.) Shortly thereafter, some unknown person threw a grapefruit at  
11 Mr. Kaplan, but missed. (Exhibit D, at 2; Exhibit E, at 1.) Mr. Kaplan did not notice.  
12 Moments later, that same person threw an orange at Mr. Kaplan, which hit him in the  
13 back of the head. (Exhibit D, at 2; Exhibit E, at 1.) Mr. Kaplan then turned around,  
14 enraged, yelling "Who did it!?" As he turned around, he made eye contact with  
15 Mrs. Sanders who was at a table enjoying a meal with her friends. (Exhibit D, at 2.)  
16 Mrs. Sanders looked away and continued her conversation with her friend. (Exhibit D, at  
17 2.) Without warning, Mr. Kaplan forcibly threw an orange as fast as he could at their  
18 table, striking Mrs. Sanders on the side of her forehead, above the eye, near her temple so  
19 hard that it "knocked her head backward." (Exhibit D, at 2; Exhibit E, at 2.)

20 Mr. Kaplan's outrageous conduct that evening incited a melee, causing patrons to  
21 have to chase after Mr. Kaplan in order to subdue him. When Mr. Sanders attempted to  
22 run after Mr. Kaplan in defense of his wife, his friend, a professional hockey player,  
23 grabbed him and told him, "Kaplan was a jerk and not worth it" and "would turn things  
24 around on him and he would be sued." (Exhibit E, at 2.) Clearly, Mr. Kaplan has a proven  
25 track record of inciting violence. As a result of his actions, Mr. Kaplan was ejected from  
26 the bar and his country club membership was suspended.  
27  
28

1 **D. MR. AND MRS. KAPLAN'S FALSE AND INFLAMMATORY**  
2 **STATEMENTS AT THE SENTENCING HEARING**

3 Mr. Kaplan and his wife, Madison Kaplan, made statements at Mr. Gimelstob's  
4 sentencing hearing on April 22, 2019, in an uncontested hearing, pursuant to their rights  
5 under Marsy's Law. As discussed below, a substantial portion of the victim-impact  
6 statements—which were not made under oath—were inflammatory and false  
7 (far exceeding the actual impact of Mr. Gimelstob's actions) and were made for the sole  
8 purpose of advancing Mr. Kaplan's goal—to destroy Mr. Gimelstob's reputation and  
9 career, and to put his family in a position to recover as much money from Mr. Gimelstob  
10 as possible.

11 **1. MR. KAPLAN FALSELY REPRESENTED THAT THE FIGHT**  
12 **WAS RANDOM AND "UNPROVOKED"**

13 During his victim-impact statement, Mr. Kaplan repeatedly described the attack as  
14 "violent and unprovoked." (Reporter's Transcript of April 22, 2019 Sentencing Hearing  
15 in *People v. Gimelstob* (hereafter "RT"), at 11:6-7; 14:9-12.) Mr. Kaplan further stated,  
16 "While most families ran away, fearing for themselves, my wife and ou[r] two-year-old  
17 daughter didn't we were pushing the stroller when we were ambushed." (RT, at 18:25-  
18 27.) He indicated that he "never saw the ambush coming or had any warning it was about  
19 to come. I went flying to the ground, face first." (RT, at 14:11-13.) Mr. Kaplan went so  
20 far as to state that he "*had no clue who it was*" and "immediately thought . . . that the  
21 attacker had the wrong person." (RT, at 14:24-25.) He denied every making any  
22 incendiary comments to Mr. Gimelstob about the death of his father. (RT, at 19:3-9.)

23 Indeed, at the sentencing hearing, Mr. Kaplan portrayed the altercation as a  
24 random attack by a crazed lunatic who was chasing after a crowd of people as they ran  
25 away. Although Mr. Gimelstob acknowledges that his decision to confront Mr. Kaplan  
26 was inappropriate and was not *legally* justified, the fight was not *unprovoked*. Indeed,  
27 Ms. Ruth confirms that just two minutes prior, Mr. Gimelstob approached her and told  
28 her, "You're not going to believe what Randy Kaplan just said to me. He said something  
horrific about my dad." (Exhibit G, ¶4.) She then followed Mr. Gimelstob for

1 approximately two to three minutes, trailing ten yards behind, until she saw him approach  
2 the Kaplans. (Exhibit G, ¶6.) As set forth in Ms. Ruth’s declaration, she observed Mr.  
3 Gimelstob say something to Mr. Kaplan, at which point he turned and said “Fu\*\* you”  
4 before pushing Mr. Gimelstob. (Exhibit G, ¶6.) *None of the independent witnesses*  
5 *interviewed following the incident corroborate Mr. Kaplan’s version of the events*  
6 *leading up to the fight.*<sup>7</sup> (Exhibit G, ¶6.) Moreover, the four seconds of video footage  
7 provided to the police by Mrs. Kaplan, show Mr. Kaplan laying face-up on his side/back  
8 using his arms to wrestle with and block Mr. Gimelstob’s punches, not face-down as Mr.  
9 Kaplan describes in his narrative.

10 Finally, Mr. Kaplan has a history of engaging in provocative, violent, and  
11 confrontational behavior, and has a history of making threats against Mr. Gimelstob. It  
12 defies logic that Mr. Gimelstob decided, on this day, to attack Mr. Kaplan out of  
13 nowhere. Regardless, Mr. Gimelstob takes full responsibility for his role in the offense,  
14 and regrets his decision to confront Mr. Kaplan, and escalate the fight as he did.

## 15 **2. MR. KAPLAN LIED ABOUT HIS PRIOR CONFRONTATION** 16 **WITH MR. GIMELSTOB ON MAY 10, 2018**

17 Mr. Kaplan’s statement at sentencing about his interaction with Mr. Gimelstob at  
18 The Brentwood Restaurant on May 10, 2018, perfectly exemplifies Mr. Kaplan’s ability  
19 to adopt someone else’s story as his own by simply switching his name with that of the  
20 actual victim. At the sentencing hearing on April 22, 2019, Mr. Kaplan recounted his  
21 May 10, 2018 encounter with Mr. Gimelstob as follows:

22 I went over to say hello to [Mr. Gimelstob’s attorney], and when I did,  
23 [Mr. Gimelstob] tapped me aggressively on the shoulder and said, “What’s

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24 <sup>7</sup> During the course of the investigation, the police interviewed four independent  
25 witnesses who were present on the night in question—R. Greenberg, S. Shahzad, R.  
26 Hillman, and L. Hillman. Notably, none of these witnesses observed the start of the fight  
27 between the two men. (Exhibit H, at 3-4.) Notably, R. Greenberg, told the police that he  
28 heard “what sounded like two men fighting” and, although he did not witness the start of  
the physical altercation, Mr. Kaplan told him, after the fact, that he was “attacked out of  
nowhere.” (Exhibit H, at 3.) Clearly, Mr. Kaplan has attempted to influence the narrative  
of this case since its inception.

1 the matter? You don't fucking call me back." . . . He was extremely  
2 agitated and angry when he saw me. He aggressively asked why I didn't  
3 call him back, and I shrugged. [¶] Then he got in my face and aggressively  
4 said, "You're either with the Gimelstobs or the Sinnotts." By this, he was  
5 referring to the family of Cary Sinnott, with whom Mr. Gimelstob is getting  
6 divorced. When I shrugged again with my hands at my shoulders, *he put his*  
7 *hand in my face* and said, 'I'm going to fucking kick your ass and kill you.'  
When I asked him if he had really just threatened me in front of his attorney  
in a crowded restaurant, he said . . . "*I'm rich. And she's the best attorney,*  
*and she'll get me off of anything.*"

8 (RT, at 12:28-13:19, italics added.)

9 Mr. Kaplan's sentencing statement is dramatically different from the story he gave  
10 the police on November 3, 2018. In fact, on November 3, 2018, Mr. Kaplan recounted  
11 that Mr. Gimelstob said, for no apparent reason, "Don't ever point your finger in my face  
12 again, or I'll fucking kick your ass and I'll fucking kill you." (Exhibit H, at 2.) Unless  
13 Mr. Kaplan was pointing his fingers in Mr. Gimelstob's face, this statement makes no  
14 sense. Then, at the sentencing hearing, Mr. Kaplan somehow inexplicably changed his  
15 story to suggest that Mr. Gimelstob was the one putting his hands in Mr. Kaplan's face.  
16 Clearly, Mr. Kaplan is lying. As the testimony of the attorney-witness establishes,  
17 Mr. Kaplan was the person who pointed his finger in Mr. Gimelstob's face and threatened  
18 to put him in jail for the rest of his life. It was also Mr. Kaplan who sent a threatening text  
19 the next day, boasting about having "substantially more money" than Mr. Gimelstob in  
20 the event of a civil or criminal lawsuit. The numerous inconsistencies in Mr. Kaplan's  
21 story illustrate his willingness to feed blatant lies to the authorities and to this Court in  
22 order to publicly shame and embarrass Mr. Gimelstob.

### 23 3. MR. KAPLAN LIED ABOUT THE FIGHT AND HIS INJURIES

24 At the hearing, Mr. Kaplan stated, *inter alia*, that he was "punched at least  
25 50 times. But when you count it out, 1, 2, 3, the actual number was likely over  
26 100"; that he "wondered if [his] skull was going to crack open"; that he "wondered  
27 if [he] was going to be paralyzed or if [he] was going to die." (RT, at 15:6-8, 16:1-  
28 6.) In actuality, the fight lasted only 30 seconds and Mr. Kaplan suffered only

1 minor bruises and abrasions to his forehead and legs. (See Photographs of Injuries;  
2 Exhibit G, at ¶9.) The physical evidence in this case (i.e., the photographs taken  
3 immediately after the altercation) speak volumes, and completely contradict Mr.  
4 Kaplan’s assertion that he was struck 50-100 times in the face and head.

5 **4. MR. KAPLAN LIED ABOUT THE LONG-TERM PHYSICAL**  
6 **AND EMOTIONAL IMPACT THE FIGHT HAD ON HIMSELF**  
7 **AND HIS FAMILY MEMBERS**

8 At the sentencing hearing, Mr. Kaplan misrepresented to this Court that the  
9 alleged beating had lasting impacts—both emotionally and physically—on himself and  
10 his family members. According to Mr. Kaplan, after the fight he was “in a tremendous  
11 amount of physical pain and also emotional pain” ; his wife and daughter were  
12 “hysterically upset and crying”; his teenagers (none of whom were present) were “crying  
13 hysterically as [he] told them [he was] savagely beaten” on the telephone; his two-year  
14 old daughter woke up the next morning saying ‘Daddy Daddy help help ouch ouch police  
15 police’ while making punching motions”; his 15-year-old son who was not present cried  
16 himself to sleep and has had difficulty sleeping since the attack, causing his grades to  
17 suffer; and his 17-year-old daughters have had trouble sleeping and have discussed the  
18 attack with their therapist. (RT, at 19:24-22:8.) Mr. Kaplan further asserted that he has  
19 suffered a panoply of medical issues following the “attack,” including a concussion,  
20 memory loss, shoulder pain, depression, post-traumatic stress disorder, and anxiety.  
21 (RT, at 22:11-23:28.) Mr. Kaplan further represented to this Court that he and his family  
22 were so afraid of Mr. Gimelstob, they considered hiring private security for the family.  
23 (RT, at 29:2-7.)

24 All of these statements are completely contradicted by the post-plea statements  
25 made, under oath, by their live-in housekeeper and nanny, Celeste Pete. In fact, according  
26 to Ms. Pete, Mr. and Mrs. Kaplan left their two-year old with her at 8:30 p.m. that night  
27 so that they could attend a Halloween party with their friends. (Exhibit L, ¶2.) Moreover,  
28 according to Ms. Pete, Mr. Kaplan repeatedly discussed the topic with his children at the  
dinner table, who listened for the first two nights and “eventually . . . started going,

1 'Dad, we don't care,' and, you know, just change the subject.'" (Exhibit M, at 16:13-  
2 16:24.) In fact, Ms. Pete concluded Mr. Kaplan was lying about the incident after reading  
3 an article describing the "horrifying . . . concussion and contusions [suffered by  
4 Mr. Kaplan, because] by this time, I'd already heard him at the dinner table and his kids  
5 were like, 'You don't have a concussion, Dad.'" (Exhibit M, at 19:18-25.) Mr. Kaplan's  
6 representations to this Court that he suffered a concussion, memory loss, shoulder pain,  
7 depression, post-traumatic stress disorder, and anxiety because of Mr. Gimelstob are all,  
8 conveniently, disorders that can only be diagnosed based on *statements made by the*  
9 *person suffering those injuries.*

10 **5. MR. KAPLAN FALSELY STATED THAT MR. GIMELSTOB**  
11 **CONCLUSIVELY CAUSED THEIR MISCARRIAGE**

12 Finally, at the sentencing hearing, Mr. Kaplan represented to this Court that his  
13 wife suffered a miscarriage as a result of Mr. Gimelstob's actions on the night in  
14 question. As Mr. Kaplan explained:

15 This would be horrific for any wife and mom to watch with her baby at her  
16 side, but Madison, was also newly pregnant. She didn't sleep well after the  
17 attack. And like all of us, she wondered if Justin would come back and kill,  
18 not only me, but all of us . . . . A week after the attack, after being  
19 incredibly upset from what she saw and experienced and from what Carter  
20 saw and experienced . . . Madison started having intense pains in her uterus.  
21 . . . Unfortunately, she had a miscarriage. [¶] . . . Prior to the attack,  
22 Madison had what her doctor called "a perfect pregnancy." . . . *We've asked*  
23 *her doctor whether the severe emotional trauma caused the miscarriage,*  
24 *and her doctor explicitly told us – and I'm quoting – "there is no other*  
25 *reason to explain it."* Mr. Gimelstob . . . caused the loss of our baby.

26 (RT 24:20-25:28, italics added.)

27 Less than two months after the sentencing hearing, on June 5, 2019, Mrs. Kaplan  
28 filed a civil complaint against Mr. Gimelstob, alleging intentional infliction of emotional  
distress, negligent infliction of emotional distress, and loss of consortium. Significantly,  
during the course of these proceedings, Mrs. Kaplan admitted, under penalty of perjury,  
that no health care provider stated that they "know" that Mr. Gimelstob's actions caused  
the miscarriage, and that Mrs. Kaplan does not "know" that Mr. Gimelstob's actions

1 caused her miscarriage. (Exhibit Q, Plaintiff M. Kaplan’s Responses to Defendant Justin  
2 Gimelstob’s Requests for Admission, Set One (Case No. 19STCV19647), at 5:11-12,  
3 5:17-18.) Mr. Kaplan’s decision to knowingly misrepresent to this Court that  
4 Mr. Gimelstob caused his wife’s miscarriage in order to sway the Court’s decision at  
5 sentencing illustrates Mr. Kaplan’s pathology and willingness to lie at all costs in order to  
6 achieve his long-time goal of destroying Mr. Gimelstob’s professional reputation and  
7 suing him for all he’s worth.

8 **III.**  
9 **A RESTITUTION AWARD IS INAPPROPRIATE IN THIS CASE**

10 California courts have long held that a “*restitution order is not intended to provide*  
11 *the victim with a windfall; instead, a victim is entitled to reimbursement only for his or*  
12 *her actual loss.*” (*Walker v. App. Div. of the Superior Court* (2017) 14 Cal.App.5th 651,  
13 656, italics added, citing *People v. Millard* (2009) 175 Cal.App.4th 7, 28; *People v.*  
14 *Fortune* (2005) 129 Cal.App.4th 790, 794-795.) “[A] restitution order reimburses [a]  
15 crime victim only for economic losses, not noneconomic losses such as pain and  
16 suffering, which are recoverable in a civil action.” (*People v. Vasquez* (2010) 190  
17 Cal.App.4th 1126, 1132, citing Pen. Code, § 1202.4, subd. (f)(3); *People v. Fulton* (2003)  
18 109 Cal.App.4th 876, 879; *Vigilant Ins. Co. v. Chiu* (2009) 175 Cal.App.4th 438, 445.)  
19 Moreover, restitution is limited to economic losses that were both the direct and  
20 proximate cause of the defendant. (*People v. Jones* (2010) 187 Cal.App.4th 418, 425-  
21 427.)

22 Pursuant to Penal Code section 1202.4, reimbursable losses may include:

23 (A) Full or partial payment for the value of stolen or damaged property.

24 The value of stolen or damaged property shall be the replacement cost  
25 of like property, or the actual cost of repairing the property when repair  
is possible.

26 (B) Medical expenses.

27 (C) Mental health counseling expenses.

28 (D) Wages or profits lost due to injury incurred by the victim. . . . Lost  
wages shall include commission income as well as base wages.  
Commission income shall be established by evidence of commission



1 income during the 12-month period prior to the date of the crime for  
2 which restitution is being ordered, unless good cause for a shorter time  
3 period is shown.

- 4 (E) Wages or profits lost by the victim . . . due to time spent as a witness or  
5 in assisting the police or prosecution. Lost wages shall include  
6 commission income as well as base wages. . . .
- 7 (F) Noneconomic losses, including, but not limited to, psychological harm,  
8 for felony violations of Section 288, 288.5, or 288.7.
- 9 (G) Interest, at the rate of 10 percent per annum, that accrues as of the date  
10 of sentencing or loss, as determined by the court.
- 11 (H) Actual and reasonable attorney's fees and other costs of collection  
12 accrued by a private entity on behalf of the victim.
- 13 (I) Expenses incurred by an adult victim in relocating away from the  
14 defendant . . . .
- 15 (J) Expenses to install or increase residential security incurred related to a  
16 violent felony . . . .
- 17 (K) Expenses to retrofit a residence or vehicle, or both, to make the  
18 residence accessible to or the vehicle operational by the victim, if the  
19 victim is permanently disabled . . . .
- 20 (L) Expenses for a period of time reasonably necessary to make the victim  
21 whole, for the costs to monitor the credit report of, and for the costs to  
22 repair the credit of, a victim of identity theft, as defined in Section  
23 530.5.

24 (Pen. Code, § 1202.4, subd. (f).)

25 The party seeking restitution has the burden of proving such losses by a  
26 preponderance of the evidence. (*People v. Millard* (2009) 175 Cal.App.4th 7, quoting  
27 *People v. Baker* (2005) 126 Cal.App.4th 463, 470.) Additionally, “[A] court need not  
28 impose restitution ‘if it finds compelling and extraordinary reasons for not doing so, and  
states them on the record.’” (*People v. Giordano* (2007) 42 Cal.4th 644, 661, quoting  
Pen. Code, § 1202.4, subd. (b).)

As set forth above, over the course of these proceedings, Mr. Kaplan has done  
*everything in his power* to manipulate the judicial process so that Mr. Gimelstob receives  
the harshest punishment possible. Indeed, Mr. Kaplan has made numerous statements to  
law enforcement and this Court that are (at best) misrepresentations or exaggerations, or

1 at worst, are provably false. He lied about the injuries he sustained; he lied about the  
2 physical and emotional impact of the altercation on his wife and children; and he lied  
3 about the cause of his wife's miscarriage. In fact, it was *those very lies* (i.e. statements  
4 about the lasting impact of the altercation) that caused the Kaplans' then-current nanny,  
5 Ms. Celeste Pete, to finally come forward and attempt to speak out. Mr. Kaplan's  
6 subsequent attempts to silence her speaks volumes about the lengths he is willing to go to  
7 secure a favorable judgment.


8 Thus, here, unlike in the vast majority of cases, proof of medical and mental health  
9 expenses, alone, will not be sufficient to justify an award of restitution. There is no  
10 question that Mr. Kaplan sought medical treatment in the form of doctors' visits and  
11 mental health consultations following the altercation on October 31, 2018. However, Mr.  
12 Kaplan's decision to seek treatment from health care professionals was not in furtherance  
13 of obtaining treatment for any actual injury or harm caused by Mr. Gimelstob. Rather,  
14 Mr. Kaplan needed a medical professional to transcribe his self-serving statements for the  
15 very purpose of convincing the Los Angeles County District Attorney's Office to reach a  
16 different conclusion than the responding officers reached in this case (i.e. that were no  
17 serious injuries). Given Mr. Kaplan's extraordinary misconduct and reckless disregard for  
18 the truth throughout the course of these proceedings, Mr. Gimelstob respectfully requests  
19 that this Court decline to impose a restitution award in this case. In the alternative, given  
20 Mr. Kaplan's history of deceit, the defense requests that this Court give no weight to Mr.  
21 Kaplan's self-serving statements at the restitution hearing.

#### 22 IV. 23 CONCLUSION

24 For the foregoing reasons, Mr. Gimelstob respectfully requests that this Court  
25 based on the extraordinary misconduct Mr. Kaplan has engaged in throughout this case,  
26 deny any award for restitution. In the alternative, the defense requests that Mr. Kaplan's  
27 self-serving testimony be given no weight.

1 Dated: August 26, 2019

WERKSMAN JACKSON  
& QUINN LLP

2  
3  
4 By:   
5 Alan J. Jackson  
6 Elizabeth S. Little  
7 Attorneys for Defendant  
8 Justin Gimelstob  
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# **EXHIBIT A**

REPORT OF: BATTERY INVEST DIV. INC. 18031004749780818621

CASE SCREENING FACTOR(S) SUSPECT/VEHICLE NOT SEEN PRINTS OR OTHER EVIDENCE NOT PRESENT NO NOT DISTING PROPERTY LOSS LESS THAN \$5,000 NO SERIOUS INJURY TO VICTIM ONLY ONE VICTIM INVOLVED

VICTIM

LAST NAME, FIRST, MIDDLE (OR NAME OF BUSINESS) KAPLAN, RANDALL SCOTT M SEX WHT HT 63 WT 185 AGE 49 DOB 11/22/68 ADDRESS PHONE E-MAIL ADDRESS CELL PHONE

PREMISES (SPECIFIC TYPE) STREET ATM

DR. LIC. NO. (IF NONE, OTHER ID & NO.) FOREIGN LANGUAGE SPOKEN OCCUPATION VENTURE CAPITALIS

ENTRY 459/BFV POINT OF ENTRY POINT OF EXIT FRONT REAR SIDE ROOF FLOOR OTHER METHOD DATE & TIME OF OCCURRENCE 10/31/18 1820 DATE & TIME REPORTED TO PD 10/31/18 19:20

LOCATION OF OCCURRENCE SAME AS V/S RES. BUS. R.D. PRINTS BY PREL. INV. ATTEMPT OBTAINED 812 Y N Y N

VICT'S VEH. (IF INVOLVED) YEAR, MAKE, TYPE, COLOR, LIC. NO. NOTIFICATION(S) (PERSON & DIVISION) CONNECTED REPORT(S) (TYPE & DR #)

MO IF LONG FORM, LIST UNIQUE ACTIONS. IF SHORT FORM, DESCRIBE SUSPECT'S ACTIONS IN BRIEF PHRASES, INCLUDING WEAPON USED. DO NOT REPEAT ABOVE INFO BUT CLARIFY REPORT AS NECESSARY. IF ANY OF THE MISSING ITEMS ARE POTENTIALLY IDENTIFIABLE, ITEMIZE AND DESCRIBE ALL ITEMS MISSING IN THIS INCIDENT IN THE NARRATIVE. SUSP APPROACHED VICT FROM BEHIND, PUNCHED VICT APPROX 50 TIMES THEN FLED N/B ON FOOT TO UNK

TRANSIT-RELATED INCIDENT MANDATORY MARY'S RIGHTS CARD PROVIDED TO THE VICTIM MOTIVATED BY HATRED/PREJUDICE DOMESTIC VIOLENCE

REPORTING EMPLOYEE(S) MILLER PEREZ INITIALS, LAST NAME SERIAL NO. DIV./DETAIL PERSON REPORTING SIGNATURE OR RECEIVED BY PHONE

Complete below sections if any CASE SCREENING FACTOR(S) boxes are not checked.

SUSP'S VEHICLE YEAR MAKE MODEL TYPE INTERIOR EXTERIOR BODY WINDOWS

S-1 SEX DESC HAIR EYES HEIGHT WEIGHT AGE CLOTHING NAME, ADDRESS, DOB, IF KNOWN: NAME, BKG. NO., CHARGE, IF ARRESTED. WEAPON (VERBAL THREATS, BODILY FORCE, SIMULATED GUN, ETC. IF KNIFE OR GUN, DESCRIBE FULLY.) BODILY FORCE

S-2 SEX DESC HAIR EYES HEIGHT WEIGHT AGE CLOTHING NAME, ADDRESS, DOB, IF KNOWN: NAME, BKG. NO., CHARGE, IF ARRESTED. WEAPON (VERBAL THREATS, BODILY FORCE, SIMULATED GUN, ETC. IF KNIFE OR GUN, DESCRIBE FULLY.)

INVOLVED PERSON(S) W - WITNESS; R - PERSON RPTG.; S - PERSON SECURING (459); D - PERSON DISCOVERING (459); P - PARENT; CP - CONTACT PERSON (DOMESTIC VIOLENCE)

NAME SEX DESC DOB ADDRESS CITY ZIP PHONE KAPLAN, MADISON F. WHT 8/12/68

NAME SEX DESC DOB ADDRESS CITY ZIP PHONE

NAME SEX DESC DOB ADDRESS CITY ZIP PHONE

NAME SEX DESC DOB ADDRESS CITY ZIP PHONE

COMBINED EVID. RPT. USE THIS SECTION IN LIEU OF PROPERTY REPORT IF NO GUN AND NO MORE THAN THREE ITEMS OF EVIDENCE. LOC. EVID. BKD. 10.10.00 GIVEN? Preliminary Drug Test SUPV. INV. OFCR. TESTING SERIAL NO. WITNESS OFCR. SERIAL NO.

Table with columns: ITEM, QUAN., ARTICLE, SERIAL NO./TYPE TEST OF DRUG, BRAND/DRUG WEIGHT, UNITS, MODEL NO./ DRUG TEST RESULT, MISC.

NARRATIVE USE THE FOLLOWING HEADINGS TO DOCUMENT ALL INFORMATION REGARDING THE INVESTIGATION: ADDITIONAL PERSONS INVOLVED (separated by type); SOURCE OF ACTIVITY; INVESTIGATION; ARREST; INJURY/MEDICAL TREATMENT; PHOTOS, RECORDINGS, VIDEOS, DVD, BWV, AND DIGITAL IMAGING; BOOKING; EVIDENCE; CANNASSING; ADDITIONAL COLLISION SUMMARY; PROPERTY STOLEN/LOST/RECOVERED/DAMAGED; AND COURT INFORMATION. NOTE: ANY OF THESE HEADINGS MAY BE OMITTED IF NOT APPLICABLE. SEE GENERAL REPORTING INSTRUCTIONS- FIELD NOTEBOOK DIVIDER, FORM 18.30.00, AND INVESTIGATIVE REPORT-FIELD NOTEBOOK DIVIDER, FORM 18.30.01, FOR FURTHER INFO.

VICTIM INDEMNIFICATION INFORMATION (IF APPLICABLE) IS ANY OF THE VICTIM'S PROPERTY MARKED WITH AN OWNER APPLIED IDENTIFICATION NUMBER? IF YES, EXPLAIN IN NARRATIVE. YES NO

APPROVAL AND REVIEW SUPERVISOR APPROVING SERIAL NO. DIVISION DETECTIVE SUPERVISOR REVIEWING SERIAL NO. 35969 WLA D. Banks 31955

TRANSIT SERVICES BUREAU SECURITY SERVICES DIV CT508 MAJOR CRIMES SHOTS FIRED USE OF FORCE MARIJUANA STOLEN - GND GND/GIT FIREARM STOLEN - LOST - DVND & MAJ CRIME PROPERTY TT SUPVR CHILD ABUSE JUVENILE DIV EXTRA COPIES

**CONTINUATION SHEET**

Los Angeles Police Department

PAGE NO. 2		TYPE OF REPORT Battery			BOOKING NO.	DR NO. 18-08 18671	
ITEM NO.	QU AN	ARTICLE	SERIAL NO	BRAND	MODEL NO.	MISC DESCRIPTION (EG. COLOR, SIZE, INSCRIPTIONS, CALIBER, REVOLVER, ETC)	DOLLAR VALUE

**Source of Activity**

On 10/31/18 at approximately 1920 hours, my partner, Officer Perez #41081, and I, Officer Miller #41216 were assigned to West LA Division Patrol Unit 8Z3. We were in full uniform driving a marked black and white vehicle when we received a radio call of a battery at 580 Crestline Dr. Inc #181031004749

**Investigation**

We met with Randall Kaplan (Vict) and learned the following:

On 10/31/18 at approximately 1820 hours, Vict was with his wife Madison Kaplan (Wit) adjacent to 200 Homewood. Susp (later identified as Justin Gimelstob) approached Vict from behind and began punching his face and head approximately 50 times. Vict fell to the ground where Susp continued to fight Vict. Susp then fled N/B on foot from the location to unknown location. Susp was wearing a pilot flight suit costume during the incident.

We met with Madison Kaplan (Wit) who advised she was with her husband (Vict) on 10/31/18 at approximately 1820 hours adjacent to 200 Homewood. She then observed Justin Gimelstob attack Vict from behind and began punching Vict. Wit then took a cell phone video of the fight. My partner and I observed the video of Susp wrestling with Vict on the ground. Wit advised she could provide video to detectives upon request. She also provided a photo (attached to this report) of the Susp taken immediately after the incident.

Vict knew the Susp and Suspect's family, but could not state specifically what caused the incident.

**Injury/Medical**

My partner and I observed Vict had swelling and an abrasion above his left eye he said was caused by Susp during the incident. Vict had complaint of pain to his head and right ear. Susp had a scratch to her forehead and bruising above her left eye she stated was caused by Vict. Vict declined MT.

**Photos/Recordings/Videos/DICV/Digital Imaging**

BWV was activated during our investigation. A photo of the suspect after the incident was provided via e-mail by Wit. A printout of the photo is attached to this report. Wit advised the cell phone video could be provided to investigators upon request.

**Evidence**

NONE

**Court Information**

My partner and I are assigned to West LA Division Patrol and can testify to Vict and Wit statements.

# **EXHIBIT B**







# **EXHIBIT C**

**CH-100**

**Request for Civil Harassment Restraining Orders**

Read *Can a Civil Harassment Restraining Order Help Me?* (form CH-100-INFO) before completing this form. Also fill out *Confidential CLETS Information* (form CLETS-001) with as much information as you know.

*Clerk stamps date here when form is filed.*

**FILED**  
Superior Court of California  
County of Los Angeles  
  
SEP 26 2018  
  
Sherri R. Carlson, Executive Officer/Clerk  
By: Nancy Diaz, Deputy  
Nancy Diaz

**1 Person Seeking Protection**

a. Your Full Name: FIVEL BERARDO Age: 56  
Your Lawyer (if you have one for this case)  
Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_

*Fill in court name and street address:*  
Superior Court of California  
Los Angeles Superior Court of  
Central District, Family Law  
111 N. Hill Street, Room 426  
Los Angeles, CA 90012

b. Your Address (if you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.)

Address: 13417 VAIL LN  
City: SYLMAR State: CA Zip: 91342  
Telephone: 619-742-6790 Fax: \_\_\_\_\_  
E-Mail Address: FBERARDO@MICHAELDEP.COM

*Court fills in case number when form is filed.*  
Case Number:  
**18STR007015**

**2 Person From Whom Protection Is Sought**

Full Name: RANDALL KAPLAN Age: 49  
Address (if known): 580 CRESTWAVE DR  
City: LOS ANGELES State: CA Zip: 90049

**3 Additional Protected Persons**

a. Are you asking for protection for any other family or household members?  Yes  No *If yes, list them:*

Full Name	Sex	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are more persons. Attach a sheet of paper and write "Attachment 3a—Additional Protected Persons" for a title. You may use form MC-025, Attachment.

b. Why do these people need protection? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 3b—Why Others Need Protection" for a title.

**This is not a Court Order.**

Case Number: \_\_\_\_\_

**4 Relationship of Parties**

How do you know the person in (2)? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 4—Relationship of Parties" for a title.

RANDALL KAPLAN HAS BEEN HARASSING ME

**5 Venue**

Why are you filing in this county? (Check all that apply):

- a.  The person in (2) lives in this county.
- b.  I was harassed by the person in (2) in this county.
- c.  Other (specify): \_\_\_\_\_

**6 Other Court Cases**

a. Have you or any of the persons named in (3) been involved in another court case with the person in (2)?

Yes  No (If yes, check each kind of case and indicate where and when each was filed.)

Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1) <input type="checkbox"/> Civil Harassment	_____	_____	_____
(2) <input type="checkbox"/> Domestic Violence	_____	_____	_____
(3) <input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4) <input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5) <input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6) <input type="checkbox"/> Eviction	_____	_____	_____
(7) <input type="checkbox"/> Guardianship	_____	_____	_____
(8) <input type="checkbox"/> Workplace Violence	_____	_____	_____
(9) <input type="checkbox"/> Small Claims	_____	_____	_____
(10) <input type="checkbox"/> Criminal	_____	_____	_____
(11) <input type="checkbox"/> Other (specify): _____	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to you or any of the persons in (3) and the person in (2)?  No  Yes (If yes, attach a copy if you have one.)

**7 Description of Harassment**

Harassment means violence or threats of violence against you, or a course of conduct that seriously alarmed, annoyed, or harassed you and caused you substantial emotional distress. A course of conduct is more than one act.

a. Tell the court about the last time the person in (2) harassed you.

(1) When did it happen? (provide date or estimated date): 9-11-18

(2) Who else was there?  
NEJAT HUSSEIN

**This is not a Court Order.**



Case Number: \_\_\_\_\_

7 a. (3) How did the person in (2) harass you? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(3)—Describe Harassment" for a title.

EVERY TIME MY ASSAILANT RANDALL KAPLAN SEES ME SITTING IN THE COURTYARD, HE'D COME OVER TO TELL ME NOT TO SMOKE IN THE AREA. TWICE, HE TOOK A VIDEO OF ME. THE LAST TIME HE TOOK A VIDEO OF ME WITH HIS CELL PHONE ON 9-11-18, HE PUNCHED ME IN THE FACE.

(4) Did the person in (2) use or threaten to use a gun or any other weapon?

Yes  No (If yes, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(4)—Use of Weapons" for a title.

(5) Were you harmed or injured because of the harassment?

Yes  No (If yes, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(5)—Harm or Injury" for a title.

RANDALL KAPLAN PUNCHED ME IN MY FACE WITH HIS LEFT FIST BECAUSE HE WAS HOLDING HIS PHONE WITH HIS RIGHT HAND.

(6) Did the police come?  Yes  No

If yes, did they give you or the person in (2) an Emergency Protective Order?  Yes  No

If yes, the order protects (check all that apply):

Me  The person in (2)  The persons in (3).

(Attach a copy of the order if you have one.)

b. Has the person in (2) harassed you at other times?

Yes  No (If yes, describe prior incidents and provide dates of harassment below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7b—Previous Harassment" for a title.

KAPLAN HARASSED ME NUMEROUS TIMES WHENEVER HE SEES ME SITTING AND EATING BREAKFAST AT THE COURTYARD

**This is not a Court Order.**



Case Number: \_\_\_\_\_

**Check the orders you want.**

**8**  **Personal Conduct Orders**

I ask the court to order the person in **(2)** not to do any of the following things to me or to any person to be protected listed in **(3)**:

- a.  Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- b.  Contact the person, either directly or indirectly, in any way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
- c.  Other (specify):  
 Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8c—Other Personal Conduct Orders," for a title.

The person in **(2)** will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

**9**  **Stay-Away Orders**

a. I ask the court to order the person in **(2)** to stay at least 10 yards away from (check all that apply):

- (1)  Me.
- (2)  The other persons listed in **(3)**.
- (3)  My home.
- (4)  My job or workplace.
- (5)  My school.
- (6)  My children's school.
- (7)  My children's place of child care.
- (8)  My vehicle.
- (9)  Other (specify): \_\_\_\_\_

b. If the court orders the person in **(2)** to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job?  Yes  No (If no, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 9b—Stay-Away Orders," for a title.

**10** **Guns or Other Firearms and Ammunition**

Does the person in **(2)** own or possess any guns or other firearms?  Yes  No  I don't know

If the judge grants a protective order, the person in **(2)** will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a gun, other firearm, and ammunition while the protective order is in effect. The person in **(2)** will also be ordered to turn in to law enforcement, or sell to or store with a licensed gun dealer, any guns or firearms within his or her immediate possession or control.

**This is not a Court Order**



Case Number: \_\_\_\_\_

**11**  **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the person in **(2)** to last until the hearing. I am presenting form CH-110, *Temporary Restraining Order*, for the court's signature together with this *Request*.

Has the person in **(2)** been told that you were going to go to court to seek a TRO against him/her?

Yes  No (If you answered no, explain why below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 11—Temporary Restraining Order" for a title.

I AM AFRAID FOR MY SAFETY

**12**  **Request to Give Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the person in **(2)** at least five days before the hearing, unless the court orders a shorter time for service. (Form CH-200-INFO explains What Is "Proof of Personal Service"? Form CH-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 12—Request to Give Less Than Five Days' Notice" for a title.

HE THREATS TO ME THAT HE MIGHT TRY TO CAUSE ME HARM BEFORE I GET TO THE HEARING.

**13**  **No Fee for Filing or Service**

- a.  There should be no filing fee because the person in **(2)** has used or threatened to use violence against me, has stalked me, or has acted or spoken in some other way that makes me reasonably fear violence.
- b.  The sheriff or marshal should serve (notify) the person in **(2)** about the orders for free because my request for orders is based on unlawful violence, a credible threat of violence, or stalking.
- c.  There should be no filing fee and the sheriff or marshal should serve the person in **(2)** for free because I am entitled to a fee waiver. (You must complete and file form FW-001, Application for Waiver of Court Fees and Costs.)

**14**  **Lawyer's Fees and Costs**

I ask the court to order payment of my  lawyer's fees  Court costs.

The amounts requested are:

Item	Amount	Item	Amount
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper or form MC-025 and write "Attachment 14—Lawyer's Fees and Costs" for a title.

**This is not a Court Order**



Case Number: \_\_\_\_\_

**15**  **Possession and Protection of Animals**

I ask the court to order the following:

- a.  That I be given the sole possession, care, and control of the animals listed below, which I own, possess, lease, keep, or hold, or which reside in my household.  
*(Identify animals by, e.g., type, breed, name, color, sex.)*

I request sole possession of the animals because *(specify good cause for granting order):*

- Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 15a—Possession of Animals" for a title.

- b.  That the person in **2** must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

**16**  **Additional Orders Requested**

I ask the court to make the following additional orders *(specify):*

- Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 16—Additional Orders Requested," for a title.

**17** Number of pages attached to this form, if any: \_\_\_\_\_

Date: \_\_\_\_\_

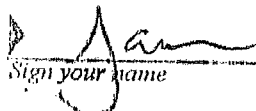
\_\_\_\_\_  
*Lawyer's name (if any)*

\_\_\_\_\_  
*Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: 9-26-18

FIDEL GERARDO  
*Type or print your name*

  
*Sign your name*

**This is not a Court Order.**



NAME, ADDRESS AND TELEPHONE NUMBER OF ALLEGEDLY OPPRESSIVE PARTY, WITHOUT ATTORNEY: FIDEL GERARDO 13411 VAIL LN SYLMAR, CA 91342 619-742-6790		STATE BAR NUMBER	Reserved for Clerk's File Stamp  <b>FILED</b> Superior Court of California County of Los Angeles  SEP 26 2018 Sherril R. Carter, Executive Officer/Clerk By <i>Nancy Diaz</i> Deputy Nancy Diaz
ATTORNEY FOR (NAME): <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES</b>			
COURT HOUSE ADDRESS: 11 NORTH HILLS ST, LOS ANGELES, CA 91342			
PETITIONER/PLAINTIFF: FIDEL GERARDO			
RESPONDENT/DEFENDANT: RANDALL KAPLAN			
CHILD'S NAME:	CHILD'S DATE OF BIRTH:	CASE NUMBER: 18STR007015	
DECLARATION RE: NOTICE OF EX PARTE REQUEST (NO NOTICE GIVEN) (Temporary Restraining Order)		RELATED CASES (IF ANY):	

I, FIDEL GERARDO (PRINT NAME), declare that:

1) I did not give notice to the other party in this action because:

- I was afraid that the violence would reoccur when I gave notice that I was asking for these orders.
- I was afraid that the other party would take the children out of the area before the order could be granted and served.
- I believe that giving notice would make the orders useless because the other party would:  
INSTRUCT HIS LAWYER TO TAKE ACTIONS

2) I attempted and was unable to inform \_\_\_\_\_ or his/her attorney \_\_\_\_\_ that I would be seeking a temporary restraining order. My attempts included \_\_\_\_\_

3) Other reason:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I declare that the above is true and correct, and that I executed this declaration at 11 NORTH HILLS ST., LA, California

9-26-18  
DATE

*[Signature]*  
SIGNATURE OF DECLARANT:

FAM 018 / CK 018  
04/04

DECLARATION OF EX PARTE NOTICE

# CH-110 Temporary Restraining Order

Clerk stamps date here when form is filed.

Person in ① must complete items ①, ②, and ③ only.

### ① Protected Person

a. Your Full Name: FIDEL GERARDO

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: 13411 VAN LYN

City: SYLMAR State: CA Zip: 91342

Telephone: 619-742-6790 Fax: \_\_\_\_\_

E-Mail Address: FGERARDO@MICHAELCORP.COM

**FILED**  
 Superior Court of California  
 County of Los Angeles

**SEP 26 2018**

Sherri R. Carlson, Executive Officer/Clerk  
 By: Nancy Diaz Deputy

Fill in court name and street address:

Superior Court of California, County of  
 Los Angeles Superior Court  
 Central District, Family Law  
 111 N. Hill Street, Room 426  
 Los Angeles, CA 90012

Court fills in case number when form is filed.

Case Number:  
18STR007015

### ② Restrained Person

Full Name: RANDALL KAPLAN

Description:

Sex:  M  F Height: 6'3" Weight: 185 Date of Birth: 11-28-68

Hair Color: GRAY Eye Color: BROWN Age: 49 Race: WHITE

Home Address (if known): 580 CRESTLINE DR

City: LDS ANGELES State: CA Zip: 90049

Relationship to Protected Person: NONE PERSON THAT WORKS IN THE BLDG ACROSS FROM THE BUILDING WHILE I WORK

### ③ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the temporary orders indicated below:

Full Name	Sex	Age	Household Member?	Relation to Protected Person
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

The court will complete the rest of this form.

### ④ Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: 10/18/18 Time: 8:30  a.m.  p.m.

**This is a Court Order.**

Case Number: \_\_\_\_\_

**To the Person in ②:**

The court has granted the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

**⑤ Personal Conduct Orders**

Not Requested     Denied Until the Hearing     **Granted as Follows:**

- a. You must ~~not~~ do the following things to the person named in ① and to the other protected persons listed in ③:
- (1)  Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
  - (2)  Contact the person, either directly or indirectly, in any way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
  - (3)  Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
  - (4)  Other (specify):  
 Other personal conduct orders are attached at the end of this Order on Attachment Sa(4).

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in ①.

**⑥ Stay-Away Order**

Not Requested     Denied Until the Hearing     **Granted as Follows:**

- a. You must stay at least 100 yards away from (check all that apply):
- (1)  The person in ①
  - (2)  Each person in ③
  - (3)  The home of the person in ①
  - (4)  The job or workplace of the person in ①
  - (5)  The school of the person in ①
  - (6)  The school of the children of the person in ①
  - (7)  The place of child care of the children of the person in ①
  - (8)  The vehicle of the person in ①
  - (9)  Other (specify):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. This stay-away order does not prevent you from going to or from your home or place of employment.

**⑦ No Guns or Other Firearms and Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
- (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.

**This is a Court Order.**



Case Number: \_\_\_\_\_

(2) File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. (You may use form CH-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.)

c.  The court has received information that you own or possess a firearm.

**8 Possession and Protection of Animals**

Not Requested     Denied Until the Hearing     Granted as Follows (specify):

a.  The person in ① is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household. (Identify animals by, e.g., type, breed, name, color, sex.)

b.  The person in ② must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

**9 Other Orders**

Not Requested     Denied Until the Hearing     Granted as Follows (specify):

Additional orders are attached at the end of this Order on Attachment 9.

**To the Person in ①**

**10 Mandatory Entry of Order into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (Check one):

- a.  The clerk will enter this Order and its proof-of-service form into CARPOS.
- b.  The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c.  By the close of business on the date that this Order is made, the person in ① or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 10.

**This is a Court Order.**



Case Number: \_\_\_\_\_

⑪ No Fee to Serve (Notify) Restrained Person  Ordered  Not Ordered

The sheriff or marshal will serve this Order without charge because:

- a.  The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b.  The person in ① is entitled to a fee waiver.

⑫ Number of pages attached to this Order, if any: \_\_\_\_\_

Date: SEP 26 2018

*[Signature]*  
Judicial Officer

JOHN CHEMELESKI  
COURT COMMISSIONER

**Warnings and Notices to the Restrained Person in ②**

**You Cannot Have Guns or Firearms**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control as stated in item ⑦ above. The court will require you to prove that you did so.

**Notice Regarding Nonappearance at Hearing and Service of Order**

If you have been personally served with this Temporary Restraining Order and form CH-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ②.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

**After You Have Been Served With a Restraining Order**

- Obey all the orders.
- Read form CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the Request claims that you inflicted or threatened violence against or stalked the person in ①.
- You must have form CH-120 served by mail on the person in ① or that person's attorney. You cannot do this yourself. The person who does the mailing should complete and sign form CH-250, *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you do not know how to prepare a declaration, you should see a lawyer.

**This is a Court Order**



Case Number: \_\_\_\_\_

- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to five years. Tell the judge why you disagree with the orders requested.

**Instructions for Law Enforcement**

**Enforcing the Restraining Order**

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

**Start Date and End Date of Orders**

This order starts on the date next to the judge's signature on page 4. The order ends on the expiration date in item ④ on page 1.

**Arrest Required if Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

**Notice/Proof of Service**

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

**This is a Court Order.**



Case Number: \_\_\_\_\_

**Conflicting Orders—Priorities for Enforcement**

**If more than one restraining order has been issued, the orders must be enforced according to the following priorities** (see Pen. Code, § 136.2; Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Clerk's Certificate  
[seal]

(Clerk will fill out this part.)

**—Clerk's Certificate—**

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

# CH-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

## 1 Person Seeking Protection

a. Your Full Name:

FIVEL GERARDO

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: 13411 VAIL LN

City: SYDNEY State: CA Zip: 91342

Telephone: 619-742-6790 Fax: \_\_\_\_\_

E-Mail Address: FGERARDO@MICHAELORP.COM

**FILED**  
 Superior Court of California  
 County of Los Angeles  
**SEP 26 2010**  
 Sherri R. Carter, Executive Officer/Clerk  
 By: Nancy Diaz Deputy

Fill in court name and street address:

Superior Court of California, County of  
 Los Angeles Superior Court  
 Central District, Family Law  
 111 N. Hill Street, Room 426  
 Los Angeles, CA 90012

Court fills in case number when form is filed.

Case Number:  
**18STR007015**

## 2 Person From Whom Protection Is Sought

Full Name: RANDALL KAPLAN

The court will complete the rest of this form.

## 3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2:

Hearing Date → Date: 10/19/10 Time: 8:30 AM  
 Dept.: 10 Room: 543  
 Name and address of court if different from above: \_\_\_\_\_

## 4 Temporary Restraining Orders (Any orders granted are on Form CH-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in Form CH-100, Request for Civil Harassment Restraining Orders, are (check only one box below):

- (1)  All **GRANTED** until the court hearing.
- (2)  All **DENIED** until the court hearing. (Specify reasons for denial in b, below.)
- (3)  Partly **GRANTED** and partly **DENIED** until the court hearing. (Specify reasons for denial in b, below.)





Case Number: \_\_\_\_\_

b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in Form CH-100, *Request for Civil Harassment Restraining Orders*, are:

- (1)  The facts as stated in Form CH-100 do not sufficiently show acts of violence, threats of violence, or a course of conduct that seriously alarmed, annoyed, or harassed the person in ① and caused substantial emotional distress.
- (2)  Other (specify):  As set forth on Attachment 4b.

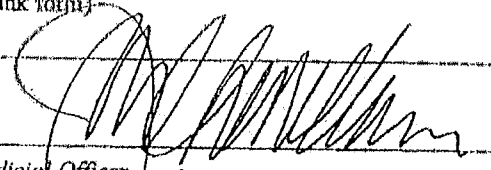
\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

⑤ Service of Documents by The Person in ①

At least  five  \_\_\_\_\_ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this Form CH-109, to the person in ② along with a copy of all the forms indicated below: *Notice of Court Hearing*,

- a. CH-100, *Request for Civil Harassment Restraining Orders* (file-stamped)
- b.  CH-110, *Temporary Restraining Order* (file-stamped) IF GRANTED
- c. CH-120, *Response to Request for Civil Harassment Restraining Orders* (blank form)
- d. CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*
- e. CH-250, *Proof of Service of Response by Mail* (blank form)
- f.  Other (specify): \_\_\_\_\_

Date: SEP 26 2018

  
 \_\_\_\_\_  
 Judicial Officer  
 JOHN CHEMELESKI  
 COURT COMMISSIONER

**To the Person in ①**

- The court cannot make the restraining orders after the court hearing unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out a proof of service form. Form CH-200, *Proof of Personal Service*, may be used.
- For information about service, read Form CH-200-INFO, *What Is "Proof of Personal Service"?*
- If you are unable to serve the person in ② in time, you may ask for more time to serve the documents. Use Form CH-115, *Request to Continue Court Hearing and to Reissue Temporary Restraining Order*.

Case Number: \_\_\_\_\_

**To the Person in 2**

- If you want to respond to the request for orders in writing, file Form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the person in ①.
- The person who mailed the form must fill out a proof of service form. Form CH-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make restraining orders against you that could last up to five years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms that you own or possess.



**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

*Clerk's Certificate*  
[seal]

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

#4

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

Assigned for Court File Stamp

COURTHOUSE ADDRESS:  
11 N. Hill Street, Los Angeles, CA 90012

**FILED**  
Superior Court of California  
County of Los Angeles

OCT 18 2018

PLAINTIFF PETITIONER:

*Fidel Gervardo*

Sherril R. Carter, Executive Officer/Clerk

DEFENDANT RESPONDENT:

*Randall Kaplan*

By: *David Cuevas*, Deputy

**STIPULATION FOR THE APPOINTMENT  
OF COURT COMMISSIONER  
AS TEMPORARY JUDGE**

CASE NUMBER

18STR007015

The judicial officer in this court, Kimberly Dotson, is a Superior Court Commissioner. Commissioners are full time judicial officers appointed by the judges of the Superior Court. Before this Commissioner can hear or preside over this case, all parties must agree that this Commissioner can be the judge for this case. This stipulation is an agreement to the appointment of the above named Commissioner as a Temporary Judge for this hearing and all future hearings and trials in this case, including post judgment matters.

Each person signing this stipulation understands that the pending case has been assigned to the above named Commissioner, who is a member of the State Bar of California. It is also understood that this commissioner has been appointed as a Superior Court Commissioner (California Constitution, Article Six, Section Twenty-Two). Further, it is understood that this Commissioner has been appointed as a Temporary Judge pursuant to an order of the Presiding Judge of the Superior Court and has taken the oath of office as to all matters assigned [California Constitution, Article Six, Section Twenty-One; Code of Civil Procedure section 259, subdivision (d)].

It is stipulated by the undersigned attorneys and parties that the above named Commissioner, sitting as a Temporary Judge, shall hear and decide all present and future matters, including post judgment proceedings, throughout the pendency of this case.

Dated: 10-18-18

*[Signature]*  
Plaintiff Petitioner

*[Signature]*  
Defendant Respondent

Attorney for the Plaintiff, Petitioner (printed)

Attorney for Defendant, Respondent (printed)

Attorney for Plaintiff Petitioner (signature)

Attorney for Defendant, Respondent (signature)

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**  
**Family Division**  
**Stanley Mosk Dept. - 6**

**18STRO07015**  
**Gerardo, Fidel**  
**vs**  
**Kaplan, Randall**

**October 18, 2018**  
**8:30 AM**

Honorable Kimberly Dotson, Commissioner

Lily Yu, Judicial Assistant  
Theresa Allen, Court Services Assistant

Kimberly Dorn (#12809), Court Reporter  
Viet V Tran, Deputy Sheriff

---

**NATURE OF PROCEEDINGS:** Petition - Civil Harassment filed by Petitioner on September 26, 2018

The following parties are present for the aforementioned proceeding:

Fidel Gerardo, Petitioner  
Randall Kaplan, Respondent  
Philip Ken Cohen, Attorney for Petitioner

The matter is called for hearing.

It is stipulated by the parties that Commissioner Kimberly Dotson may hear this matter as Judge Pro Tem. Stipulation and Order Appointing Member of the State Bar is signed and filed this date.

The parties are sworn and testify.

Respondent's exhibit 1 (a letter) is admitted by reference.

Having found no basis for the issuance of a permanent restraining order, the Court hereby denies Petitioner's request. Any and all restraining orders are hereby dissolved.

The case is ordered dismissed with prejudice.

# CH-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

## 1 Person Seeking Protection

a. Your Full Name:

FIVEL GERARDO

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: 13411 VAL VA

City: SYLMAR State: CA Zip: 91342

Telephone: 619-742-6790 Fax: \_\_\_\_\_

E-Mail Address: FGERARDO@MICHAELCORP.COM

**FILED**  
Superior Court of California  
County of Los Angeles  
**SEP 26 2010**  
Clerk: R. Carter, Executive Officer/Clerk  
By: Nancy Diaz, Deputy

Fill in court name and street address:

Superior Court of California, County of  
Los Angeles Superior Court  
Central District, Family Law  
111 N. Hill Street, Room 426  
Los Angeles, CA 90012

Court fills in case number when form is filed.

Case Number:  
**18STR007015**

## 2 Person From Whom Protection Is Sought

Full Name: RANDALL KAPLAN

The court will complete the rest of this form.

## 3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2:

Hearing Date: 10/19/10 Time: 8:30am  
Dept: 6 Room: 543  
Name and address of court if different from above: \_\_\_\_\_

## 4 Temporary Restraining Orders (Any orders granted are on Form CH-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in Form CH-100, Request for Civil Harassment Restraining Orders, are (check only one box below):

- (1)  All GRANTED until the court hearing.
- (2)  All DENIED until the court hearing. (Specify reasons for denial in b, below.)
- (3)  Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)



Case Number: \_\_\_\_\_

b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in Form CH-100, *Request for Civil Harassment Restraining Orders*, are:

- (1)  The facts as stated in Form CH-100 do not sufficiently show acts of violence, threats of violence, or a course of conduct that seriously alarmed, annoyed, or harassed the person in ① and caused substantial emotional distress.
- (2)  Other (specify):  As set forth on Attachment 4b.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

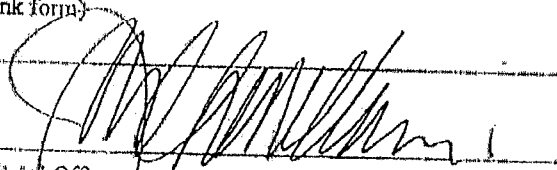
\_\_\_\_\_

⑤ **Service of Documents by The Person in ①**

At least  five  \_\_\_\_\_ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this Form CH-109, to the person in ② along with a copy of all the forms indicated below: *Notice of Court Hearing*,

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- b.  CH-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. CH-120, *Response to Request for Civil Harassment Restraining Orders* (blank form)
- d. CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*
- e. CH-250, *Proof of Service of Response by Mail* (blank form)
- f.  Other (specify): \_\_\_\_\_

Date: SEP 26 2018

  
 Judicial Officer  
**JOHN CHEMELESKI**  
 COURT COMMISSIONER

**To the Person in ①:**

- The court cannot make the restraining orders after the court hearing unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out a proof of service form. Form CH-200, *Proof of Personal Service*, may be used.
- For information about service, read Form CH-200-INFO, *What Is "Proof of Personal Service"?*
- If you are unable to serve the person in ② in time, you may ask for more time to serve the documents. Use Form CH-115, *Request to Continue Court Hearing and to Reissue Temporary Restraining Order*.



Case Number: \_\_\_\_\_

**To the Person in 2**

- If you want to respond to the request for orders in writing, file Form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and have someone age 18 or older—not you or anyone to be protected—mail it to the person in ①.
- The person who mailed the form must fill out a proof of service form. Form CH-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make restraining orders against you that could last up to five years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms that you own or possess.



**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)*

**--Clerk's Certificate--**

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

*Clerk's Certificate*  
[seal]

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

# **EXHIBIT D**





23638 Lyons Avenue, # 167  
Newhall, CA 91321  
661.373.5454  
[pi@overwatchassets.com](mailto:pi@overwatchassets.com)  
CA PI License 28345

**DATE:** 8/21/2019  
**TO:** Alan Jackson, Esq.  
**CASE:** Justin Gimelstob  
**WITNESS:** Valary Sanders  
1802 Park St.  
Huntington Beach, CA 92648  
(714) 548-1809  
(714) 330-6493

**DATE OF INTERVIEW:** 8/21/2019

**TIME OF INTERVIEW:** 1905 hours

On the above date and time, Investigator Dean Anderson (I), Overwatch Assets Investigations, CA PI 28345, conducted a telephonic interview of Valary Sanders<sup>1</sup>. Prior to the interview, (I) advised he was working on behalf of Attorney Alan Jackson, of Werksman, Jackson and Quinn. Additionally, (I) advised Valary that attorneys are representing a client whom had contact with a man named Randall Kaplan, a person with whom she may have had contact. Valary consented to an interview, but refused to provide permission for (I) to record the interview.

Valary stated that on 6/21/2019, she and her husband Matthew were in Idaho. At 2200 hours, the Sanders were at Gozzer Ranch Country Club<sup>2</sup>, a private country club. They were guests of members, John and Layla Hilinski. The foursome was seated at a table on the first level clubhouse patio. There were approximately 30 more people sitting in the patio area, but Valary does not know them by name. The patio area is outside the interior bar. Valary estimated there was at least 50 additional people inside the bar. The oval-shaped bar on the inside, services both the inside bar, and the patio area via an approximate 10' by 10' service window.

A man, later identified by the Hilinskis as Randall Kaplan, was dancing on the bar, making a spectacle of himself. Valary was watching Kaplan.

---

<sup>1</sup> Valary Sanders' husband, Matthew Sanders, was also interviewed in this case. They will each be referenced by their first names.

<sup>2</sup> Gozzer Ranch Country Club, 5945 Buckrail Road, Harrison Idaho, 83833. (208) 665-6600.

An orange was thrown in the direction of Kaplan by an unknown person. It missed. Valary then saw a second orange fly through the service window and hit Kaplan in the back of the head. The orange was thrown from the patio area, into the bar. Valary did not see who threw the orange. Kaplan turned around and was obviously angry. He looked around the patio area, mouthing, "who did it!" He made eye contact with Valary. Valary looked away and continued her conversation with Layla Hilinski.

Without warning, Valary was struck in the head with a forcibly thrown orange. The orange struck Valary on the right side of her forehead, above the eye, near her temple. The force knocked her head backward. The impact area was inside her hairline, so she does not know if the impact left a visible injury. She did not seek medical treatment, nor did she take any images of the impact area. The impact area was sore for a couple days after the incident.

Valary was very angry and had words with Kaplan. A near fight ensued but several other patrons, including some professional hockey players, kept people separated. Kaplan was ultimately ushered out of the clubhouse. Country Club Members told Valary they would seek a penalty for Kaplan through the Country Club Membership. She learned later that Kaplan's membership was suspended for an unknown amount of time.

Valary did not contact the police, nor does she plan seeking any other legal remedy.

The day after the incident, Valary contacted management personnel at Gozzer Ranch Country Club. Valary queried if the Club had any digital or video of the prior night's incident. Valary was told there are no cameras trained on the bar or patio area, therefore, no images of the incident were captured.

Valary would not name the person who sent it, but she received an email containing an approximate one-minute video of Kaplan dancing on the bar. The video does not capture Kaplan being struck by an orange, nor does it show Kaplan throwing the orange that struck Valary. Valary was unwilling to provide (I) with a copy of the video at this time. Valary wanted more information about the instant case, and what her involvement might be if she provides further information or evidence. Valary stated she may reconsider if contacted by the actual client in the instant case, or the involved attorneys.

*Stanley D. Cochran*

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**Stanley D. Cochran**  
**Overwatch Assets Investigations**  
**CA PI 28345**

# **EXHIBIT E**



23638 Lyons Avenue, # 167  
Newhall, CA 91321  
661.373.5454  
[pi@overwatchassets.com](mailto:pi@overwatchassets.com)  
CA PI License 28345

**DATE:** 8/21/2019  
**TO:** Alan Jackson, Esq.  
**CASE:** Justin Gimelstob  
**WITNESS:** Matthew Charles Sanders  
1802 Park Street  
Huntington Beach, CA. 92648  
(714) 548-1809  
(714) 330-6493

**DATE OF INTERVIEW:** 8/21/2019

**TIME OF INTERVIEW:** 1700 hours

On the above date and time, Private Investigator Stanley D. Cochran (PI), Overwatch Assets Investigations, CA PI 28345, conducted a telephonic interview of Matthew Charles Sanders.<sup>1</sup> Matthew identified himself as the husband of Valary Sanders.

On 6/21/2019, Matthew and Valary were at the Gozzer Ranch Country Club in Idaho. Matthew and Valary were seated at an outdoor table near the bar. Also seated at the table were their friends, John and Layla Hilinski. Others were at the table as well, but Matthew cannot recall their names.

At one point, an unknown male approached their table. While motioning to the nearby bar, the unknown male stated, "I hate that guy!" Everyone's attention was then directed at the bar, which was inside, approximately 20 feet from the table.

Matthew observed a male individual, standing on top of the bar. Matthew was later to learn the individual on the bar top was Randal Kaplan. Kaplan was dancing and playing an imaginary "air guitar."

The unknown male obtained a grapefruit and threw it at Kaplan, missing him. Kaplan was unaware that anything had been thrown at him. The unknown male then obtained an orange, which he also threw at Kaplan, striking him in the back of the head.

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<sup>1</sup> Matthew Sanders' wife, Valary Sanders, was also interviewed in this case. For the purpose of clarity, they are referenced by their first names

Kaplan, apparently enraged, turned in the direction from which the orange had been thrown. His focus was on the table where the Sanders party and the others were sitting.

Kaplan obtained an orange and threw it as fast as he could at the table, striking Valary in the forehead, near her hairline. Matthew stated the orange was thrown like "a fastball," and was traveling at a fast speed when it struck Valary.

Other patrons in the bar began chasing Kaplan as he began running inside the club. Matthew was going to chase him as well, but he was restrained by a friend, Kelly Chase.<sup>2</sup> Chase told Matthew that Kaplan was a jerk and not worth it. He also told Matthew that Kaplan would turn things around on him (Matthew) and he would be sued. Chase told him, "If you punch him, he will sue you."

Eventually, Kaplan was cornered inside the bar and calmed. Security was involved as well. Kaplan was asked to leave, and he did.

Matthew stated that Valary had no visible injuries or side effects from being struck by the orange. However, he opined that if it had struck her full in the face, especially if she was in the act of drinking from a glass, it could have been disastrous.

Matthew has since learned that Kaplan is well known for causing trouble at the country club. At one point, his membership was cancelled. However, it has since been reinstated.

There was no litigation or law enforcement action as a result of the incident.

*Stanley D. Cochran*

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**Stanley D. Cochran**  
**Overwatch Assets Investigations**  
**CA PI 28345**

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<sup>2</sup> A former professional hockey player.

# **EXHIBIT F**

Justin Gimelstob  
June 14, 2019

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

**CERTIFIED ORIGINAL**

In Re Marriage of:

PETITIONER: CARY K. GIMELSTOB

and

CASE NO. BD 624 849

RESPONDENT: JUSTIN J. GIMELSTOB

---

VIDEOTAPED DEPOSITION OF JUSTIN GIMELSTOB

June 14, 2019

10:21 a.m.

12121 Wilshire Boulevard, Suite 1325

Los Angeles, California

REPORTED STENOGRAPHICALLY BY:

Deborah L. Heskett

CSR No. 11797

1 in your back pocket?

2 A No.

3 Q Did you make any reference to your  
4 influence with the judge?

5 A No.

6 Q Ever?

7 A No.

8 Q Is that --

9 A No, I said.

10 Q -- no?

11 All right. Can you explain to me what  
12 happened on Halloween 2018?

13 MS. ROYCE: Objection. Vague and ambiguous  
14 as to time.

15 BY MR. DeCAROLIS:

16 Q Do you understand the question?

17 A Yeah. Can you be more specific?

18 Q Why don't we start -- you took your son  
19 trick-or-treating, didn't you?

20 A I did.

21 Q So why don't you explain to me what  
22 happened the evening of Halloween 2018 from the time  
23 you started taking your son trick-or-treating until  
24 you went to sleep that night?

25 A Okay.



1 MS. ROYCE: Objection. Calls for a  
2 narrative.

3 THE WITNESS: My girlfriend and I and  
4 Brandon drove to our friends' house. We started  
5 there. Took pictures and kids were running around.  
6 Stayed there for a while, bunch of people there.  
7 Then eventually we drove down, parked, walked to  
8 Homewood, spent some time trick-or-treating.

9 As we kind of went north and east-west kind  
10 of going through the houses and people were talking,  
11 kids were running around trick-or-treating. And  
12 that went on -- that went on for a while.

13 BY MR. DeCAROLIS:

14 Q What happened after that? Well, let me --  
15 before you go there, let me ask a few questions.

16 Who were -- what was -- who was the friend  
17 whose house you started at?

18 A Tom Carver and Margaret Carver.

19 Q Where is that located?

20 A I believe somewhere on Tigertail.

21 Q In Brentwood?

22 A Yeah.

23 Q Where's Homewood? Santa Monica?

24 A Homewood is in Brentwood. It's -- I mean,  
25 it's not really a parallel street. I mean, Tiger --

1 Tigertail goes down here and then I think there's  
2 maybe Kenter and then it's -- it's this way. So  
3 kind of parallel but there's -- yeah, let's say  
4 Brentwood. Very close.

5 Q How far away from the Carvers' was it?

6 A We drove down and then walked a little bit,  
7 but it's close. I mean, I think they are kind of --  
8 like I said, kind of parallel streets with hills  
9 and --

10 Q Had you -- did you have any alcohol when  
11 you were at the Carvers'?

12 A Not that I remember.

13 Q So you drive down to the Homewood area.  
14 What happens next?

15 A Yeah. Then we started trick-or-treating  
16 and we -- as we walked up Homewood.

17 Q How long did you trick-or-treat on  
18 Homewood?

19 A Probably about 25 -- probably about 25  
20 minutes --

21 Q Who was with you?

22 A -- 30 minutes.

23 Q Who was with you trick-or-treating?

24 A It varied. I mean, it was me and Austin  
25 obviously, Brandon. We run into a bunch of people.

1 It's kind of like a block party. The street was  
2 closed off and a lot of people were intermingling,  
3 kids were running around.

4 Q Who was the actual group that you drove  
5 down? Was it just you and Austin and Brandon in the  
6 car?

7 A In the car on the way down there, I think  
8 so. I don't think anyone else -- I don't think  
9 Will, Tom's car -- Tom's son Spike -- call Will  
10 Spike -- came down with us. I think they drove down  
11 as well. And then there was a bunch of other  
12 people. The Carvers had a bunch of friends who I  
13 probably met but I don't really know who they were.  
14 So it was a pretty decent sized group. And then you  
15 kind of see some people you kind of tangentially  
16 know. And at one point ran into Mardy Fish and  
17 Stacey Fish and Beckett who we obviously all know.

18 I think they wanted to go there. We texted  
19 about meeting up there because obviously my dad had  
20 just passed and he wanted to talk about that and  
21 said his condolences and -- so yes. And then --

22 MS. ROYCE: Well, let him ask the next  
23 question.

24 THE WITNESS: So we were all kind of  
25 together.

1 BY MR. DeCAROLIS:

2 Q You are at this -- you are in this sort of  
3 block party/trick-or-treating area, you are engaging  
4 with various people, and you're trick-or-treating  
5 with Brandon?

6 A Yeah. We were all trick-or-treating, kind  
7 of watching each other's kids. And Brandon -- kids  
8 were going to different houses and kind of just  
9 monitoring it.

10 Q Other than conversations and the kids  
11 trick-or-treating, there's nothing that happened  
12 that was that eventful for 25 minutes?

13 A Correct.

14 Q Then --

15 A Maybe 30.

16 Q 25 to 30 minutes.

17 So then what happens next after this 25 or  
18 30 minutes?

19 A I wasn't -- the way the street works is  
20 it's a pretty wide street. Say this is the east  
21 side, this is the west side, goes slightly uphill.  
22 The group kind of was here, the kids were kind of  
23 running around visible. I saw -- I end up talking  
24 to another group that was a little on the east side  
25 of the street and was just talking to them for a

1 little bit.

2 Q So this conversation goes on --

3 A I was the farthest on the east side. Other  
4 people were kind of to my -- to my right.

5 Q Do you remember what you were talking  
6 about?

7 A No.

8 Q Just small talk?

9 A Yeah. I think there was some tennis fans,  
10 they wanted to talk about tennis.

11 Q What happened next?

12 A Randy Kaplan and his wife and -- pushing a  
13 stroller kind of passed me on my left.

14 Q They went by you?

15 A No. They didn't go by me.

16 Q What --

17 A By the time that we made eye contact, I was  
18 facing this way, he was facing that way.

19 Q When you are saying, this and that --

20 A I'm sorry. My bad.

21 Q -- 'cause the record has to --

22 A My bad. Sorry. So he was heading south --

23 Q Okay.

24 A -- and I was stationary.

25 Q And he stopped to talk to you?

1           A     I wouldn't say talk. Once he saw me, he --  
2 then he stopped and -- abruptly and I saw him and he  
3 made eye contact, and he said something incredibly  
4 hurtful.

5           Q     What did he say?

6           A     He said, I heard your dad just dropped dead  
7 and he was an even bigger asshole than you. That's  
8 what he said.

9           Q     And what happened next?

10          A     I was stunned. And my immediate reaction  
11 was disbelief. I asked him what the fuck was wrong  
12 with him, what his problem with me was. And he kind  
13 of just kept walking.

14          Q     All right. Would you tell -- for the --  
15 for the camera, can you imitate the tone, attitude  
16 and volume of Randy Kaplan when he made those  
17 incredible statements to you?

18                MS. ROYCE: Objection. Argumentative. Not  
19 relevant.

20                You can try.

21                THE WITNESS: It was just -- he was  
22 agitated and antagonistic. That's -- that's all I  
23 remember.

24 BY MR. DeCAROLIS:

25           Q     Well, I know what you --

1 A It caught me off guard because, like I  
2 said, I was engaged with --

3 Q What kind of volume did he use?

4 A It wasn't overly loud. It was just sharp.

5 Q His wife was with him?

6 A His wife was to the other side of him,  
7 yeah.

8 Q You think she heard?

9 MS. ROYCE: Objection. Calls for  
10 speculation.

11 THE WITNESS: I don't know.

12 BY MR. DeCAROLIS:

13 Q Was he -- was his wife behind him in  
14 relation to you?

15 A Yeah, to his right.

16 Q So the wife was to his right and you were  
17 to his left?

18 A Correct.

19 Q Where was the -- and their child was in a  
20 stroller?

21 A Correct.

22 Q And you said you asked him what the fuck  
23 was wrong with him?

24 A Yes.

25 Q And how did you -- can you -- can you say

1 it to me as if I was Randy Kaplan that night?

2 A What the fuck is wrong with you.

3 Q What did he say?

4 A He didn't. He kept walking.

5 Q Now, who is in the group with you when  
6 Randy Kaplan walked by and says these very hurtful  
7 things? Those were hurtful, weren't they? Those  
8 words were hurtful?

9 A Very.

10 Q What was -- who was with you in that group  
11 you were talking to?

12 A I don't know.

13 Q They were strangers?

14 A Yeah.

15 Q All of them?

16 A Yep.

17 Q Where was Brandon?

18 A Brandon was on the other side of the street  
19 working the corner trick-or-treating with -- like I  
20 said, the other group had kind of stayed stationary,  
21 kind of here. We were -- I was here with the other  
22 group.

23 Q So you were about how far away from  
24 Brandon?

25 A Probably about -- well, Brandon was on the



1 inside. These are the streets. The kids were going  
2 into the houses trick-or-treating. So Brandon was  
3 probably -- I can't estimate how far he was because  
4 he was farther away from the group.

5 Q Was he, like, across the street?

6 A Yeah.

7 Q Is it clear to you that he couldn't hear  
8 you when you said what the fuck is wrong with you?

9 A Very clear.

10 Q After -- immediately after Randy Kaplan  
11 walked away, what was going through your mind?

12 A Shock.

13 Q Anything else?

14 A Anger.

15 Q Any -- any words come to mind in terms of  
16 what you were thinking?

17 A No.

18 MS. ROYCE: Objection. Asked and answered.

19 BY MR. DeCAROLIS:

20 Q Did you want to smash his face in when he  
21 said that?

22 MS. ROYCE: Objection. Argumentative.

23 THE WITNESS: No.

24 BY MR. DeCAROLIS:

25 Q Okay. So you had some shock and anger.

1 altercation with Randall Kaplan?

2 A That evening I suspect, initially.

3 Q You mean when you went back to the house  
4 after Brandon went to sleep?

5 A Yeah. I suspect at some point during that  
6 evening I did. It was -- like I said, we weren't  
7 speaking a lot. It was more just a sullen dynamic.  
8 But I'm sure at that point -- at some point I did  
9 that evening.

10 Q And did you admit to her that you had made  
11 a mistake at any point after that evening?

12 A Numerous times.

13 Q Do you recall any of the words that you  
14 used in admitting that you made a mistake in the  
15 altercation with Randy Kaplan?

16 A Probably in the context of I fucked up.

17 Q When you said the words "I fucked up," what  
18 do you think you did that was a fuckup?

19 A There were a few.

20 Q Why don't you tell me all of them?

21 A Well, the first one was -- the first one  
22 was going back down or was going down to address  
23 him. That was definitely the first one. I wish I  
24 didn't do that.

25 And the second one was not walking away

1 when he said fuck you or pushed me. That would  
2 have -- that was one.

3 And then the third one was definitely  
4 escalating it and getting -- getting -- engaging in  
5 losing my cool physically. Definitely a mistake,  
6 huge mistake.

7 Q Any others that you recall thinking about  
8 when you told Austin that you had fucked up?

9 A That evening?

10 Q Ever. We talked about all of the times  
11 you've admitted that you made a mistake to Austin,  
12 you said I -- I told her that I fucked up. And I'm  
13 asking you, all the times when you told her that you  
14 had fucked up, what you were referring to. And I  
15 think you testified some. Are there any others?

16 A In regard to that evening, over the whole  
17 course of our relationship after that?

18 Q You say "our relationship," whose  
19 relationship are you referring to?

20 A My relationship with Austin.

21 Q Austin.

22 No. I'm talking about when you said I  
23 fucked up in relation to the Randall Kaplan  
24 altercation --

25 A Uh-huh.

1 Q -- you've told me how you thought that you  
2 had fucked up. And is there anything -- any -- any  
3 other elements of that statement?

4 A Can I ask a question? So is -- would you  
5 prefer me -- when I say fucked up, would you prefer  
6 me to say effed or something else, or would you like  
7 me to use that word?

8 Q I think we -- you can use -- if the word  
9 is -- you know, it doesn't cause me my discomfort if  
10 it's the word you used. If you feel more  
11 comfortable using eff, I think we can all agree that  
12 eff means fuck.

13 A Eff, yeah. If I was in a -- you said it as  
14 if, like, you are in a courtroom, I probably would  
15 have said that. I want to be -- I want to be --

16 Q Okay.

17 A -- accurate.

18 Q So anything else -- so I'll use -- if you  
19 are more comfortable with me saying effed up, I will  
20 say effed up.

21 So you said I effed up and you gave me how  
22 you felt you had effed up. Is there anything else  
23 that you haven't testified to in these last few  
24 minutes that you feel was -- you were communicating  
25 when you say I effed up? I think we've gotten you

1 to you shouldn't have followed him, you shouldn't  
2 have reacted to him pushing you, you shouldn't have  
3 lost -- you know, you shouldn't have escalated it, I  
4 think you used, and then I think that was it.

5 Anything else?

6 A That covers it.

7 Q Okay. Did you speak to anybody else  
8 about -- other than your lawyers about what happened  
9 between you and Randall Kaplan on Halloween?

10 A Ever?

11 Q Yes.

12 A Yeah, lots of people.

13 Q Who?

14 A Mardy Fish, Tom Carver, Greg Labanowski who  
15 lives with me. I mean, most people in my life. I  
16 mean, it's been a big topic since then. So most  
17 people in my life. My brother, my mother obviously,  
18 my friends. I mean, family.

19 Q Have you --

20 A Colleagues.

21 Q Have you apologized to Randall Kaplan?

22 A I would love the opportunity to apologize  
23 for my role in it. I would have no problem doing  
24 that and I'd like to do.

25 Q Go ahead. You are on video. You want to

1 apologize to Randall Kaplan now?

2 A Sure.

3 Q Go ahead.

4 A Right now very sorry for my role in that  
5 night. I apologize and I wish I handled it  
6 differently.

7 Q Do you want to apologize to his wife?

8 A Yes. I'm --

9 MS. ROYCE: You know, I don't think this is  
10 appropriate for a deposition. Ask a question.

11 MR. DeCAROLIS: I asked him a question.

12 BY MR. DeCAROLIS:

13 Q Do you want to apologize to his wife?

14 MS. ROYCE: That -- you can ask that  
15 question, but saying, here you go, go apologize is  
16 not a question.

17 MR. DeCAROLIS: Okay.

18 BY MR. DeCAROLIS:

19 Q Would you like to apologize to his wife?

20 A I would.

21 Q All right. Well, I -- your counsel is  
22 right, you know, it's not a question, but if you  
23 want to use this as an opportunity.

24 A I would love -- I would love a more private  
25 opportunity to apologize to them. I wish it never

1 happened. I -- like I said, I take full  
2 responsibility for my role in it and I regret it  
3 significantly.

4 Q So at some point after this incident, did  
5 you take some legal action against Mr. Kaplan?

6 A At any point?

7 Q Yes.

8 A Yeah.

9 Q What did you do?

10 A I believe I moved to file a restraining  
11 order application against him.

12 Q What did the -- what did you allege in your  
13 restraining order?

14 A Well, I believe that he has a history of  
15 being, I believe, obsessed and his actions before  
16 and after, especially after obviously, I feel like  
17 validated that. And I was -- am very concerned  
18 about -- yeah. I just -- I felt like it was the  
19 right thing to do. I think it was needed.

20 Q Okay. But the question was what did you  
21 allege in your restraining order. So your answer  
22 doesn't really answer that. I mean, you --

23 A I was --

24 Q For example, you know, I allege that he was  
25 reaching for a gun and I, you know, had to knock him

1 down or something. You know, a fact.

2 A I was concerned for --

3 MS. ROYCE: Let's not use different  
4 analogies that are not relevant to this case.

5 MR. DeCAROLIS: Right. Okay.

6 THE WITNESS: I was cornered for my safety,  
7 my family's safety.

8 BY MR. DeCAROLIS:

9 Q If I can interrupt you for a second, you're  
10 still getting into why you did it but not the facts  
11 leading up to that. Like, I was concerned is  
12 certainly -- I get that. You were concerned.

13 But --

14 MS. ROYCE: What did you allege?

15 BY MR. DeCAROLIS:

16 Q You weren't concerned in a vacuum. Like I  
17 said, I was concerned because he did this or he said  
18 that, some fact other than what's in your head about  
19 what you believe or feel. What led you to that? So  
20 what did you allege in those papers for the court?

21 A Prior to the Halloween incident, he was --  
22 showed a history of being obsessive about me. He  
23 showed a history of being violent to me. He showed  
24 a history of being aggressive to me. He showed a  
25 history of threatening me. And his conduct after



1 Halloween only confirmed that my fears were  
2 validated.

3 Q All right. So what did he do or say that  
4 showed a history of being obsessive about you?

5 A Well, after we -- we had been, I mean,  
6 casually friendly for a period of time and --

7 MS. ROYCE: Counsel, I'm sorry. I'm so  
8 sorry. Can I just have a standing objection on  
9 relevance, that I can assert it later on?

10 MR. DeCAROLIS: You can -- those -- those  
11 objections are reserved as a matter of law, but  
12 certainly okay.

13 MS. ROYCE: Okay. You don't have the case  
14 law that cites?

15 MR. DeCAROLIS: No, I don't have that.

16 MS. ROYCE: Okay.

17 THE WITNESS: Go ahead. Sorry. What's the  
18 question?

19 BY MR. DeCAROLIS:

20 Q Okay. So the question is: What did he do  
21 or say that showed a history of being obsessive  
22 about you?

23 A So we -- like I said, we had a -- some  
24 level of friendship on a casual friendship, go out  
25 to dinner, came to our wedding, coffee sometimes,

1 meet. I mean, it was a topical relationship,  
2 topical friendship. And then there became a period  
3 of time where I just became too busy. It was kind  
4 of right at the culmination of getting married,  
5 Brandon being born, tons of work stuff and stage of  
6 my life where it was just -- there was a lot, and I  
7 just didn't have a lot of time for socializing,  
8 especially with kind of third-tier friends. And I  
9 kind of just weeded him out of my life.

10           And I remember one issue that was specific  
11 that he just was -- showed his bizarre behavior was  
12 this -- he made a big deal of his birthday parties.  
13 He was one of those guys, one of those guys that  
14 would really like to celebrate their own birthday.  
15 And so he threw this mammoth party for himself and I  
16 was invited. I believe I RSVP'd that I was going to  
17 go, and then I got a call time. I was working that  
18 weekend I believe with the Davis Cup in Europe,  
19 European time, and had a super early call time and I  
20 didn't go. And I think -- I think Cary and I were  
21 supposed to go, actually. And we RSVP'd that we  
22 were. I blew it off because I had to get up so  
23 early, and one of my friends -- the only person  
24 that's really -- kind of -- was kind of friendly  
25 with him and me was this friend of mine, John

1 Christianson. He showed up at the party. He went  
2 to the party. And the way he reported it was Randy  
3 Kaplan exhibited extreme manic OCD behavior, kept  
4 coming up to him, Is Justin here? Is Justin here?  
5 He said he was coming. Where is he? Where are  
6 they? He'd leave, 45 minutes later he would come  
7 back. He was obsessed.

8 After that -- once again, just the  
9 friendship, relationship, kind of just weeded out.  
10 He'd ask me to do stuff a lot. I would inevitably  
11 not be able to do it or cancel.

12 MS. ROYCE: Is there -- ask another  
13 question. I don't know where this is going.

14 THE WITNESS: I'm sorry, I'm just giving  
15 history.

16 MR. DeCAROLIS: He was answering the  
17 question about why he felt he was obsessive.

18 BY MR. DeCAROLIS:

19 Q So go ahead. Finish.

20 A So he -- that kind of just played out for a  
21 little while. I kind of just systematically weeded  
22 him out of my life and we'd communicate a little  
23 bit. I just -- generally my responses were short.  
24 And I -- you know, we maybe did a few more things,  
25 but I really just didn't have a lot more time for

1 him.

2           So I don't know if it culminated the next  
3 birthday again when I didn't show up at his party,  
4 and then he wrote me a very significant, long-winded  
5 e-mail that was basically how frustrated he was with  
6 my lack of friendship and that he took offense to it  
7 and he was very upset and that he didn't understand  
8 it, that he had come to my wedding and I think he  
9 missed custody time. It was just a very  
10 self-indulgent, petty e-mail that I think I  
11 responded to, like, I'm sorry, just super busy, busy  
12 time in my life, newborn baby, busy career stuff,  
13 newly married.

14           Later on, I don't know, close approximate  
15 to that, we might have -- he might have met up at a  
16 restaurant with me and some friends. He became --  
17 at that point, like I said, I was -- we weren't  
18 really friendly. It had become aware to me, I was  
19 told that his obsession had continued, that --  
20 through mostly JC, that every time he saw him, he'd  
21 keep mentioning this birthday slight. And this  
22 happened for a long period of time, a bizarre period  
23 of time. And then another time -- then I found out  
24 that he was threatening. And one time I spoke to  
25 him and he had mentioned that if I kept alienating

1 him as a friend that he would tell my now ex-wife  
2 damning things about me and -- to hurt my marriage.  
3 And he said the same thing to JC.

4           And that was -- it didn't really have  
5 any -- I didn't really have any contact with him  
6 again of any substance -- you know, I had -- I don't  
7 know if it was before or after, but I hosted a  
8 charity event at UCLA. Might have sent him a thing  
9 for tickets and then he sent me something, like,  
10 asking to get his kids autographs from Djokovic and  
11 he jockeyed his way down there and -- and I kind of  
12 made sure Djokovic signed his kids' racquets. I  
13 don't know if that was before or after in the  
14 timeline. But I really didn't see him after that or  
15 communicate much with him after that. We didn't  
16 really see him around town much after that until  
17 this Brentwood incident which was about six months  
18 before Halloween.

19           Q     The Brentwood incident is when he saw you  
20 at the restaurant?

21           A     Correct.

22           Q     What did he say to you then?

23           A     It was not as much what he said verbally as  
24 how he acted.

25           Q     How did he act?

1 A Aggressive.

2 Q Just came up you to at a restaurant and  
3 acted aggressive?

4 A Aggressively, yes.

5 Q But you can't remember what he said?

6 A Yeah. It was -- it was -- I was sitting at  
7 the booth -- I mean, it's not a booth -- at the bar  
8 with Kristina. We had just -- I remember because it  
9 was early May. We were working on settlement.

10 MS. ROYCE: Don't talk about what we  
11 were --

12 THE WITNESS: Okay. Sorry.

13 MS. ROYCE: -- working on or --

14 THE WITNESS: Sorry. We are always working  
15 on the case. So --

16 MS. ROYCE: Just don't. Go ahead.

17 THE WITNESS: So we are always working on  
18 settling the case. It's been four straight years.

19 MS. ROYCE: Can you answer the question?

20 THE WITNESS: We are working on settling it  
21 right now.

22 You want to settle it?

23 BY MR. DeCAROLIS:

24 Q Depends on the terms.

25 A You know mine.

1           So we were at The Brentwood. Kristina and  
2 I were at the bar. She had come from work. I met  
3 her there. And we were talking and we were -- I was  
4 facing the bar and Kaplan came up and saw Kristina.  
5 I guess he didn't see me. And -- and should give a  
6 little back -- back story.

7           So evidently the Milken Conference was  
8 about, I don't know, a week before, ten days before  
9 or something, and evidently Randy Kaplan saw my  
10 brother and had also seen Bob Sinnott. There was  
11 some sort of communication between Randy Kaplan and  
12 Bob Sinnott -- excuse me -- and Randy Kaplan and my  
13 brother. And it was in the context of a theme of --  
14 from Randy Kaplan, I can help settle this. I can  
15 help -- you know, Can I help? You know, I ran  
16 into -- I think I remember seeing the text -- a not  
17 crazy Bob Sinnott. Meaning, at that point -- I took  
18 it that he was not as -- I just took Randy Kaplan to  
19 say that, Okay, well, he's not -- he's not in a  
20 crazy state about the divorce right now or not  
21 acting crazy.

22           So my brother said, you know, this guy, you  
23 know, who you knew, like, tangentially through us and  
24 business I guess or my wedding, I don't know, you  
25 should try giving him a call. He thinks he could

1 help. I was pessimistic, but I did. So I called  
2 him, didn't pick up. I texted him, Hey, Randy, give  
3 me a call. I knew it was a long shot, but I'd be --  
4 I'd be regretful if there's any person on this  
5 planet that could end this. So --

6 Q So he didn't -- but he didn't return the  
7 call or the text?

8 A He didn't. And so then that's when the  
9 next time -- the next engagement was there. I  
10 wasn't facing it and he saw Kristina. And then I  
11 turned because he hadn't seen me. My back was to  
12 the bar. It was pretty closed off. And I turn and  
13 say, Hey, Randy. I saw him. I said, You didn't --  
14 didn't return my call, didn't want to speak. I, you  
15 know, thought you wanted -- wanted to help. And  
16 then he got very aggressive and put his finger in my  
17 face and, you know, Why would I want to help you.  
18 Why would I want to help you. Got super aggressive  
19 and kept pushing his finger closer and closer to me.

20 And I said, Randy, just get your finger out  
21 of my face. Just get your finger out of my face.  
22 And I was still kind of a little bit blocked off  
23 because the way the stools are. I was still facing  
24 this way and Kristina was in this chair. And so I  
25 kind of just engaged a little bit and I just Get



1 your finger out of my face. And then I got up. I  
2 repeated that. There was no -- didn't touch him,  
3 threaten him. Just get your finger out of my face.

4 Q So --

5 A And -- and -- and -- yeah. He said -- then  
6 he said -- he said something to the effect of, I'm  
7 going to sue you criminally and civilly.

8 And I said, Well, good luck with her  
9 sitting next to me. That was it. He went to sit  
10 down. He sat ten feet away. We finished what we  
11 were doing and left. There was no issue the rest of  
12 the night.

13 Q So he was going sue you for the -- for the  
14 way you behaved right then, or was there something  
15 else?

16 A I don't -- I don't -- it was -- it was a  
17 bizarre -- it was a bizarre comment.

18 Q Well, I'm a little curious that he was  
19 obsessed with you, but he didn't return your text or  
20 your call. Did you find that odd?

21 A I did.

22 MS. ROYCE: Can we take a two minute --

23 MR. DeCAROLIS: Yeah. I think it's time to  
24 take a break.

25 THE VIDEOGRAPHER: The time is

1 approximately 11:42 a.m., and we are going off the  
2 record.

3 (Recess taken)

4 THE VIDEOGRAPHER: This marks the beginning  
5 of Media Number 2. The time is approximately  
6 11:55 a.m., and we are back on the record.

7 THE WITNESS: Can I say one thing?

8 BY MR. DeCAROLIS:

9 Q Sure.

10 A In your last question and me talking about  
11 The Brentwood, I got Randy Kaplan's threats mixed  
12 up. The threat at The Brentwood was actually --  
13 that night was I'm going to put you in jail the rest  
14 of your life.

15 The threat via text the next day was the  
16 I'm going to sue you civilly and criminally and use  
17 my money to whatever and help your ex-wife in  
18 custody or that you should be careful threatening --  
19 you know, it was twisting and turning the -- what  
20 happened that night and just -- yeah. There were  
21 two separate threats.

22 BY MR. DeCAROLIS:

23 Q So those threats were made in front of your  
24 lawyer?

25 A The threats were made in front of -- the

1 threats at The Brentwood were made in front of  
2 Kristina, and then the threats via text were  
3 actually sent to her. Yeah.

4 Q Okay. Let me just go back to the Halloween  
5 part. I think I missed a step in my mind.

6 So Randy walks by you and makes those  
7 comments and you, you know, have your comment back,  
8 and then you walk to the group, right, and you leave  
9 Brandon with the group; right?

10 A I leave Brandon with Austin.

11 Q With Austin.

12 Who's -- who's -- who's with the group?

13 A Yes.

14 Q How long was it from the time that you  
15 walked over to the group -- let me withdraw that.

16 How long did it take you to walk over to  
17 the group?

18 A Like I said, it was -- Brandon was --  
19 Brandon wasn't -- the kids were kind of coming in  
20 and out. So I think I actually kind of got Brandon  
21 first and kind of -- kind of huddled and made sure  
22 Brandon was with Austin and then told Austin, you  
23 know, can you look after Brandon after I told her  
24 the Kaplan situation.

25 Q I'm still not quite sure. Okay. So

# **EXHIBIT G**

# **EXHIBIT G**

DECLARATION OF AUSTIN RUTH

1  
2 I, Austin Ruth, declare as follows:

3 1. I have personal knowledge of the facts set forth herein, which are known by me to  
4 be true and correct, and if called as a witness, I could and would competently testify thereto.

5 2. I have been Justin Gmelstob's girlfriend for over two years and we live together in  
6 Los Angeles.

7 3. In the evening of October 31, 2018 (Halloween), I went back to treating with Justin  
8 and his son, Brandon, in a Brentwood neighborhood. We were walking and talking with a big  
9 group of people, including parents, who are friends of Justin, and their children, who were back of  
10 treating with Justin's son.

11 4. I was having my own conversations with various people, and interacting with  
12 Justin's son, and Justin and I were apart. Justin came over to me with his son, and said, "You're  
13 not going to believe what Randy Kaplan just said to me. He said something horrible about my  
14 dad." And then Justin said to me, "Please watch Brandon, please stay with Brandon. I need to go  
15 deal with this." I said "okay," and Justin started walking down the street.

16 5. Brandon was completely fine and busy back of treating with his friends, so I asked  
17 one of the fathers to watch Brandon while I checked on Justin. Justin seemed upset and I knew  
18 that whatever Kaplan said to Justin was horrible, and I wanted to be sure he was okay.

19 6. I was walking behind Justin for about two-and-a-half to three minutes. I was 10-15  
20 yards behind him when he came up to a man and a woman with a stroller. I assumed the man was  
21 Randy Kaplan. I saw Justin and the man face each other. I was not close enough to hear what  
22 Justin said, but I could tell he said something to Kaplan. I kept approaching them, and I heard  
23 Kaplan say "Thank you," and then he pushed Justin's chest with both hands. Kaplan pushed Justin  
24 hard enough that Justin lost his balance and his footing. When Justin regained his balance, he took  
25 Kaplan by the side with his (Justin's) left arm, and they went down on the grass. Kaplan was lying  
26 face up and Justin was on top of him, straddling him. Most of them were pumping their arms and  
27 kicking their legs. I heard Justin say something about his family, and that Kaplan's son is all of my  
28 my family. I went over to them and said loudly to both of them, "Guys stop." They were screaming

1 about 20 to 30 seconds, and then Justin got up off of Kaplan, and Justin walked north up the street  
2 and Kaplan walked south toward his wife, and that was the end of it. During the wrestling, the  
3 stroller was facing away from the incident so there was no chance that the child in the stroller saw  
4 what happened, and Mrs. Kaplan took out her cell phone and filmed them wrestling on the ground.

5 7. Justin and I walked back to our group of parents and children who were trick or  
6 treating, which took about two-and-a-half to three minutes, but we did not discuss what had  
7 happened during our walk. When we rejoined our group, we continued trick or treating for another  
8 30 to 45 minutes just as before.

9 8. On that Halloween night after we put Brandon to bed, I finally had an opportunity  
10 to talk with Justin about what had occurred earlier with Randy Kaplan. Justin apologized to me  
11 and said he wished he had just let it go when Kaplan made the remarks to him about his father.  
12 But he told me what Kaplan had said to him earlier that evening that was so upsetting—Kaplan  
13 said he had heard that Justin's dad just dropped dead and he was an even bigger asshole than  
14 Justin.

15 9. I personally witnessed the entire incident between Kaplan and Justin, which lasted  
16 between 20 to 30 seconds. At no point during the incident did Justin yell, "I am going to kill you."  
17 Justin stopped on his own, no one pulled Justin off of Kaplan, and Justin never tried to reengage  
18 Kaplan after he got up. No one else was present during the incident other than the Kaplans, Justin  
19 and me—specifically, there were no other children present.

20 10. The claims of the Kaplans that Justin hit him anywhere from 50 to 100 times are  
21 completely false. The incident only lasted 20 to 30 seconds, and much of that involved wrestling,  
22 not hitting. I have seen the pictures from the incident report which show Kaplan smiling with  
23 minor physical injuries. Those pictures are an accurate reflection of what happened that evening.

24 11. As the incident ended, a few other adults came over. I never said to Justin,  
25 "let's get out of here, the cops are coming," or "stop, stop, the police are coming," or anything  
26 like that. Justin and I then walked up Stonewood Road and rejoined our group of trick and  
27 treating. We did not run away. As we were walking, a woman we did not know came up to us and

# **EXHIBIT H**



**LOS ANGELES POLICE DEPARTMENT  
FOLLOW-UP INVESTIGATION**

CORONER CASE NUMBER

MULTIPLE

DATE THIS REPORT <b>11/5/2018</b>	DATE ORIGINAL RPT. <b>10/31/2018</b>	SPECIFIC TYPE OF ORIGINAL RPT. (ADW, TFV, EVID., ARREST/BURG., ETC.) <b>Battery (Felony)</b>	RD <b>812</b>	DR NO. <b>18-0818621</b>
VICTIM BOOKED TO / ARRESTEE (AS ON ORIGINAL REPORT) <b>Kaplan, Randall</b>		IF RECLASSIFYING TO HOMICIDE SEX / DESCENT / AGE VICT'S	BKG NO. (SLIPPL. TO ARREST) <b>5478-073</b>	WORK FOLDER PERIOD ORG. RPT / INDEX NO. <b>11 M3 2</b>
CASE STATUS <b>1</b> <input type="checkbox"/> CLEARED BY ARREST <b>2</b> <input type="checkbox"/> CLEARED OTHER <b>3</b> <input type="checkbox"/> REPORT UNFOUNDED <b>4</b> <input checked="" type="checkbox"/> INVESTIGATION CONTINUED				

Use this section only to add or correct info - do not repeat info from previous reports. Exception: Complete entire suspect info if making final disposition.

DATE OCCURRED	CHANGE TO - ON OR BETWEEN MO DAY YEAR TIME	&	MO DAY YEAR TIME	TYPE ORIGINAL REPORT - CHANGE TO	RD- CHG. TO	DR NO. CHG. TO	INV DIV CHG TO				
PROPERTY VALUE:	ADDITIONAL LOSS	PARTIAL RECOVERY	TOTAL RECOVERY	DELETED FROM ORIG. RPT.	DESCRIPTION CHANGE <input type="checkbox"/>	ITEM NOS. RECOVERED/DELETED (ON MULTI. RPTS. USE NARRATIVE)					
S.	SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	NAME & ADDRESS (OR NAME & CHARGE, IF ARRESTED)	ACTION TAKEN	<input type="checkbox"/> MNU# <input type="checkbox"/> CII# <input checked="" type="checkbox"/> BKG#
1	M	W	BRN	GRN	606	205	1/26/1977	41	Gimelstob, Justin 319 S. Medio Dr, LA 90049	Presented to DA	5478073
S.	SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	NAME & ADDRESS (OR NAME & CHARGE, IF ARRESTED)	ACTION TAKEN	<input type="checkbox"/> MNU# <input type="checkbox"/> CII# <input type="checkbox"/> BKG#
2											
S.	SEX	DESC	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	NAME & ADDRESS (OR NAME & CHARGE, IF ARRESTED)	ACTION TAKEN	<input type="checkbox"/> MNU# <input type="checkbox"/> CII# <input type="checkbox"/> BKG#
3											

**NARRATIVE (USE BELOW COLUMNS FOR MULTIPLE REPORTS ONLY)**

P/T/D	MULTIPLE RPT: DR NOS.	TYPE OF CRIME	RD	VICTIM'S NAME	DATE ORIG. RPT.	VALUE
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**Crime Summary**

The victim was walking down the street in Brentwood, on Halloween, with his wife and 2-year-old child, when the suspect came up from behind, unprovoked, pushed him to the ground, got on top of him, and punched him numerous times in the head causing a concussion.

**Investigation**

11/2/18, 1700hrs – Victim interview with Det Saafir

Det. Saafir #36189, WLA Night Watch Detective, contacted the victim by phone and advised the case was assigned to myself (Det. Malcuit) as I/O. Victim advised he wanted to add information to his case and provide photos of his injuries. Det Saafir advised to send I/O pictures of injuries and medical records. He said the suspect struck him over 50 times, and while he was striking him in the head, told him that he was going to kill him.

11/3/18, 2000hrs – Victim interview with Det Saafir

Det Saafir conducted a follow up to victim's residence at the request of the victim. Victim reiterated the original statements he made regarding the day of the incident. Victim advised that sometime in May of 2018, he observed the suspect's brother at a business event and had a conversation with him. During their conversation, suspect's brother asked him why he hadn't talked to the suspect in awhile and advised him that he had not spoken to his brother (suspect) in approximately 6 months. The victim informed the suspect's brother that he had not talked to the suspect in awhile because he did not like the fact that the suspect was engaging in infidelity, gambling and did not like the way the suspect was living his life.

The following day, he received approximately six calls from the suspect, but he did not answer, because he did not wish to talk to the suspect, since he had not talked to him in approximately four or five years. Approximately one week after the conversation with the brother and the missed calls from the suspect, he walked into Brentwood Bar and Grill and observed the suspect's divorce attorney Kris Joyce, who he knows from the neighborhood and their kids attend the same school. He walked over to meet Kris, who was sitting with suspect and greeted Kris. He informed me that he did not notice suspect was sitting by Kris when he

WAS PROPERTY BOOKED IN CONJUNCTION WITH THIS REPORT OR INCIDENT? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		IF YES, HAS 10.08.00 BEEN COMPLETED? <input type="checkbox"/> NO <input type="checkbox"/> YES	
SUPERVISOR APPROVING	SERIAL NO.	REPORTING OFFICER(S) <b>J. MALCUIT</b>	SERIAL NO. <b>36275</b> DIVISION <b>WLA</b>
DATE & TIME REPRODUCED	DIVISION	CLERK	REPORTING OFFICER(S) SERIAL NO. DIVISION

approached and greeted her. As he was talking to Kris, the suspect tapped his shoulder. He turned and acknowledge the suspect and the suspect asked him why he did not return his phone call. The victim said he did not respond. The suspect then stated, "You are either with the Gimerstob's, or the Sinnott's" (referring to suspect's estranged wife, who suspect is currently in the process of divorce). The victim told the suspect that he has been through a divorce and he should not have to choose sides. He does not recall what the suspect said, but he shrugged his shoulders and the suspect stated, "Don't ever point your finger in my face again, or I'll fucking kick your ass and I'll fucking kill you." The victim said, he told the suspect, "Fuck you," and walked away.

On, October 31, 2018, at approximately, 1820 hours, the victim was walking with his wife (Witness-Kaplan, Madison) when the suspect approached him from behind and tackled him to the ground. He fell face forward onto the grass and suspect started punching him in the back of the head and face. He tried to defend himself, but the suspect continued to strike him. While the suspect was striking the victim, he was telling the victim that if he talked about his family again, he was going to kill him. The suspect punched him numerous times and eventually stopped when an unknown female approached (the victim was told by possible witness Robin Hillman that she believes it was the suspect's current girlfriend). The suspect then fled northbound on foot.

Det Saafir interviewed the victim's wife, Madison Kaplan, who stated that she and the victim were walking with their 2-year old, who was in the stroller, when she saw a male tackle her husband. She first thought they were playing, then she observed the suspect, who she has known for 15 years, punching her husband. She grabbed her phone so she could record the incident and captured part of the attack, which she sent to Det. Saafir's email. The video depicts a male who appears to be the suspect, on top of another male who appears to be the victim. It sounded as though the male on top was yelling to the person on bottom, that if he talked about his family again, he would kill them. Madison said she heard a female yell, "That is enough Justin" and the suspect got off the victim and ran away.

#### 11/6/18, 0900hrs -- Crime Location follow up

I, Det Malcuit, conducted a follow up to the location where the incident occurred and noted the following:

*201 Homewood Dr:* No answer, did not observe any surveillance cameras. Left a business card to call. On 11/8/18 at 0900hrs Joseph Naim called in regards to the business card. He said he was the home owner but did not see or hear or know anything about the incident and did not have surveillance cameras.

*200 Homewood Dr:* No answer, did not observe any surveillance cameras.

*188 Homewood Dr:* No answer, observed only one camera which would not have faced the area where the incident occurred.

#### 1100hrs -- Victim interview

I spoke to the victim by phone who provided me with the suspect's phone number, and emailed me information on a potential former victim of battery by the suspect which occurred in 2016 in Santa Monica. I obtained the report from Santa Monica PD which indicated Gimelstob was the victim of a battery (DR#16-0147659).

The victim clarified with me how he knew the suspect.

In 2008, the suspect's then girlfriend Carey lived across the street from Kaplan's then girlfriend and they saw each other in the neighborhood and in the same Yoga class. Kaplan and his then girlfriend went out with Gimelstob and his girlfriend on a double date once.

In 2011, Kaplan became aware Gimelstob was cheating on Carey regularly, which caused Kaplan concern. Throughout 2009-2012, Kaplan and Gimelstob met for lunch on a few occasions.

Eventually in 2012 Kaplan was invited to the engagement, and later wedding of Gimelstob and Carey which he did attend. Kaplan said he attended to see possible celebrity athletes. After the wedding, Gimelstob bragged about sleeping with another tennis celebrity while on his honeymoon. This caused Kaplan more concern. Kaplan later invited the Gimelstobs to his birthday, which they did not attend.

In 2013, Kaplan asked Gimelstob for tickets to a tennis tournament which he attended.

Kaplan invited the Gimelstob couple to his following birthday which they again did not attend.

After that, Kaplan had no further communication with Gimelstob other than a few random public encounters and felt as though they were not close friends at that point. The last time he saw Gimelstob was at the above described incident at the Brentwood Bar and Grill in May 2018.

#### 11/21/18 – Suspect arrest and Victim interview

I conducted a pre-arranged arrest and booking in this case through the suspect's attorney Ms. Shawn Holley. Ms. Holley advised the suspect would not provide a statement.

I notified the victim of the suspect's arrest. The victim advised his wife was pregnant at the time of the incident and suffered a miscarriage after the incident.

11/29/18 – The victim provided an updated medical report from Dr. Weaver detailing his injuries and ongoing medical treatment.

12/4/18 – The victim provided information on a possible witness Mardy Fish who may have been present with the suspect during the incident. I emailed Fish and left him a voicemail to call. He also provided Austin Ruth (310-897-7906), the suspect's girlfriend he believed was present during the incident which I left a voicemail to call.

#### Witnesses

##### 11/7/18, 1720hrs – Rob Greenberg

I spoke to Greenberg by phone who said he heard what sounded like two men fighting. He did not see the actual fight, and only saw the suspect (he described as the tennis player) being pulled off the victim (he described as Randy). The victim told him he was attacked out of nowhere.

##### 1245hrs – Saad Shahzad

I spoke to Shahzad by phone who said on Halloween at approximately 1845hrs, he was about 15 feet away when he saw a 6'5" male dressed in a Top Gun outfit (describing the suspect) being pulled back from the victim by another man. He heard the suspect say, "I'm going to kill you. Stay away from me." The suspect then walked away. Shahzad said he did not know either party.

##### 1000hrs – Robin Hilman

I spoke to Robin Hilman by phone who said she observed the taller guy (describing the suspect) on top of the shorter guy (describing the victim) punch him repeatedly. She heard the victim scream, "Help, get off me." Hilman's husband stepped in to pull the suspect off the victim. The suspect walked away with two people and Hilman followed him to take his photo. The suspect yelled at her, "You're taking my fucking picture?" Someone else told the suspect to back off and he continued to walk away. Hilman said she did not know either party before this incident.

##### 11/13/18, 1400hrs – Laurence Hilman

I spoke to Laurence Hilman by phone who said he observed Justin (suspect) on top of Randy (victim). He said it did not look like a fight because Justin was on top of Randy beating him and Randy was not fighting back. He heard Randy scream for help and said he never heard anything like it before. He said although he was

disabled and uses a cane to walk, he still jumped in to help pull Justin off Randy. He said Randy asked his wife to call 911 and Justin walked away. His wife (Robin) followed Justin to take his photo. Laurence said he did not know either party before this incident and only learned their names after.

12/4/18, 1230hrs – Mardy Fish

I spoke to Fish by phone. On the day of the incident, he was trick or treating with his child and the suspect's child Branden who joined them. Fish was with the children when the suspect walked away. After a few minutes, the suspect returned with his girlfriend Austin. Austin told him they had to leave and appeared sad and upset. She said, "You guys should get out of here." Fish then left with his child. He said he did not hear or see what happened.

**Injury/Medical Treatment**

The victim was seen by his physician Dr. Jonathan Weaver, on 11/1/18, in which he was diagnosed with a minor concussion as well as cervicalgia (neck pain), shoulder strain, multiple contusions/ecchymosis (bumps and bruises) to face and scalp, right ear trauma, and post traumatic anxiety/insomnia.

The victim sent photos of bruises to his legs and ears and has complained of ongoing pain.

**Video**

The victim's wife recorded a short clip of what appears to be the suspect on top of the victim attempting to punch him.

**Criminal History**

The suspect has no documented local or FBI rap.

**Case Status**

Presented to the District Attorney for filing consideration.

# **EXHIBIT I**

I, John Christensen, know the following and could testify competently thereto if called as a witness to do so.

I have been friends with Justin Gimelstob for more than thirty years and Justin introduced me to Randall Kaplan about ten years ago.

Set forth below is a description of my last interactions with Mr. Kaplan as they relate to Mr. Gimelstob, which I believe, may be relevant to certain allegations made against Mr. Gimelstob.

In November 2012, I attended a birthday party for Mr. Kaplan at his home in Brentwood, California. Shortly after the party started, Mr. Kaplan pulled me aside and I was struck by how agitated he appeared. He said he was upset because Mr. Gimelstob has not yet arrived. I advised him that it was my understanding that Mr. Gimelstob had to get up early the next morning to broadcast a tennis match and encouraged him to enjoy his party.

Approximately forty-five minutes later, Mr. Kaplan approached me again. He was again visibly upset and said to me that Mr. Gimelstob had still not arrived at the party. Before I could respond, Mr. Kaplan began ranting about how much money he had spent attending Mr. Gimelstob's wedding and that he had given up his custodial time to attend the wedding.

I became uncomfortable about Mr. Kaplan's reaction to Mr. Gimelstob's decision to not attend his party; soon thereafter, I left the party. I felt that Mr. Kaplan's reaction was bizarre.

Over the next few years, each time I saw or heard from Mr. Kaplan, he raised the subject of Mr. Gimelstob (i.e. either it related to Mr. Gimelstob not attending his party and/or the fact that Mr. Gimelstob did not seem to make time for him). It made me feel very uncomfortable.

During a communication with Mr. Kaplan at the end of 2013, he informed me that he had the ability to tell Mr. Gimelstob's wife and family that Mr. Gimelstob was having an affair. I was in shock and immediately called Mr. Gimelstob. Mr. Gimelstob told me Randy had already made the same threat to him. I advised Mr. Gimelstob that Mr. Kaplan seemed obsessed with him and that he should be cautious in any interactions with him; thereafter, I severely limited any contact with Mr. Kaplan.

The last time I saw Mr. Kaplan was a few years ago outside Soul Cycle in Brentwood. I said hello and, true to form, he immediately asked about Mr. Gimelstob. He again brought up the same story about Mr. Gimelstob not attending his 2012 birthday party. I didn't know how to respond so I didn't. However, I was once again alarmed; it appeared to me that Mr. Kaplan was still preoccupied by Mr. Gimelstob.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed on December 1, 2018 at Los Angeles, California.



John C. Christensen

# **EXHIBIT J**

From: Randall Kaplan randall@jumpinvestors.com  
Subject: Re:  
Date: Nov 18, 2013 at 12:38:53 PM  
To: jgimel@gmail.com

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My Man -

We're good enough friends for me send this email, so I'm going to send it. And I'm sending it in a loving way - so please take it as that.

At one point in my my life, I had three kids age two and under, had a huge company to run and a crazy career, was on five boards, and still managed to be a good friend to my friends - which means showing up and being there for your friends. I've emailed you, called you, texted you - both pre-baby and post-baby - and you 90% of the time you don't even respond. You ask your friends - at least me - to come to your wedding, and we do - I moved weekends with my ex-wife (actually had to give up days with my kids) to attend, spent a bunch of money to come, got you a very generous gift - because that's what friends do. I also listened MANY times to pre-wedding problems, and post marriage problems at the beginning - because that's what friends do. I was happy to, and did it without complaint. You feel comfortable talking with me about sacred, incredibly personal, and confidential things - probably and hopefully because I'm a trusted and a good friend and always there.

But where are you? You're busy - but I'm not? That's actually insulting. Do you know how many hours I week / what kind of responsibilities I have? But I manage - as do all of my other busy friends. I see you at the Brentwood, and see you posting at events at things locally - but you don't show up at things that aren't convenient or important enough to you. And that's the message you send to me. I saw JC who said you had to be up or online at 5 am to go do your Davis Cup radio show? Same excuse as last year - and same result. Who cares? Do you know how many red-eyes I've taken to make my friends events? Or sacrifices? Don't you think your friends have done the same? You RSVP to come, but worse, you don't show up. My guess is if Roger Federer or some other known name friend invited you, you would have come. If the roles were reversed, I would have come. I've been there, am the parent of three young kids, and have a thriving, crazy business and charitable life (not to mention active social life) -



and I ALWAYS show up for my friends. And I've always shown up for you. Unfortunately, the situation isn't the same - your world seems to be about you and what's good for you and what you want to do.

I love you man - but I'm keeping it real with you.

R

---

Randall Kaplan  
[randall@jumpinvestors.com](mailto:randall@jumpinvestors.com)  
[randall@collarcad.com](mailto:randall@collarcad.com)  
[\(310\) 472-7600](tel:(310)472-7600)

On 11/18/13 10:27 AM, "jgimel@gmail.com" <[jgimel@gmail.com](mailto:jgimel@gmail.com)> wrote:

Sorry buddy, life has taken a new level of chaos since the little man and work are both pulling me 24/7. **Hope you had a great party.** I'm really happy for you, glad you're in such a good pace. I hope we can connect soon. Justin

Sent via BlackBerry from T-Mobile

# **EXHIBIT K**



+1 (310) 433-6767 &gt;

iMessage  
Fri, May 11, 8:00 AM

Awesome seeing you as always. I came over to say hello, did not expect to see Justin, and did not expect that. Never a good idea to threaten to kick somebody's ass in front of a group of people, in front of the security cameras. And never a good idea to do so with someone that has substantially more money than you. And never a good idea to do so in the middle of a custody battle, when the person you're threatening have incredibly damaging information regarding somebody's character. There is a reason why he doesn't talk to most of his best friends anymore, and why his brother isn't talking to them right now either. And while I greatly respect you-you know I've sent you a few clients over the years-having his divorce attorney there isn't going to help him in a criminal lawsuit or a civil lawsuit.



iMessage





+1 (310) 433-6767 >

I've been divorced, and the advice I give to everyone is never take sides, be nice to everybody, and think about your children first and Theo mental and emotional health.

You and I are friends, I respect you, and this text has nothing to do with our friendship which is unaffected by your clients immature, unprofessional, inflammatory, and dangerous behavior. I look forward to seeing you around and catching up with you another time.

Randy

And one final comment and food for thought: that kind of behavior would be incredibly hurtful to him in the event I was called as a character witness in a custody trial.



Message



# **EXHIBIT L**

## DECLARATION OF CELESTE PETE

I, CELESTE PETE, hereby declare as follows:

I know the following information from my personal knowledge and am willing and able to testify competently thereto if called upon as a witness to do so.

1. I was employed by Randall and Madison Kaplan since April 2018. I was the nanny for their daughter, Carter. I was also the housekeeper.
2. On October 31, 2018, I saw Mr. and Ms. Kaplan at approximately 8:30 p.m. at their home. I was asked to babysit Carter while they go to a party. At the time, Mr. Kaplan did not appear injured in any way. I did not observe any contusions or bruises on his face. Mr. Kaplan was walking around kitchen and did not seem upset at all. Mr. and Ms. Kaplan left their residence shortly after 8:30 p.m. They returned a few hours later.
3. I first learned about the altercation between Mr. Kaplan and Justin Gimelstob on Thursday, November 1, 2018, when Mr. Kaplan asked me to go to his office and take a picture of an arrest report. I was surprised when I learned of the incident, particularly that he appeared fine the night before.
4. On one occasion, while the Kaplans were having dinner, I overheard Mr. and Ms. Kaplan arguing regarding the Halloween incident, during which Ms. Kaplan said to him, "Oh, so you are going to lie?" This conversation took place in front of the Mr. Kaplan's older children.
5. On several occasions during dinner, Mr. Kaplan would go on and on about Mr. Gimelstob. The children would ask their dad to stop talking about Mr. Gimelstob. They said, "We don't care." Mr. Kaplan spoke repeatedly about Mr. Gimelstob's sources of income and net worth. Mr. Kaplan suggested that Mr. Gimelstob would have no money left.
6. Ms. Kaplan told me, while we were alone together, that she does not like what "Randy is doing to Justin." She said that "it's not fair what Randy is doing to his son." She said, "He wouldn't be able to be provide for his son." She was visibly upset during our conversation.
7. After October 31, 2018, I observed Mr. Kaplan meet with a journalist at his home, feeding him lines to include in an article about the Halloween's incident. Later on, I heard Mr. Kaplan on the telephone saying, "I'm not happy with that writer. He didn't write what I told him to say." I later learned that it was Richard Winton.
8. At his birthday on November 22, 2018, I was present at Thanksgiving dinner at Gozzer Ranch in Idaho. Before we began to eat, Mr. Kaplan raised his glass and toasted something to the effect of, "This is the best birthday of my life. I finally was able to stick

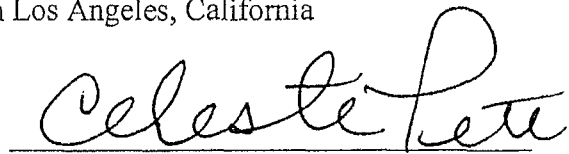
my hand all the way up Justin's asshole and twisted it." He was very graphic when he made the toast.

9. In my opinion, Mr. Kaplan's children were never afraid of Mr. Gimelstob. They often dismissed and joked when Mr. Kaplan spoke about Mr. Gimelstob.
10. After October 31, 2018, Mr. Kaplan continued to work out on a weekly basis. Mr. Kaplan used the peloton bike and would work out with his personal trainer.
11. Mr. Kaplan's former wife, Lara Kaplan, told me that Mr. Kaplan trolls Mr. Gimelstob on line.
12. Mr. Kaplan fired me on April 10, 2019. He told me that he wanted me out of his house. In this conversation, he asked me to sign a non disclosure agreement. I told Mr. Kaplan that I would look it over. Ms. Kaplan later came to the guesthouse where I was staying and said, "please, don't complicate things. Just sign the non disclosure agreement because Randy feels cornered and I don't know what he will do to you." I did not want to sign the agreement, but I did because I did not want any further conflict. I signed the agreement and gave it to Mr. Kaplan on April 12, 2019 with a handwritten note. It was my understanding that the agreement simply prevented me from talking about the Kaplan's lifestyle. I had no understanding that it had anything to do with Mr. Gimelstob. That never crossed my mind.
13. On April 24, 2019, after Mr. Gimelstob filed the TRO, Mr. Kaplan told me to write a letter to Shawn Holley. Mr. Kaplan wrote the email on his computer or phone and emailed me what he wanted me to send. Mr. Kaplan helped me cut and paste the email. Mr. Kaplan told me that he wanted the email to come from me, and not him. I did not write the email.
14. The same day, Mr. Kaplan offered to pay me \$30,000, which I believed related to my past due overtime wages. I had told Mr. Kaplan that I had spoken with an attorney about the overtime and that I did not believe I was appropriately compensated. Mr. Kaplan instructed me to send the same email to every attorney I had ever spoken with about my employment with him. Mr. Kaplan gave me a document entitled Separation and Release Agreement. Mr. Kaplan videotaped me, Ms. Kaplan and himself signing the document. Mr. Kaplan typed the document in my presence. When I tried to correct Mr. Kaplan or clarify something, he "shushed" me. I was not able to make any corrections. Ms. Kaplan seemed distressed, and angry toward Mr. Kaplan.
15. In May 2019, after Mr. Gimelstob filed the TRO against Mr. Kaplan, Mr. Kaplan demanded that I sign a declaration of the events on Halloween, which I prepared and did. Mr. Kaplan called me back and told me, "this is not what I wanted it." Mr. Kaplan proceeded to draft a 14 page declaration over the course of three different visits. I had moved out at the time. Mr. Kaplan told me that Mr. Holley was trying to take me down and that this declaration would protect me from Ms. Holley. Mr. Kaplan told me that

Shawn Holley did not have my best interest and that she could put me in jail. The declaration put words in my mouth, and was so inaccurate. I was with Mr. Kaplan when he typed the declaration. When I told him that what he was writing was inaccurate, he "shushed" me and kept writing. Mr. Kaplan kept telling me I was wrong. At the conclusion of the third visit, Mr. Kaplan called his lawyer on the speaker phone. Mr. Kaplan's attorney told Mr. Kaplan what to include in the last few paragraphs, which Mr. Kaplan did. Mr. Kaplan printed the declaration and I was shocked to see it was 14 pages. I barely read it before I signed it. Mr. Kaplan, again, told me that the declaration would protect me from Ms. Holley.

16. Emails between me and Mr. Kaplan are attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 1, 2019 in Los Angeles, California

A handwritten signature in cursive script that reads "Celeste Pete". The signature is written in black ink and is positioned above a horizontal line.

CELESTE PETE



# **EXHIBIT M**

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

In Re Marriage of:

Petitioner: CARY K. GIMELSTOB

vs.

No. BD 624 849

Respondent: JUSTIN J. GIMELSTOB

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REPORTER'S TRANSCRIPT OF VIDEOTAPED INTERVIEW  
OF CELESTE PETE

June 4, 2019

5:03 p.m. - 8:06 p.m.

2029 Century Park East, Sixth Floor  
Los Angeles, California

Reported by:

PAMELA J. FELTEN

CSR No. 5189

1 APPEARANCES:

2

3

BLANK ROME, LLP  
BY: KRISTINA C. ROYCE  
Attorney at Law  
2029 Century Part East  
Sixth Floor  
Los Angeles, California 90067  
(310) 239-3400  
royce@blankrome.com

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9

10

11 Also Present:

12

JUSTIN GIMELSTOB  
TRAVIS SIMMONS, VIDEOGRAPHER

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1	2	NUMBER	DESCRIPTION	PAGE
3	Attachment 1	Deposition Subpoena to Celeste Pete for June 4, 2019 at 4 5:00 p.m. 5 (4 pages)	10	
6	Attachment 2	Deposition Subpoena to Celeste Pete for June 13, 2019 at 7 5:00 p.m. 8 (4 pages)	10	
9	Attachment 3	Document titled "Separation and 10 Release Agreement" dated as of 11 April 24, 2019 (initialed but not 12 signed) between Randall and Madison 13 Kaplan and Celeste Pete 14 (9 pages)	102	
15	Attachment 4	Document titled "Declaration of 16 Celeste Pete" executed by Celeste 17 Pete on June 1, 2019 18 (3 pages)	132	
19				
20				
21				
22				
23				
24				
25				

1 Los Angeles, California;

2 Tuesday, June 4, 2019, 5:03 p.m.

3

4 THE VIDEOGRAPHER: Good afternoon. We are on  
5 the record.

6 This is the recorded interview of Celeste Pete  
7 taking place at 2029 Century Park East in Los Angeles,  
8 California, on June 4th, 2019. The time is 5:03 p.m.

9 My name is Travis Simmons. I'm the  
10 videographer with U.S. Legal Support located at 11845  
11 West Olympic Boulevard in Los Angeles, California.

12 Please note video and audio recording will be  
13 taking place unless all counsel agree to go off.

14 Would all present please identify themselves  
15 beginning with the witness.

16 MS. ROYCE: You just want to announce your  
17 name? Thanks.

18 THE WITNESS: Okay. Celeste Pete.

19 MS. ROYCE: Hi. And I'm Kristina Royce and I'm  
20 going to be conducting the interview. And sitting next  
21 to me is Justin Gimelstob.

22 And could we just -- we're going to -- are you  
23 okay to -- we're going to take an oath that everything  
24 that is going to be said today is going to be truthful?

25 THE WITNESS: Yes.

1 MS. ROYCE: Okay. So, Pam, can you give the  
2 witness the oath?

3

4

CELESTE PETE,

5

having been first administered an oath, was

6

interviewed and stated as follows:

7

8

EXAMINATION

9

BY MS. ROYCE:

10

Q So, Celeste --

11

A Yes.

12

Q -- how do you spell your name?

13

A C-e-l-e-s-t-e. Last name is P-e-t-e.

14

Q Thank you for coming today for this interview.

15

I had previously -- or you had received on Sunday a

16

subpoena for the appearance of a deposition today. Do

17

you remember that?

18

A Yes.

19

Q And you also received a subpoena to appear for

20

a deposition on June 13th, correct?

21

A Yes.

22

Q Okay. I was hoping that we could take the

23

deposition today so we could do it sooner than later, but

24

my opposing counsel told me that they were not available

25

to appear today. So what I thought was it would be

1 helpful for our side if we had an interview of you so  
2 that we can understand all of the observations and facts  
3 that you know them to be.

4 A Yes.

5 Q Is that okay?

6 A Yes.

7 Q Just for the -- we'll attach it to the  
8 transcript -- I'd like to attach a copy of the subpoena  
9 that asked you to come today and the subpoena that's  
10 asking you to come on the 13th.

11 A Okay.

12 Q I understand that -- I noticed the deposition  
13 on the 13th for 5:00 o'clock, but you told me while we  
14 were talking outside for a few minutes that you would  
15 prefer if we did it at 6:00 o'clock or 6:30. I --

16 A 6:30.

17 Q Okay. I will do everything with the opposing  
18 counsel to make that easier for you -- to see if --

19 A Okay.

20 Q -- I can make that work for you. Okay?

21 A Okay. Thank you very much.

22 Q And I'll let you know.

23 A Okay.

24 Q And I understand you need that for work, right?

25 A Yes.

1           Q    Okay.  Today, you know, the reporter, even  
2           though she's usually here for a deposition, is still here  
3           today and she's just given you an oath.  So we understand  
4           that everything that's said today is going to be truthful  
5           and you're giving testimony under penalty of perjury that  
6           everything that's said today is truthful.

7           A    Yes.

8           Q    Do you understand that?

9           A    Yes.

10          Q    So I represent Justin in his family law case in  
11          limited areas, and I've explained that to you.  You  
12          understand that --

13          A    Uh-huh.

14          Q    -- right?

15          A    Yes.

16          Q    Okay.  I just want you to under- --

17          A    Yeah.

18          Q    -- make it clear who I am and --

19          A    Yes.

20          Q    -- and the purpose of this.

21                    My understanding is you were employed by Randy  
22          Kaplan, correct?

23          A    Yes.

24          Q    How long were you employed by Randy Kaplan?

25          A    One year.



1 Q And so you started in what month?

2 A April of the prior year. '18.

3 Q Okay.

4 A Yeah.

5 Q And what was your role when you worked with  
6 Randy Kaplan?

7 A When I was hired, I was told I would be the  
8 housekeeper and -- like 80 percent housekeeper, 20  
9 percent nanny.

10 Q And is that what you did?

11 A Yes.

12 Q Did you work more than your -- you understood  
13 your role to be?

14 A Um, I under- -- I understood it was going to be  
15 very long hours, but it did become ridiculously long  
16 hours. And I'm very willing, and I told them -- I told  
17 Randy many times, you know, "Hey, I'm happy -- I'm okay  
18 with the hours, but please stop calling me at 11:00" --  
19 you know, he'd call me and text me at 11:00 p.m., he'd  
20 text me on the days off, and he would have just, you  
21 know, very negative things to say, which would make my  
22 days off very unbearable.

23 Q And --

24 A But I knew -- he and I had the discussion. To  
25 answer your question, yes, we discussed the hours and he,

1 um, told me, "Hey, you knew this up front." But never  
2 thought they'd be 14-hour days.

3 Q Okay. Did -- did you live at his residence?

4 A Yes.

5 Q And did you live inside the residence or did  
6 you live in a guest house?

7 A I lived in the guest house.

8 Q So when you were doing work for him or his  
9 family, you would come into the residence?

10 A Yes.

11 Q Okay. And you ended your employment with  
12 Mr. Kaplan in April of 2019?

13 A That was the official date of -- April 10th is  
14 what things are -- contracts are dated, but he had  
15 actually fired me many times and told me to get my things  
16 out. But then the next day, things would settle and his  
17 wife would have, you know, convinced Randy, "Hey, you  
18 know what, Randy, just chill out. You're just  
19 overreacting to something." And she would pull for me.  
20 And so I never took his threats to leave seriously  
21 because Madison and I had enough camaraderie that I felt  
22 comfortable staying.

23 Q Okay.

24 A Until, you know, he made it official, which he  
25 made it clear the time he -- on April 10th, he said,

1 "There is no way, no going back, no never. You're done."

2 Q And that was in April of 2019?

3 A '19, yes.

4 Q Okay. I just want to make sure that we're on  
5 the same page, that with the two subpoenas that you  
6 received on Sunday, one asking you to come on the 4th and  
7 one asking you to come on June 13th --

8 A Yes.

9 Q -- are these the copies of what you received?

10 A Yes.

11 Q And Austin Ruth, Justin's girlfriend, handed  
12 you these documents, right?

13 A Yes.

14 (Documents 1 and 2 attached)

15 BY MS. ROYCE:

16 Q Okay. When you worked with the Kaplans, did  
17 you see Randy on October 31, 2018?

18 A Yes, I did.

19 Q And what time of the day did you see him?

20 A Uh, roughly -- well, first I saw him probably  
21 in the evening before they went out to go  
22 trick-or-treating. And then I saw him again about 8:15,  
23 according to my text. He called me.

24 Q And why -- what was the circumstance in that he  
25 texted you at around 8:15?

1           A    That's what they did generally if I was -- he  
2    would every -- either use the intercom or text me or call  
3    me and say, "Hey, come up." And I would go from the  
4    guest house to the main house and go in and generally  
5    babysit.

6           Q    Were you --

7           A    That's what I was there for.

8           Q    Were you scheduled to babysit on October 31,  
9    2018 after Randy and his wife and daughter went  
10   trick-or-treating?

11          A    Yes.

12          Q    So you were scheduled to go babysitting around  
13   what time of the evening?

14          A    I thought it would have been sooner. I  
15   remember at 7:30 I was -- kind of kept watching, "I  
16   wonder when they're going to need me." Because they said  
17   they were going to go trick-or-treating and come back,  
18   and they were going to go to a party in the neighborhood  
19   is what Madison said.

20          Q    So did you see him around -- what time  
21   following trick-or-treating?

22          A    I got a text to come up to the house at 8:15.

23          Q    And at 8:15, did you -- did you see Randy?

24          A    Yes, I did.

25          Q    Had they been trick-or-treating?

1 A I didn't know, but I --

2 Q Was that your understanding?

3 A Yeah.

4 Q Okay.

5 A And that -- the baby was already in bed so I  
6 don't know what -- yeah, I -- I don't know for a fact  
7 they went trick-or-treating.

8 Q When you saw Randy around 8:15, did he look --  
9 did he have any bruises on his face?

10 A No.

11 Q Did he have any contusions on his face?

12 A No.

13 Q Did he look injured in any way?

14 A Nope. Not at all.

15 Q Did he seem distressed in any way?

16 A Um, just in -- only in the sense he was sort of  
17 pacing. But that didn't make me think he was anything  
18 different than normal. He just was pacing.

19 Q Did he --

20 A But no.

21 Q -- and his wife go to a party that evening?

22 A I don't know that for a fact.

23 Q Did he and his wife leave the house that  
24 evening?

25 A Yes.

1 Q And you babysat Carter?

2 A Yes.

3 Q And approximately what time did Randy and his  
4 wife leave the house?

5 A Immediately, like within two, three minutes --

6 Q Of 8:15?

7 A -- but of me getting up to the house.

8 Q So sometime between like 8:15, 8:30?

9 A Probably, yeah.

10 Q And how long did they stay out for?

11 A To be honest, I don't know and I -- I'm going  
12 to guess two hours. Yeah.

13 Q Did you --

14 A Roughly.

15 Q -- stay inside the house when they were at --

16 A Yes.

17 Q -- out?

18 A Yes. They generally always got home, you know,  
19 10:00, 11 -- 10:30, 11:00, once in a while midnight. So  
20 it was roughly between those hours.

21 Q At -- after -- or when you saw Randy that  
22 evening around 8:15 to 8:30, did he indi- -- did he say  
23 anything about an altercation that he had with Justin  
24 Gimelstob?

25 A No.

1 Q Okay. At some point you learned that he had an  
2 altercation with Justin Gimelstob, correct?

3 A Yes.

4 Q And when did you learn that?

5 A The morning he texted me and sounded very, you  
6 know, distressed and said, "Celeste, go in my office" --  
7 I just remember hearing his tone -- "and take a picture  
8 of the police report which is sitting on my desk."

9 Q Was that the following morning?

10 A Yes. I mean, I could look at my records on my  
11 cell phone, but I -- yes, it was.

12 Q That's your understanding?

13 A That's my understanding, yeah.

14 Q Okay.

15 A Because he said he was already at the  
16 courthouse and he was flustered and he said, "I need you  
17 to take a picture and send a copy to Madison" so Madison  
18 can go to Kinko's or wherever and make a copy of it and  
19 then drive it to him at the courthouse.

20 Q Okay. The so after -- let's say that was the  
21 next day, that was November 1, right?

22 A Yes.

23 Q From November 1 through the remaining period of  
24 your employment with the Kaplans, did you hear Randy talk  
25 about Justin in any way?

1           A    Yes.

2           Q    And how -- how would he talk about Justin?

3           A    Um, he -- well, at first he never -- I never  
4 caught the name. I just -- well, he never said his last  
5 name. He just -- I just heard him say things to his  
6 children at the dinner table about this person being a  
7 No. 60 seeded tennis player or something to that effect,  
8 and he played with Venus Williams. And that's really the  
9 beginning of when I started to wonder, "Oh, what's going  
10 on here?" And I just happened to overhear a lot of  
11 things. He never told me anything straight up.

12          Q    What -- what did you overhear Randy saying  
13 about what you now learn was Justin Gimelstob?

14          A    Um, well, first, like I said, I didn't really  
15 know what exactly had happened because when I did read  
16 the police report, it just said -- I'd have to look at  
17 it -- something about a fight or -- I don't even know  
18 what it said, to be honest. I mean, it was very vague,  
19 short description. And so I just, um, ass- -- thought  
20 he'd gotten in a fight with some random person. But then  
21 the way Justin kept -- or Randy kept describing him --  
22 and then what clicked is when he said that his wife once  
23 went out with him, and I'm like, "Oh, that's weird."

24                   And then people started telling me things.  
25 Like Madison said, "Oh, it's so ironic. I went out with



1 him once." And I think when she was, I'm going to say,  
2 18. Whatever. It sounded like a long time ago. And I  
3 just heard him -- it also started very innocently. He  
4 just was talking about the incident. He would just tell  
5 his kids at the dinner table -- he was constantly using  
6 just the first name. So I had no idea who he was talking  
7 about. I just thought he was talking about some random  
8 friend of theirs.

9 Q Was he using the word Justin?

10 A He just said Justin.

11 Q Okay.

12 A Justin.

13 Q Would he talk about Justin a lot at dinner  
14 tables with his children?

15 A Yes. It went on every day and every night  
16 because I -- I do the dishes while they're eating dinner.

17 Q Did you -- did you hear Madison or any of the  
18 children seem annoyed that Randy kept talking about  
19 Justin?

20 A Eventually. They listened to the story about  
21 the first two nights, and then eventually that is when  
22 they started going, "Dad, we don't care," and, you know,  
23 just change the subject. That was the -- the vibe of the  
24 dinner.

25 Q Did -- did you in any way observe Madison or

1 the children seeming afraid of Justin?

2 A No. No.

3 Q Did the kids ever tell you they were afraid  
4 that Justin was going to show up at the house?

5 A No. No.

6 Q Did Madison ever give you any indication that  
7 she was afraid of Justin?

8 A No.

9 Q Did it come about -- did you ever form an  
10 opinion that Randy was in any way obsessed with Justin?

11 A I wouldn't have used the word obsessed. He was  
12 just constantly on the phone. I would hear him -- well,  
13 what first alarmed me, in my -- my opinion, was why did a  
14 police -- I mean, a -- a newspaper reporter come to the  
15 house. That's the first thing I noticed was odd.

16 Q When did that take place?

17 A Like two days later. It -- it seems like it  
18 was on the weekend.

19 Q Do you know who the reporter was?

20 A Yes.

21 Q Who was the reporter?

22 A Well, I heard him say he was from the  
23 L.A. Times and I have his name written down.

24 Q And --

25 A But I heard Randy refer to him again. And so

1 that's when I went and looked up his name in the  
2 newspaper. Because I heard him say this man's name  
3 twice.

4 Q How long did Randy meet with the journalist for  
5 the first time that he came to the house?

6 A Well, Randy asked me to leave.

7 Q So you don't know how long they met for?

8 A No, I don't.

9 Q Did -- did you ever hear Randy -- did you hear  
10 Randy tell you -- did Randy tell you in any way what they  
11 were meeting about?

12 A No. I still didn't know what was happening or  
13 what had happened.

14 Q And after that meeting where you saw the  
15 reporter and Randy meet, did you ever hear Randy talk  
16 about that reporter again after that -- after their  
17 meeting?

18 A Um, I heard him critiquing the reporter just  
19 maybe a day after the article came out, and he was like,  
20 "I told that guy not to -- I told that man I wanted him  
21 to say this." And he also was -- whoever he was talking  
22 to on the phone was being very critical of the man's  
23 writing style and the way he -- and I heard him say, "He  
24 must be a novice" or something to that effect. And so it  
25 piqued my curiosity and I went and correlated the

1 writer's name to the article I had read. And I was  
2 like -- I was kind of surprised. I remember thinking,  
3 well, this man has great credentials and he should be  
4 able to piece together an article. But Randy wasn't  
5 happy with the way the article read.

6 And I did hear him say, "I told him what to  
7 say." And I was -- in my opinion, I started to doubt the  
8 media and newspaper articles. They just -- because I had  
9 already knew what had happened, and I just knew that, um,  
10 you don't feed a newspaper lies.

11 Q Did you ever form an opinion that Randy was  
12 lying in any way about what happened between him and  
13 Justin?

14 A Yes.

15 Q And what do you base your opinion on?

16 A That he was lying about it?

17 Q Correct.

18 A Well, my first -- okay. So my first thing is I  
19 talked to Randy that night and I didn't see him look  
20 bloody. I didn't see him look beaten. And I had -- I  
21 read the article and the way the man described words such  
22 as horrific and horrifying and concussion and contusions,  
23 and by this time, I'd already heard him at the dinner  
24 table and his kids were like, "You don't have a  
25 concussion, Dad." You know, like, "Oh, Dad, you're such

1 a wuss" kind of attitude. Like, "Oh, Dad," you know.

2 And then --

3 Q Did you ever hear Madison say anything to Randy  
4 about lying?

5 A Yes.

6 Q What did you hear in that regard?

7 A Well, Madison, I think, in my opinion, is  
8 probably one of the most honest and definitely ethical  
9 and caring, loving, kind, genuine woman I know. And from  
10 knowing her one year, I've never seen Madison do anything  
11 deceptive. She's honest. She's kind. And she's the  
12 total opposite of Randy. And I heard Madison getting a  
13 little disgusted. Because Randy had been talking for a  
14 week -- no. At this time, it was like -- I'd say four  
15 days he had been talking about Justin so incessantly that  
16 he -- Randy would come to the dinner table and tell his  
17 kids the story of the events and mostly he would just  
18 talk more -- mainly about Justin's career, mainly about  
19 Justin's tennis. You know, I -- I heard him say  
20 something about he was double partners with Venus  
21 Williams. And, you know, I just kept going, "Wow, wow,  
22 this story is, um, developing into something other than I  
23 was" -- I didn't -- I mean, I was kind of con- -- annoyed  
24 that, um, Randy never -- okay. I was offended Randy  
25 never told me anything so that I would be protecting

1 myself. Because I didn't lock my doors either on the  
2 property. And Randy never told me to be alarmed. And so  
3 when I read in hindsight that they were afraid for their  
4 life, they were scared to go out, the kids wanted  
5 bodyguards, I'm like "No."

6 Q That never -- you never --

7 A I never saw those children act like -- and  
8 they're not even children. They're 17 and very  
9 independent.

10 Q So did you hear Madison ever confront Randy  
11 about lying?

12 A Yes. At the dinner table -- poor Madison is  
13 never included in the conversations. I'm sorry if this  
14 is personal. But from what I observed, Madison never is  
15 able to even speak much at that dinner table. And she  
16 just listens. You know, she listens to the conversation  
17 Randy has with his own children. And Randy is telling  
18 the kids things, and then she looks at Randy and says,  
19 "Oh, so you're going to lie?"

20 Q And what did Randy say in that -- after she  
21 said that?

22 A He shushed her. He said, "Shh. We'll discuss  
23 this later."

24 Q And what did the kids do?

25 A I couldn't see what the kids did.

1 Q Did Randy -- did Madison at that point stop  
2 talking?

3 A She got up and left the dinner table. Because  
4 she was, in my opinion, humiliated. And not only in  
5 front of me, but humiliated in front of the children. It  
6 was like Randy -- "shh" -- like "Don't form an op- --  
7 don't -- don't tell me what to do. If I want to lie, I'm  
8 going to lie."

9 Q Did you know what Madison was referring to when  
10 she said, "So you're going to lie?"

11 A Um, did I know? No, I didn't.

12 Q You didn't hear that part?

13 A I don't know -- yeah. Because I wasn't  
14 familiar enough, you know. But I did hear him tell the  
15 reporter something about being hit a hundred times. I  
16 did hear that part. He hadn't asked me to leave just  
17 quite yet. I was vacuuming or, you know, doing laundry.  
18 And Randy really didn't even know I was there. And then  
19 once he saw me -- but I -- because I heard him tell the  
20 reporter something like he got hit a hundred times and  
21 I'm like, "Whoa."

22 Q Did you not believe that to be true?

23 A I was -- I was doubting myself. I'm like --

24 Q Did you hear the --

25 A -- "What?"

1 Q Did the reporter question him in that regard?

2 A No. No. About that time is when Randy saw me  
3 and said, "Celeste, could you please go down to the guest  
4 house."

5 Q So you mentioned that Randy mentioned Justin's  
6 career --

7 A Um --

8 Q -- a number of times. Is that a correct  
9 statement?

10 A Yes. He kept talk- -- well, that was very big  
11 discussion, his career, but also about Justin's wife and  
12 ex-wife. Or wife. And he kept talking about Cary, Cary.  
13 I heard the name Cary probably more than I heard the name  
14 Justin.

15 Q Did --

16 A And so I was like, oh, maybe -- I started  
17 making up my own ideas of what was going on. Like I was  
18 guessing, but I never was sure what was going on. Still  
19 didn't know there was a fight.

20 Q So what was Randy saying about Cary?

21 A He was speaking so highly of her. Oh, her  
22 wealth. He kept talking -- I heard it many times how  
23 rich Cary's family was. Rich, rich, rich. And that --

24 Q Did he talk about them doing investments  
25 together?



1 A Oh, no.

2 Q Did he talk about --

3 A But he talked about her father.

4 Q What did he say about her father?

5 A You know, I cannot be sure. I just thought I  
6 heard him say that he had dinner with her father, but  
7 don't quote me on that. But it -- in my mind, I started  
8 envisioning Randy like personally with her father. At a  
9 dinner is what I -- but don't --

10 Q Did --

11 A -- quote me.

12 Q Did you hear Randy say anything about Cary and  
13 Justin's divorce case?

14 A Um, yeah.

15 Q What --

16 A Well, he would just -- oh, I heard -- what I  
17 heard was it's a very nasty divorce been going on for  
18 three years. That's all I know. Something -- something  
19 about it being going on a long long time.

20 Q Did you ever hear Randy talking to Cary's  
21 lawyer on the phone?

22 A I wouldn't have no idea.

23 Q Did you ever hear Randy saying that he was  
24 going to testify on behalf of Cary in the divorce case?

25 A No. No, I never heard that.

1 Q So you're just -- mostly about Cary was about  
2 her wealth?

3 A Her wealth.

4 Q And her family's wealth?

5 A And her family's wealth. And that he had gone  
6 to the wedding and -- he was almost like bragging that he  
7 went to the wedding. He was bragging that he knew them.  
8 It sounded like he was bragging. But at the same time,  
9 he was like devaluing himself going, "I'm just this  
10 little guy and these -- these are rich powerful people."  
11 He just kept talking about the rich powerful family.  
12 That's when I was like -- who talks about rich powerful  
13 families? This is Brentwood. I don't know.

14 Q Did he seem -- did you have the impression that  
15 Randy and Cary were friends?

16 A Yes.

17 Q And why did --

18 A Um --

19 Q -- you have that impression?

20 A He told his kids. I heard him say that he and  
21 Cary were friends.

22 Q Let's go back to Madison for a second. Did you  
23 and Madison ever have any private conversations about  
24 Randy lying?

25 A Yes. But not till much later. Like months

1 later.

2 Q Tell me about that conversation.

3 A Um, the events were just getting out of hand.  
4 They seemed like they were -- well, Randy was up all  
5 night on the computer because I have to pass his office  
6 to go in and out to get into my car. Now, of course, I'm  
7 not going to say what he's doing in there, but he was  
8 just constantly up all night. And I already know Randy's  
9 manic -- I've studied a lot about obsessive-compulsive  
10 and manic people -- because he'd been so manic with me  
11 for months. I had probably worked there -- April, May,  
12 June, July, August, September, October, November -- I had  
13 already been there seven months, and I just took these  
14 11:00 o'clock texts and these midnight e-mails as a sign  
15 of a manic person who stays up all night and just  
16 obsesses about everything they can't control.

17 Q So go back to --

18 A That's --

19 Q -- the conversation with you and Madison.

20 A -- opinion, of course.

21 Q Right.

22 A So he had been so consumed. I mean on the  
23 phone all the time. When he -- once he came home at  
24 5:00, he was on that phone constantly. And you could  
25 just sense everyone was getting tired of it. And he --

1    yeah.  Already Randy had said something to the effect of  
2    that he was going to make sure Justin's money was all  
3    drained.  And that's all I knew.  He just wanted Justin  
4    to have no money left.  Well, Madison is the one who  
5    pointed out to me, she said she doesn't -- she's not  
6    happy with what Randy is doing because then Justin will  
7    have no money to provide for his son.  And she said it  
8    with the utmost sympathy.

9           Q    Did she say that privately to you?

10          A    Yes.

11          Q    And during that same conversation, did she say  
12    anything about Randy lying?

13          A    Um, no, I wouldn't say that.  Um, but she  
14    intimated that all of this was a lie.  She intimated.  
15    She's like just not happy because it was out of her  
16    control and both of us know that Randy is controlling of  
17    his wife and he's controlling of everyone, but in  
18    particular he doesn't let his wife have an opinion on  
19    anything.

20          Q    Did you hear Randy say that he wants to make  
21    sure that Justin has no money left?

22          A    Yes.

23          Q    Did he say that more -- did you hear him say  
24    that on more than one occasion?

25          A    Yes.

1 Q And did he say that in front of Madison, too?

2 A Maybe twice he said it. Yeah.

3 Q And he said that in front of Madison, too?

4 A Uh-huh. Uh-huh.

5 Q Did Madison ever say to Randy in your presence,

6 "Well, then how is he going to provide for his child?"

7 A Not in my presence, no.

8 Q But she said that to you privately?

9 A Yes.

10 Q Okay. So she didn't seem happy with what Randy  
11 was doing?

12 A Right. Exactly. That was just it. Because  
13 she, of course, is loyal to her husband. She's not going  
14 to cross him. But she said to me in a very kind of  
15 like -- you know, in the morning, I'm having coffee.  
16 She's just like contem- -- like she's just contemplating  
17 everything, and she says, "I just am very upset that he's  
18 going to take everything and then Justin won't be able to  
19 provide for his son." Those were her words. Provide.

20 Q Did you hear Randy ever threaten Justin  
21 personally?

22 A Hear him? No.

23 Q Just -- just -- you just heard him say things  
24 about wanting Justin to lose his money?

25 A Yes.

1           Q    But no other types of -- did Randy say anything  
2 else to -- in your presence that wanting -- how he wants  
3 to hurt Justin?

4           That was not a very good question.  If you want  
5 me to repeat it, I can.

6           A    Yeah.  Because the word hurt is not how I see  
7 it.

8           Q    How do you see it?  I don't think --

9           A    Well, I wouldn't say he wants to hurt Justin.  
10 He just -- like physically.  He wants to -- he talked  
11 about his wealth.  He -- and he -- one night at the  
12 dinner table, he sat there and calculated every job that  
13 Justin holds position in.  He says, "Well, he's got  
14 this" -- you know, and I'm -- like I said, I'm doing the  
15 dishes.  I'm not, um, in on the conversation.  And so --  
16 but I remember him listing -- and, again, I really hadn't  
17 figured out who this Justin was.  And -- but I started  
18 putting all the pieces together like, well, he's the --  
19 you know, president of the AT --

20           Q    P.

21           A    -- P board.  He's a commentator.  He kept  
22 talking about him being a commentator.  Um, he's a  
23 commentator.  He's got another role, he mentioned, as a  
24 businessman.  And then he said, "Oh, and he's got very  
25 wealthy in-laws."  And it was always about just money,

1 money.

2 Q In that conversation, did you hear him say  
3 anything that he wants to -- wants Justin to lose those  
4 jobs?

5 A Yes.

6 Q Did he say --

7 A And because he felt warranted. Not just --  
8 this wasn't just random. You could tell he want -- he  
9 felt warranted and entitled to take them from him.

10 Q Did Randy say that to anybody?

11 A Um, he did to me.

12 Q How did --

13 A But not until April 25th, roughly.

14 Q We'll get into that in a minute.

15 A Yeah.

16 Q But during that conversation, who was he  
17 speaking to when he was talking about all of Justin's  
18 jobs?

19 A Uh, his children. At the dinner table.

20 Q Was Madison there, too?

21 A Yes.

22 Q And did he talk about how he wanted Justin to  
23 lose those jobs?

24 A Well, I think -- I wouldn't -- I cannot say --  
25 do I -- I mean, you asked me do I think?

1 Q I --

2 A Then -- but I never heard him say "I want  
3 Justin to lose all his jobs." He just would talk about  
4 his net worth. And I just -- I was like that's  
5 disgusting talking about someone's net worth.

6 Q Did he ever say that he wants to destroy  
7 Justin --

8 A I mean --

9 Q -- in any --

10 A -- I feel it's shallow. Very shallow.

11 Q Did you ever hear Randy say that he wants to  
12 destroy Justin in any way?

13 A Yes.

14 Q How did you hear -- when did you hear Randy say  
15 that and what was the circumstance?

16 A The night that he offered to pay me \$30,000 for  
17 a severance package, he sat down at a computer, an Apple,  
18 and drafted up my severance package. And he said -- and  
19 Madison was upstairs or hadn't even come to the table  
20 yet. He didn't call Madison down to sign the documents  
21 until we were completely finished. And so I sat there  
22 for well over an hour, and Madison wanted to just get out  
23 of it because she had already heard Randy agree to pay me  
24 \$30,000. And she left. And, obviously, it's bedtime for  
25 the baby and dinnertime.



1           And while Randy -- Randy is drafting all this,  
2    I just sat there and I was baffled and I said, "Randy,  
3    why do you hate this guy so much?" You know, I -- it was  
4    the only word I could think of. And he leaned in -- he  
5    leaned in -- or he said to me, to the effect, not exact  
6    words, "Celeste, he killed my baby." To that effect. It  
7    was a straight-on dead look in my face and he --  
8    whatever he said, it was to im- -- to let me know that  
9    that's where he thinks Justin deserves revenge. "Because  
10   he killed my baby, Celeste." I mean, he said it to me  
11   like -- I mean, that shocked me. I had no idea why Randy  
12   hated the guy so much. To be honest --

13           Q    Okay. Well, let's go back --

14           A    Yeah.

15           Q    -- for a second.

16           A    So --

17           Q    Let's go back to the -- before these contracts  
18    were drafted.

19                    At some -- Randy's birthday is on Thanksgiving,  
20    right?

21           A    Yes.

22           Q    Okay. And at -- on Randy's birthday, you guys  
23    were in Idaho; is that correct?

24           A    Yes.

25           Q    And what happened -- did Randy give a toast at

1 his birthday?

2 A Yes, he did. Yes. Yes. Everyone, you know,  
3 ordered their drinks and traditionally you toast at the  
4 Thanksgiving start of the dinner.

5 Q So in -- at what -- did Randy say anything  
6 about Justin in his toast?

7 A Yes.

8 Q And what did he say about Justin?

9 A Well, you have to remember, I am expecting out  
10 of his mouth something very pleasant. So I am attentive  
11 because I want to see if this man has one grateful bone  
12 in his body. And, personally, I grew up with a family  
13 that always gave thanks at the toast. And so I was  
14 waiting to see what their family tradition was. And I  
15 was stunned because Randy started out with something  
16 about Justin. And I'm like, "What? This is  
17 Thanksgiving. Why is Justin's name coming in?"

18 And he said -- I had heard him say earlier in  
19 the night -- early in that day something about Justin  
20 turned himself in to -- so I already knew this. He  
21 turned -- he said Justin turned himself in. That's what  
22 he said. Justin turned -- and that he had to pay \$50,000  
23 in bail. And I thought, hm, you know, is 50,000 a lot?  
24 Is 50,000 a little? I had no idea what bail -- does it  
25 equate to the person's, you know -- I didn't know. So I

1 was curious, wow, \$50,000 he just had to come up with and  
2 I just -- so when he -- so when he starts out toasting  
3 that this is -- he said, "This is the best birthday of my  
4 life," and I'm thinking, oh, yeah, it's his birthday, but  
5 it's also Thanksgiving. And he said to the effect of  
6 "the best birthday because I" -- and he visually  
7 physically took his hand and screwed it around like that  
8 and kept describing how he stuck it up Justin's anus  
9 and he -- and I'm like, "Whoa." I was like, "Where is  
10 this going?"

11 It's -- and I couldn't even look at anyone else  
12 at the table because I am their employee. So, I mean, if  
13 it had been my father talking like that, I would have  
14 told him, "That is not appropriate." But it's not my  
15 family. So I just listened and I looked, you know, like  
16 down at the table and somebody gasped. I don't know who  
17 it was.

18 Q How many --

19 A Someone went --

20 Q How many --

21 A -- "huuh."

22 Q How many people were at the table?

23 A His children and Madison and myself. He has  
24 three grown children and then a two-year-old baby.

25 Q And so he said this in front of everybody?

1 A Everybody.

2 Q Did anybody say anything other than the gasp --

3 A No.

4 Q -- you heard?

5 A No. Someone was just like "huuh."

6 Q Did Randy appear like he was gloating when he  
7 was saying it?

8 A Yes. And I even have a photo of him gloating.  
9 I even have a photo of him going like this.

10 Q After Halloween, did you see Randy work out at  
11 the house on a weekly basis?

12 A Yes.

13 Q Did he use his Peloton?

14 A Yes.

15 Q Did he have a personal trainer?

16 A Yes.

17 Q Did you -- you were in Idaho in November,  
18 right?

19 A Yes.

20 Q Did you see Randy active in Idaho?

21 A Um, just the normal, you know, go out -- I  
22 wouldn't say active because, you know, it was close to  
23 snowy weather so he -- you couldn't play golf. I  
24 wouldn't say active.

25 Q Did you see -- do you know if Randy went skiing

1 during the winter break in any way?

2 A Uh, yes. He went to Aspen.

3 Q And when did he go to Aspen?

4 A Um, I would have to check my records, but his  
5 mother-in-law, Madison's mom came to stay at the house --

6 Q Did you go --

7 A -- and --

8 Q -- to Aspen with them?

9 A No.

10 Q Did --

11 A I was excited for them because, you know, I  
12 just thought, oh, wonderful, you're going to get to be  
13 alone. I think Madison needed some alone time with her  
14 husband. Again, opinion.

15 Q Did Randy bring -- pack his skis when he went  
16 to Aspen?

17 A Yes. I saw his ski boots, I believe. I  
18 believe they were his. They could have been his wife's.  
19 I don't know.

20 Q Did you observe that Randy was any less -- or  
21 worked out less post-October 31, 2018 than he had before?

22 A No.

23 Q You didn't see any change in his workout  
24 routine?

25 A No. I even have texts from him with a photo of

1 the condition of the -- it is really -- it's a workout  
2 room, but I use it to keep my supplies and ironing board  
3 and bulky things like the laundry -- place to hang  
4 laundry to dry clothes on. So, yes, the room was messy  
5 and he texted me and he says, "Could you come up here and  
6 clean up this" -- he called it a -- "clean up the gym. I  
7 use it." So . . .

8 Q When was that?

9 A I would have to look at my records. But I have  
10 a photo. He took a picture. And things like that just  
11 catch my attention. He sends me a picture of everything.  
12 So I have a lot of pictures of things I've done wrong.

13 Q He complained about your work?

14 A Yes. He complained about it, but,  
15 interestingly enough, we have three chains of  
16 communication. One is just text from him solely. Then I  
17 have a whole text chain of just from his wife. And then  
18 he also has a text chain where it's Madison and Randy so  
19 that he can -- you know, it's designed so that he can  
20 include us both on things like, "Hey, the washer repair  
21 man is coming today," or the tile man or -- you know, so  
22 we both can be on the lookout. Or a package is going to  
23 be arriving. Um, but he never sent me ugly derogatory  
24 things on that chain. He only sent them on his private  
25 chain for my own personal viewing.

1 Q Did you take a Christmas card picture of the  
2 Kaplans?

3 A Yes, I did.

4 Q And when was that Christmas card picture taken?

5 A The week we were in Idaho. So roughly, you  
6 know, November 22nd.

7 Q So three weeks after the altercation?

8 A Yes.

9 Q Did Randy appear to have any bruises or  
10 lacerations on his face?

11 A No. Not at all.

12 Q Did you ever --

13 A He --

14 Q -- see any --

15 A -- looked great.

16 Q Did you ever see any like bruises or alter- --  
17 or lacerations on Randy's face after October 31, 2018?

18 A Never. And I'll tell you why I was so  
19 fascinated that there was this major horrific fight with  
20 Randy -- because I had heard Randy say he got punched a  
21 hundred times. He kept saying that to the kids. And  
22 how -- and then I would hear him tell other people that  
23 came over to the house, "Yeah, he -- you know, he hit me  
24 a hundred times." And they said -- he said, "Oh, the  
25 only saving grace is that I was on the grass." And I'm

1 like, well, lucky you, you know.

2 Q Did --

3 A Better to be hit on grass.

4 Q Did you ever see that Randy had any loss of  
5 memory?

6 A No.

7 Q Did Randy ever tell you he had loss of memory?

8 A No.

9 Q After October 31, were there any physical  
10 ailments or problems that Randy had, to your knowledge?

11 A Nope.

12 Q Did he ever tell you that he has any injuries  
13 after October 31, 2018?

14 A No. Nope.

15 Q Did you ever hear Randy encourage his children  
16 to lie in any way?

17 A Yes.

18 Q How did you hear that?

19 A Um, one night at dinner, they -- the -- one of  
20 the daughters was complaining about her coach at  
21 Brentwood High School and she -- she would always say,  
22 you know, how bad of coach they are, how they shouldn't  
23 even be there because they don't know what they're doing.  
24 And, oh, she talked about one night how the coach put  
25 them in physical danger because they didn't stop the



1 girls from doing dangerous stunts, I guess. And she  
2 was -- complained about this coach for probably a week,  
3 if not a week and a half, at dinners. And she -- oh, and  
4 in other cases -- they -- they were always talking about  
5 their school because that's what Randy encouraged at the  
6 dinner hour was the kids to talk about their day, talk  
7 about their life, talk about their school. And so I  
8 heard a lot of stories about school. And --

9 Q So what did you hear on that particular  
10 occasion?

11 A That night the girls were like -- actually, not  
12 the girls. The one girl, Bianca, actually was like  
13 saying she was going to like get a group of them -- they  
14 all were like deciding how they were going to go about  
15 telling -- complaining about the teacher in hopes that  
16 the principal, or whoever the headmaster would be, to get  
17 rid of him. But it was all the girls just, you know,  
18 complaining about the coach. You know, it was just the  
19 girls of that unit. Randy, all of a sudden, said, "I  
20 know how we can get them fired. I got a plan." And he  
21 actually started talking about smearing the person on  
22 Facebook. Smearing them. Smearing their name. And I'm  
23 just in the back of my mind going, "Randy, mind your own  
24 business. School is school. Stop intervening with their  
25 school." Sorry.

1 Q Did -- did Randy talk about any kind of ever  
2 creating Face- -- fake social media --

3 A Yeah.

4 Q -- accounts?

5 A Yeah. He was going to do it anonymously  
6 so that -- he admitted that he knew how to do it  
7 anonymously so they could never trace it back to his  
8 daughter.

9 Q And what did the girl -- what did Bianca say  
10 when --

11 A They were like, "No, Dad, no."

12 Q Well, do you think Randy --

13 A They didn't want any part because they know  
14 their dad is a conniving person.

15 Q Do you believe that Randy was serious in that  
16 discussion?

17 A Yes. He was -- like I say, I can't recall  
18 exact words, but he was, you know, making out a chart.  
19 "This is what we do on this day." Things like, "This is  
20 what we'll say so they can't ever figure out where it's  
21 coming from." But he was literally making -- it was  
22 almost similar to the Justin thing. He was over the top.  
23 It was like he couldn't just say the guy -- the person is  
24 a bad coach. He had to like say -- oh, my God. He knew  
25 how to get the person's home phone number and address.

1 He told them -- he told the kids, "I know how to get his  
2 address." His or her --

3 Q Did he tell the --

4 A -- I'm not sure.

5 Q Did he tell the kids why he wanted to get their  
6 address?

7 A No, he didn't say that. But the kids were  
8 just -- the -- the daughter in particular was just like,  
9 "Dad, just" -- you know.

10 Q But was this like to plot to get this coach  
11 fired?

12 A He -- yes. He was plotting to get that coach  
13 fired.

14 Q Is that coach also a teacher at the school?

15 A Yes. I believe.

16 Q Did you ever hear Randy tell anybody else that  
17 he was injured?

18 A Um, only -- yes. Yes.

19 Q Who else --

20 A Yes.

21 Q -- did he tell anybody that he was injured?

22 A There are a group of ladies, maybe two women,  
23 who had stayed or had -- maybe they'd -- he'd invited  
24 over a couple of women -- I'm sorry. His wife invited  
25 over her girlfriends for dinner. And I think they

1 were -- oh, yeah, one lived, I believe, in Africa. And  
2 she was visiting. So it was a special occa- -- "Oh,  
3 let's invite her over for dinner."

4           Anyway, they stayed -- Madison got up -- well,  
5 Randy started talking about -- after dinner they all went  
6 to the sofa to sit down and finish their wine. You know,  
7 it was kind of an after conversation, after the dinner  
8 was done. And I was doing the dishes, and I heard Randy  
9 proceed to tell them the story of the events and how  
10 violent it was. He was telling them, "Oh, he beat me and  
11 he hit me in the head." And these girls are sort of like  
12 feeding into it by asking him, "Why? Oh, why did he do  
13 that?" And I remember him talking -- I remember hearing  
14 something about Cary Sinnott and her rich dad. And --  
15 and then I just heard him say -- that was the night I  
16 heard him say, "Yeah, well, he hit me on the grass," and  
17 he was just -- just going over and over about these  
18 hundred punches. And --

19           Q    And you never saw any bruises on Randy's face?

20           A    Never. Not one scratch. And -- and I never  
21 thought anything about it because I didn't know what was  
22 going on until I started reading the newspapers --

23           Q    Do you --

24           A    -- and reading how it was described. His  
25 physical like inability to walk, I think I read. He

1 couldn't function, he couldn't --

2 Q Was it true that Randy --

3 A Sounded like he couldn't go to work one day or  
4 some- -- couldn't focus at work he said.

5 Q Was Randy able to walk?

6 A Absolutely.

7 Q Was Randy, to your knowledge --

8 A He went --

9 Q -- able to function?

10 A -- skiing.

11 Um, yeah.

12 Q Did Randy go to work?

13 A Yes.

14 Q Including -- all of this after October 31?

15 A Yes, I believe so.

16 Q At some point, did you become aware that  
17 Madison was doing in vitro?

18 A Yes.

19 Q Did she --

20 A But I don't think that's -- I think that's very  
21 personal and it's not relevant to the beating. Or I  
22 don't know.

23 But, um, to answer your question, yes, but I  
24 think it's very personal.

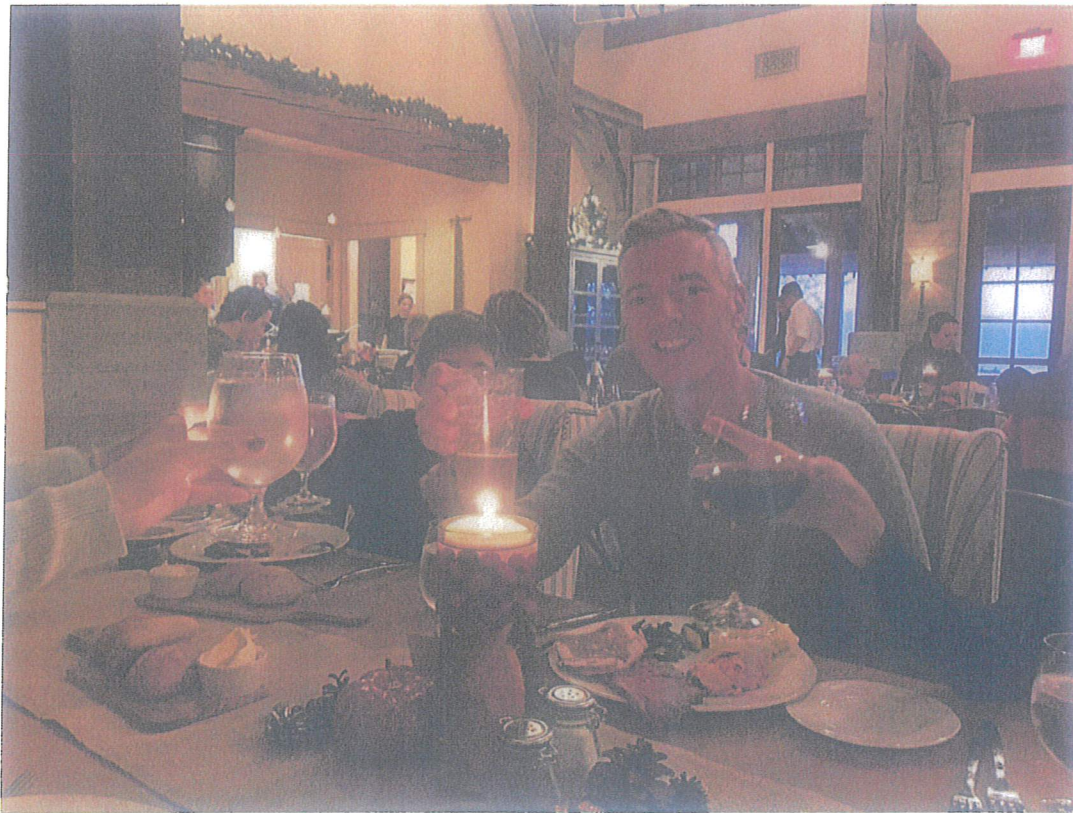
25 Q I understand. I think it's important because,

# **EXHIBIT N**



November 22, 2018  
4:09 PM

Edit





Posts



**madmontgo**  
Gozzer Ranch Golf and Lake Club



269 likes

**madmontgo** Happy birthday @randallkaplan!!! ❤️❤️  
❤️❤️❤️❤️ you!

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November 22, 2018



**madmontgo**  
New York, New York







Posts



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madmontgo Happy birthday @randallkaplan!!! ❤️❤️  
❤️❤️❤️❤️ you!

View all 38 comments

November 22, 2018



madmontgo

New York, New York



# **EXHIBIT O**



Celeste Pete

Messenger



I'm reaching out to u because I need to talk to you . It's important to you . 469.233.6462



MAR 8, 6:44 PM

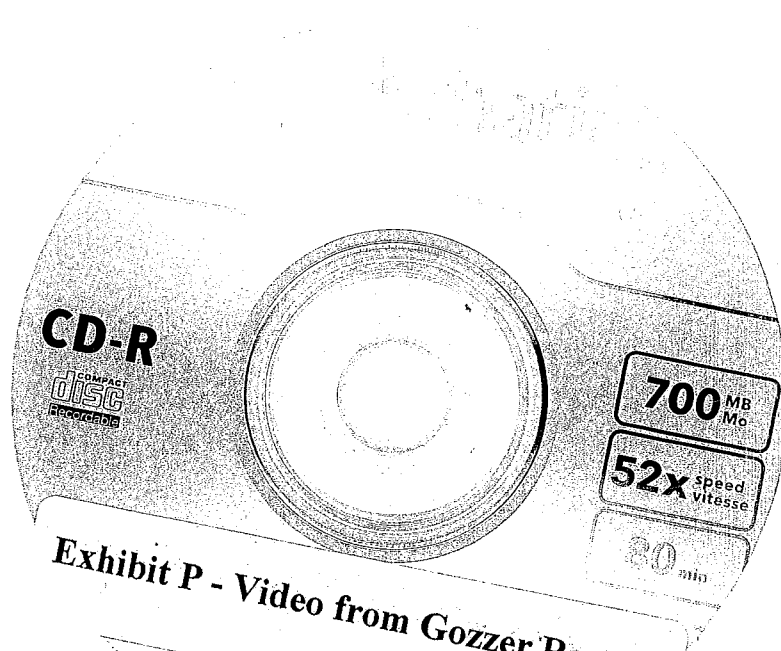
You need to know this, it will vindicate u



MAY 30, 9:13 PM



# **EXHIBIT P**



**Exhibit P - Video from Gozzer Ranch**

# **EXHIBIT Q**

1 BROWNE GEORGE ROSS LLP  
Eric M. George (State Bar No. 166403)  
2 [egeorge@bgrfirm.com](mailto:egeorge@bgrfirm.com)  
Russell F. Wolpert (State Bar No. 97975)  
3 [rwolpert@bgrfirm.com](mailto:rwolpert@bgrfirm.com)  
2121 Avenue of the Stars, Suite 2800  
4 Los Angeles, California 90067  
Telephone: (310) 274-7100  
5 Facsimile: (310) 275-5697

6 Attorneys for Plaintiff Madison Kaplan

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

10  
11 MADISON KAPLAN,  
12 Plaintiff,  
13 vs.  
14 JUSTIN GIMELSTOB,  
15 Defendant.

Case No. 19STCV19647

Assigned for All Purposes to:  
Hon. Dalila Corral Lyons, Dept. 20

**PLAINTIFF MADISON KAPLAN'S  
RESPONSES TO DEFENDANT JUSTIN  
GIMELSTOB'S REQUESTS FOR  
ADMISSION, SET ONE**

Judge: Hon. Dalila Corral Lyons  
Dept.: 20

Action Filed: June 5, 2019  
Trial Date: None Set

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1 reserves the right to supplement, amend, or modify their responses or objections.

2 7. Responding Party objects to the Requests, and to each request contained therein, to  
3 the extent they are unlimited in time or seek information beyond the time-frame relevant to this  
4 litigation on the grounds that they are overbroad and unduly burdensome, and seek information  
5 that is irrelevant to the subject matter of this litigation.

6 8. Responding Party objects to the Requests, and each request therein, to the extent  
7 they seek information that is equally available to or within Plaintiff's possession, custody or  
8 control on the grounds that such Requests are unduly burdensome and oppressive.

9 9. The foregoing objections are incorporated by reference into each of the specific  
10 responses made herein. Notwithstanding the specific responses to any of the Requests,  
11 Responding Party does not waive any of the general or specific objections made herein.

12 Subject to and without waiving the foregoing General Objections, Responding Party  
13 responds as follows:

14 **RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION**

15 **REQUEST FOR ADMISSION NO. 1:**

16 Admit that YOU were not pregnant at the time of the INCIDENT. (As used in these  
17 Requests, "YOU" or "YOUR" refers to Plaintiff Madison Kaplan. As used herein, "INCIDENT"  
18 refers to the incident on Halloween of 2018 in which YOU allege that Justin Gimelstob attacked  
19 and injured YOUR husband Randall Kaplan.)

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

21 Deny.

22 **REQUEST FOR ADMISSION NO. 2:**

23 Admit that YOU were less than 6 weeks pregnant at the time of the INCIDENT.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

25 Plaintiff lacks the knowledge to respond precisely to this Request as to the exact number of  
26 days she was pregnant.

27 **REQUEST FOR ADMISSION NO. 3:**

28 Admit that no HEALTH CARE PROVIDER has told YOU that they know YOUR



1 miscarriage was caused by the INCIDENT. (As used in these Requests, "HEALTH CARE  
2 PROVIDER" includes any PERSON referred to in California Code of Civil Procedure section  
3 667.7(e)(3).)

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

5 Admit that no health care provider stated that they "know" (i.e., can state with absolute  
6 certainty) that Gimelstob's actions caused the miscarriage.

7 **REQUEST FOR ADMISSION NO. 4:**

8 Admit that YOU do not know whether YOUR miscarriage was caused by the INCIDENT.  
9 (As used in these Requests, "PLAINTIFF" means Plaintiff Justin Gimelstob.)

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

11 Admit that Plaintiff – who is not a physician – does not "know" (i.e., cannot state with  
12 absolute certainty) that Gimelstob's actions caused her miscarriage.

13 **REQUEST FOR ADMISSION NO. 5:**

14 Admit that no HEALTH CARE PROVIDER has told YOU that YOUR loss of the ability  
15 to have children was caused by the INCIDENT.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

17 Admit that no health care provider stated that Gimelstob's attack would necessarily prevent  
18 a future pregnancy.

19 **REQUEST FOR ADMISSION NO. 6:**

20 Admit that YOU had suffered at least one miscarriage prior to the INCIDENT.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

22 Deny.

23 **REQUEST FOR ADMISSION NO. 7:**

24 Admit that YOU had suffered more than one miscarriage prior to the INCIDENT.

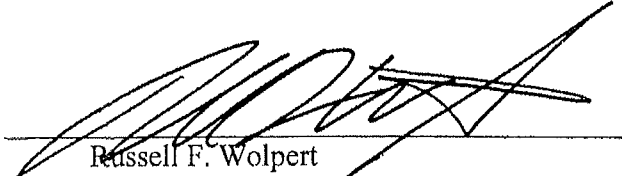
25 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

26 Deny.  
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DATED: July 9, 2019

BROWNE GEORGE ROSS LLP  
Eric M. George  
Russell F. Wolpert

By:   
Russell F. Wolpert  
Attorneys for Plaintiff Madison Kaplan

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

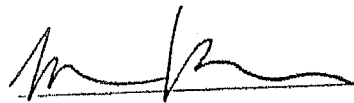
I have read the foregoing PLAINTIFF MADISON KAPLAN'S RESPONSES TO DEFENDANT JUSTIN GIMELSTOB'S REQUESTS FOR ADMISSION, SET ONE and know its contents.

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

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

Executed on July 9, 2019, at Los Angeles, California.

Madison Kaplan  
Print Name of Signatory



Signature

PROOF OF SERVICE - 1013A(3), 2015.5 C.C.P.)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 888 West Sixth Street, Suite 400, Los Angeles, California 90017.

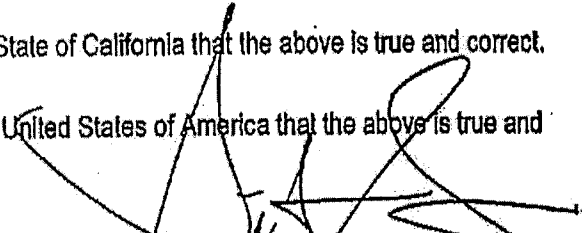
On August 26, 2019, I served the foregoing document, described as **Defendant Justin Gimelstob's Position of Restitution: Memorandum of Points and Authorities In Support Thereof** on all interested parties listed below by transmitting to all interested parties a true copy thereof as follows:

Lucrecia Boado Los Angeles District Attorney's Office 11701 S. La Cienega, 6 <sup>th</sup> Floor, Room 601 Los Angeles, CA 90045 Telephone: (310) 727-6500 Facsimile: n/a E-mail: n/a	
---	--

- BY FACSIMILE TRANSMISSION from FAX number (213) 624-1942 to the fax number set forth above. The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2005(l), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.
- BY MAIL by placing a true copy thereof enclosed in a sealed envelope addressed as set forth above. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.
- BY PERSONAL SERVICE by delivering a copy of the document(s) by hand to the addressee or I cause such envelope to be delivered by process server.
- BY EXPRESS SERVICE by depositing in a box or other facility regularly maintained by the express service carrier or delivering to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is to be served.
- BY ELECTRONIC TRANSMISSION by transmitting a PDF version of the document(s) by electronic mail to the party(s) identified on the service list using the e-mail address(es) indicated.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.  
 I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on August 26, 2019 in Los Angeles, California

  
\_\_\_\_\_  
Gilbert Saucedo