STATE OF MINNESOTA	DISTRICT COURT
COUNTY OF OTTER TAIL	SEVENTH JUDICIAL DISTRICT

Craig Stevenson and Marie Stevenson, Plaintiffs, v. Sean Christopher Stevenson, Renee Stevenson, Lisa Stevenson-Allen, and Ashley Anderson, Defendants.	Court File No.: 56-CV-20-2928 Case Type: Other Civil **DECLARATION OF CRAIG STEVENSON**

STATE OF MINNESOTA)
) SS.
COUNTY OF OTTER TAIL)

Craig Stevenson declares as follows:

1. I am one of the Plaintiffs in the above-captioned matter.
2. I have been married to Plaintiff Marie Stevenson ("**Marie**") for over 34 years.
3. This declaration contains several updates to my June 17, 2024 declaration based on additional research I performed since then.
4. My attorneys did not assist me in the crafting of this declaration.

My Research

5. Following the Court's June 16, 2023 Order and Memorandum Granting Summary Judgment and Dismissing (Doc. 429) ("**Plaintiffs' Summary Judgment Order**"), I began to conduct in-depth research and analyses of Judge Miller's various orders in our case because of what appeared to be Judge Miller's deep-

seated bias against Plaintiffs and favoritism toward Defendants.

6. This declaration is my presentation of the information I uncovered during my research into Judge Miller's orders.

7. I relied heavily on the Minnesota Court Records Online ("**MCRO**") website at https://publicaccess.courts.state.mn.us/ for documents filed in our case and other cases from Otter Tail County and throughout the State of Minnesota.

8. I used Casetext, Fastcase, Google, PACER, Westlaw, and other research sources too numerous to list.

9. I used the Restatement (Second) of Torts and the Restatement (Third) of Torts extensively, in order to analyze the specific sections that applied to our case.

10. I referred to the Minnesota Judicial Code of Conduct and Minnesota case law to determine Judge Miller's obligations as a judge and to assess his compliance with the Code.

11. Rule 1.2 of the Minnesota Code of Judicial Conduct states:

> A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

12. Rule 2.2, Comment 1 of the Minnesota Code of Judicial Conduct states:

> To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

13. I referred to the Minnesota Court Employee Code of Ethics to determine the obligations of various court employees who assisted Judge Miller and to assess their compliance with the Code.

14. I also referred to the Minnesota Rules of Professional Conduct and Minnesota case law to determine Attorney Kirsten Hansen's and Attorney Ross Tentinger's

obligations as lawyers and to assess their compliance with the Rules.

Judge Miller's Summary Judgment Orders

15. I performed several analyses of Judge Miller's civil case summary judgment orders which were filed from June 1, 2018 through December 31, 2023.
16. I analyzed a total of 35 summary judgment orders which occurred during this period.
17. Judge Miller's summary judgment orders range in length from 2 to 33 pages.
18. Plaintiffs' Summary Judgment Order is the lengthiest order at 33 pages.

Judge Miller Concealed Relevant and Material Information

19. In Plaintiffs' Summary Judgment Order, I found a significant number of instances where Judge Miller used ellipses to omit portions of the original text.
20. In many instances, the use of ellipses was improper because the omitted text was relevant and material, which resulted in a miscitation and mischaracterization of the original text.
21. I performed a distribution analysis of Judge Miller's summary judgment orders to determine the frequency of the use of ellipses in his orders.
22. I considered "…", ". . .", and "* * *" as ellipses for this analysis.
23. Ellipses were found in 7 out of 35 of Judge Miller's summary judgment orders.
24. Ellipses were used *5 times more often* in Plaintiffs' summary judgment order than in any other summary judgment order, and almost twice as often as all other summary judgment orders combined.
25. I then excluded all instances in all summary judgment orders where ellipses were used properly for legitimate purposes, such as when the original quotation

contained ellipses or when text had been omitted which was immaterial or did not change the meaning of the quoted text, and analyzed the remaining instances.

26. I found **nine** instances in Plaintiffs' Summary Judgment Order where text had been replaced by an ellipsis and the relevance and materiality of the omitted text is clear and significant.

27. These instances include case law citations, evidence in the record, and secondary legal sources.

28. In addition to omissions using ellipses, I also found **three** instances in the Legal Analysis section where relevant and material portions of *quotations* were missing without Judge Miller denoting the omission.

29. I also found **seven** additional instances where relevant and material information had been omitted, without any indication of the omission, and where the omitted content contradicted Judge Miller's statements or conclusions.

30. These instances include case law citations, deposition testimony, secondary legal sources, and memorandums.

31. In total, I found **nineteen** instances in Plaintiffs' Summary Judgment Order where relevant and material information was concealed by ellipses or omitted without denoting the omission.

32. Using the same criteria, I found **zero** instances of concealed relevant and material information in Judge Miller's other 34 summary judgment orders.

Judge Miller Did Not Use the Same Summary Judgment Standard for All Cases

33. The Legal Analysis section of Plaintiffs' Summary Judgment Order states, "Summary judgment is appropriate when the *evidence, viewed in the light most*

favorable to the nonmoving party, shows that there is *no genuine issue of material fact* and the moving party is entitled to judgment as a matter of law." and "The district court's function on a motion for summary judgment is *not to decide issues of fact, but solely to determine whether genuine factual issues exist*." (Doc. 429, at 13.) (emphasis added)

34. I performed a distribution analysis of Judge Miller's summary judgment orders to determine how Judge Miller viewed the evidence in each case.

35. In Plaintiffs' Summary Judgment Order, Judge Miller viewed all evidence in the light most favorable to the **moving** party, in this instance, **Defendants**.

36. In his other 34 summary judgment orders, Judge Miller viewed all evidence in the light most favorable to the **non-moving** party.

37. I also performed a distribution analysis of Judge Miller's summary judgment orders to determine the frequency of his use of the terms "material fact", "material facts", or "material factual".

38. Judge Miller used the terms "material fact" , "material facts", or "material factual" only **once** in Plaintiffs' Summary Judgment Order, as part of a boilerplate case law citation at the beginning of the Legal Analysis section. (Doc. 429, at 13.)

39. Judge Miller used the terms "material fact", "material facts", or "material factual" **one hundred thirteen** (113) times in his other 34 summary judgment orders.

40. In his 8 summary judgment orders of 8 pages or greater in length, Judge Miller used the terms "material fact", "material facts", or "material factual" a total of **67 times** – **once** in Plaintiffs' Summary Judgment Order and **66 times in the other 7 orders**.

41. I also performed a distribution analysis of Judge Miller's summary judgment orders to determine how often Judge Miller **decided** disputed issues of fact.

42. Judge Miller decided **many** disputed issues of fact in Plaintiffs' Summary Judgment Order.

43. Judge Miller did not decide **any** disputed issues of fact in his other 34 summary judgment orders.

Judge Miller Set Aside Material Facts at Summary Judgment

44. In Plaintiffs' Summary Judgment Order, Judge Miller stated:

> As such, Minnesota courts have held that, because both spouses have an inchoate interest in each other's property during a marriage, **one spouse cannot be guilty of stealing from the other**. (Doc. 429, at 22-23.) (emphasis added)

45. Despite this statement, Judge Miller then used the phrase, "Setting aside the fact that Craig and Renee were married at the time…" to conclude, "Craig engaged in what an ordinary person would describe as theft." (Doc. 429, at 24.)

46. I performed a distribution analysis of Judge Miller's summary judgment orders to determine how often he set aside material facts.

47. Craig and Renee's marriage is an *undisputed* material fact that Judge Miller set aside **twice** in Plaintiffs' Summary Judgment Order.

48. Judge Miller did not set aside disputed or undisputed material facts in **any** of his other 34 summary judgment orders.

Judge Miller Took Aside His Prior Contrary Conclusion

49. In Plaintiffs' Summary Judgment Order, Judge Miller stated:

> When taken in their full context, Sean's messages themselves negate an element of the offense of theft. From an objective perspective, then, Sean's

> statement contains no actual allegation of a crime.
>
> Moreover, Defendants argue that, **taking this consideration aside**, Sean's statement was substantially true, or was at least a fair interpretation of undisputed facts. **The Court agrees**. (Doc. 429, at 23.) (emphasis added)

50. I performed a distribution analysis of Judge Miller's summary judgment orders to determine how often he took aside prior contrary conclusions.

51. Judge Miller took aside a prior contrary conclusion **once** in Plaintiffs' Summary Judgment Order.

52. Judge Miller did not take aside prior contrary conclusions in **any** of his other 34 summary judgment orders.

Judge Miller Cited Very Old Case Law in Plaintiffs' Orders

53. During my analysis of Plaintiffs' Summary Judgment Order, I found that Judge Miller frequently cited to extremely old case law.

54. I performed an analysis of Judge Miller's summary judgment orders to determine the age of his case law citations.

55. Excluding Plaintiffs' Summary Judgment Order, the oldest case law cited by Judge Miller in his other 34 summary judgment orders is from 1956.

56. Plaintiffs' Summary Judgment Order contains 14 case law citations older than 1956, and 4 citations from the 1800s. (1882, 1884, 1886, 1893, 1900, 1914, 1921, 1927, 1931, 1931, 1934, 1942, 1943, and 1950.)

57. Based on my research, prevailing Minnesota case law for Defamation is from 2007 (*Longbehn v. Schoenrock*, 727 N.W.2d 153, 158) and 2019 (*Maethner v. Someplace Safe, Inc.*, 929 N.W.2d 868, 875) while prevailing Minnesota case law for Intentional Infliction of Emotional Distress (IIED) is from 1985 (*Cafferty v.*

Garcia's of Scottsdale, Inc., 375 N.W.2d 850, 853).

58. In his December 6, 2022 Order and Memorandum Granting in Part, Denying in Part, and Reserving in Part Six Pre-Trial Motions, Judge Miller cited to extremely old case law from New York to justify his denial of Plaintiffs' motion to extend discovery.

59. Judge Miller cited *Hutchins v. Hutchins*, 7 Hill 104 (N.Y. 1845) (Doc. 366, at 51.)

60. *Hutchins* is from over 175 years ago, prior to Minnesota statehood, prior to the establishment of the Minnesota Supreme Court, and prior to the first formal session of the Supreme Court for the *territory* of Minnesota on January 14, 1850.

61. In the same order, Judge Miller cited *McGinness v. Sch. Dist. No. 10*, 41 N.W. 103, 103 (Minn. 1888) (Doc. 366, at 17-18.) and *State v. Madigan*, 68 N.W. 179, 180 (Minn. 1896) (Doc. 366, at 37.)

62. It seems unusual to me that Judge Miller cited such old case law when prevailing Minnesota case law is much more recent and is easily available via Westlaw.

Judge Miller Repeatedly Disparaged Plaintiffs

63. In Plaintiffs' Summary Judgment Order, Judge Miller repeatedly editorialized and disparaged Plaintiffs and their actions using phrases such as:

- "Craig sent a ***berating email***…" (Doc. 429, at 11.) (emphasis added)
- "Craig sent ***additional angry emails***…" (Doc. 429, at 11.) (emphasis added)
- "Craig sent ***another lengthy missive***…" (Doc. 429, at 11.) (emphasis added)
- "…[Craig] sent an ***accusatory letter*** to Lisa." (Doc. 429, at 11.) (emphasis added)

- "…Craig replied to the group with ***further protestations*** in response to his mother's message." (Doc. 429, at 11.) (emphasis added)

- "Thus, Plaintiffs' argument is essentially that Sean acted outrageously because he knew that Marie would be (***unreasonably***) outraged." (Doc. 429, at 30.) (emphasis added)

64. I performed a distribution analysis of Judge Miller's summary judgment orders to determine the frequency of his negative editorializing or disparagement of the parties or their actions.

65. There were **ten** such occurrences in Plaintiffs' Summary Judgment Order.

66. All **ten** of these occurrences were directed toward Plaintiffs.

67. Judge Miller did not negatively editorialize or make disparaging comments about Defendants or their actions in Plaintiffs' Summary Judgment Order.

68. Judge Miller did not negatively editorialize or make disparaging comments about the parties or their actions in ***any*** of his other 34 summary judgment orders.

Judge Miller Mischaracterized Evidence Regarding Defamation

69. In Plaintiffs' Summary Judgment Order, Judge Miller mischaracterized evidence in the record numerous times.

70. Judge Miller stated that none of Defendants' statements "can be read as an implied assertion that Craig had perpetrated criminal abuse". (Doc. 429, at 19.)

71. Judge Miller ignored the evidence in the record that Marie, our daughters Makayla and Miranda, Melvin Liebsch, Frank Liebsch, Ed Liebsch, and Marie's other siblings understood the various statements to imply domestic abuse.

72. Judge Miller totally ignored a June 5, 2020 text message from Frank Liebsch to Marie which stated:

> It was only about 5 sentences in the letter. Most concerning was statement implying that you were being **endangered or abused by Craig**. (Doc. 398, Exhibit Q, Plaintiffs 464.) (emphasis added)

73. Judge Miller ignored evidence in the record that, following Sean's letter to Melvin, Marie's siblings were engaged in serious discussions amongst themselves about whether there was any evidence of spousal abuse or endangerment on the part of Craig. (Doc. 421, Tr. 48:13-49:3.)

74. Judge Miller ignored or mischaracterized this evidence in Plaintiffs' Summary Judgment Order.

Judge Miller Mischaracterized Evidence Regarding Renee's Confinement Allegation

75. In the Legal Analysis section of Plaintiffs' Summary Judgment Order, Judge Miller stated:

> Likewise, Renee states, **metaphorically**, that Miranda cannot "go out her own front door without holding her daddy's hand." (Doc. 429, at 21.) (emphasis added)

76. Renee did not state in her email that she was speaking metaphorically.

77. My analysis also revealed that Judge Miller's quotation in this section was incomplete, which resulted in a miscitation of Renee's email.

78. The complete and accurate quotation is:

> **I don't see why they should waste any time on listening to the rant of an adult child who can't** go out her own front door without holding her daddy's hand**, and who is incapable of even having a thought without daddy's permission**. (Doc. 407, Exhibit T.) (emphasis added to denote omitted portions)

79. Renee's original sentence contained 3 clauses and 43 words. The Court omitted 2 clauses (66%) and 32 words (74%), but failed to denote the omissions.

80. Judge Miller's omissions of relevant and material information from this quotation

miscited and mischaracterized Renee's email in the Legal Analysis section of Plaintiffs' Summary Judgment Order.

81. Judge Miller also ignored ***Renee's own deposition testimony*** which directly contradicted his assertion that Renee was speaking "metaphorically". (Doc. 391, Ex. 18: Tr. 161:2-7.)

82. Judge Miller ignored Attorney Tentinger's question during Miranda's deposition when he asked her, "Did you believe Renee when she said that you **weren't allowed to leave?**" (Doc. 421, Tr. 47:13-22.) (emphasis added)

83. Judge Miller also stated:

> Renee's statement clearly implies that Miranda remains in her parents' home voluntarily. For instance, she says '[e]ven if you wanted to leave your confinement,' a phrase stated in the subjunctive grammatical mood. (Doc. 429, at 21.)

84. My analysis revealed that Judge Miller's quotation in this section was incomplete, which resulted in a miscitation of Renee's email.

85. The complete and accurate quotation is:

> Even if you wanted to leave your confinement, **I doubt that Craig has allowed you the means to do so.** (Doc. 429, at 6.) (emphasis added to denote omitted section)

86. Judge Miller's omission of relevant and material information from this quotation miscited and mischaracterized Renee's email in the Legal Analysis section of Plaintiffs' Summary Judgment Order.

Judge Miller Mischaracterized Evidence Regarding Plaintiffs' Case Law Citations

87. In Plaintiffs' Summary Judgment Order, Judge Miller stated:

> Plaintiffs cite no case, in this or any other jurisdiction, where an emotional distress claim was sustained based on such a theory, and the Court discovers none. (Doc. 366, at 28.)

88. However, one of the cases cited by Plaintiffs in our memorandum was *Cafferty v. Garcia's of Scottsdale, Inc*., 375 N.W.2d 850, 853 (Minn. 1985.) (Doc. 394, 39-40, 42.)

89. *Cafferty* is a Minnesota case which was cited **four times** in Plaintiffs' memorandum.

90. Judge Miller did not mention this citation in Plaintiffs' Summary Judgment Order.

91. I performed a Westlaw search for "intentional infliction of emotional distress" and "actor's knowledge" while limiting the jurisdiction to Minnesota, and not displaying WestSearch results.

92. This search returned one case – *Cafferty*.

93. It was not difficult for me, as a lay person, to find this case.

94. In direct contradiction to his statement, "Plaintiffs cite no case, in this or any other jurisdiction, where an emotional distress claim was sustained based on such a theory, **and the Court discovers none**.", Judge Miller *himself* cited to *Cafferty*, **six months earlier**, in his December 6, 2022 order, when he outlined what Marie would have to do to prove her IIED claim. (Doc. 366, at 36.)

95. Judge Miller ignored the same case law he cited in a previous order and mischaracterized the *existence* of this Minnesota case law in Plaintiffs' Summary Judgment Order.

Judge Miller's Inability to Find Any Applicable IIED Cases

96. In Plaintiffs' Summary Judgment Order, Judge Miller quoted **five times** from the Restatement (Third) of Torts. (Doc. 429, at 26, 27, and 31)

97. During my research, I discovered that the Minnesota Supreme Court has not

adopted the Restatement (Third) of Torts for defamation or Intentional Infliction of Emotional Distress claims.

98. I also discovered that many more cases addressing IIED, particularly regarding the subject of an actor's knowledge of a victim's susceptibility to emotional distress, and the actor's liability if he acts in the face of such knowledge, can be found in the Restatement (Third) of Torts Cumulative Annual Supplements.

99. I noted that although these cases are summarized in the cumulative annual supplements for the Restatement (*Third*) of Torts, these cases actually rely on the Restatement (*Second*) of Torts.

100. The following cases are from the Restatement of the Law (Third), Torts 3d, Liability for Physical and Emotional Harm Cumulative Annual Supplement (2020):

- **Pages 76-77 (Defendant's Knowledge of [being] Particularly Susceptible):** *A.G. v. Paradise Valley Unified School Dist. No. 69*, 815 E.3d 1195, 1209.
- **Page 77 (Reasonable Persons Could Differ on Extreme and Outrageous):** *Hansen v. Sky West Airlines*, 844 F.3d 914, 926-928.
- **Page 81 (#1) (Elderly Couple):** *Mann v. Bahi*, 242 F.Supp.3d 6, 10, 11.
- **Page 81 (#3) (Nightmares & Flashbacks):** *Williams v. District of Columbia*, 268 F.Supp.3d 178, 195.
- **Page 88 (The Actor's Knowledge):** *Arsham v. Mayor & City Council of Baltimore*, 85 F.Supp.3d 841, 850.
- **Page 101 (Actor's Knowledge of Mental Condition):** *Conklin v. Jefferson County Board of Education*, 205 F.Supp.3d 797, 817.

101. I found an additional relevant case from the Restatement of the Law Third, Torts

3d, Liability for Physical and Emotional Harm Cumulative Annual Supplement (2023), as follows:

- **Page 104 (Outrageous Conduct Causing Severe Emotional Distress):** *Rich v. Fox News Network, LLC*, 939 F.3d 112, 122-126.

102. Each of these cases support Marie's Intentional Infliction of Emotional Distress claim, but were omitted or ignored by Judge Miller at summary judgment.

103. I also found a case from the 10th Circuit which contradicts Judge Miller's conclusion that because Sean's actions involved a third party, they could not be directed at Marie:

- *Malandris v. Merrill Lynch, Pierce, Fenner & Smith Inc*., 703 F.2d 1152, 1165–66 (10th Cir. 1981)

104. It was not difficult for me, as a lay person, to find these cases.

Judge Miller Mischaracterized Evidence Regarding Miranda's Deposition Testimony

105. In Plaintiffs' Summary Judgment Order, Judge Miller stated Miranda "[did] not even leave her parents' home during a typical year." (Doc. 429, at 7.)

106. Judge Miller ignored that Miranda's deposition occurred on October 6, 2021, and was taken after the Covid-19 pandemic had triggered nationwide lockdowns, mask mandates, and social distancing recommendations, which required people to spend more time at home.

107. Judge Miller also ignored that Miranda's deposition occurred only months after Covid-19 vaccines became fully approved by the FDA, for all people ages 18 and older, and shortly after the rise of the deadly Delta variant in the United States.

108. Judge Miller ignored my February 24, 2022 deposition testimony, which was in

the record, where I testified that Marie and I had created a list of over 500 events which Miranda had attended, with over 90 percent of these events occurring *outside* our home. (Doc. 388, Ex. 21, Tr: 32:17-25.)

109. Judge Miller ignored my sworn declaration, dated July 25, 2022, where I referred to a specific document (Plaintiffs 4489-4503) listing over 500 events which Miranda had attended. (Doc. 252, ¶ 16.)

110. Judge Miller also ignored my sworn declaration, dated March 22, 2023, where I once again referred to the same document (Plaintiffs 4489-4503) listing over 500 events which Miranda had attended, and which again refuted Judge Miller's false narrative. (Doc. 418, ¶ 55.)

111. Judge Miller also stated, "Even [Miranda's] contact with extended family is selective." (Doc. 429, at 7.)

112. Judge Miller ignored Lisa's deposition testimony about a ***known pedophile*** in my family of origin. (Doc. 387, at 19, Tr: 329:13-330:12.)

113. Judge Miller ignored evidence in the record that I was intentionally protecting my daughters from a ***known pedophile***. (Doc. 424.)

114. Judge Miller ignored Lisa's false and/or conflicting statements under oath which attempted to hide the familial abuse that had occurred in my family of origin over many years. (Doc. 424.)

115. Judge Miller stated, "As a child, Miranda['s] … parents did not let her go on field trips, ***ostensibly*** because she misbehaved." (Doc. 429, at 7.) (emphasis added)

116. Judge Miller ignored the portions of my sworn declaration, dated March 22, 2023, where I detailed just some of the issues we had with Miranda's behavior as a

child. (Doc. 418, ¶¶ 52-76.)

117. Judge Miller ignored other testimony in the record about Miranda's childhood misbehavior, including Miranda's own testimony about her childhood misbehavior.

118. Judge Miller's use of the word "ostensibly" suggested to me that he did not believe the facts to which Miranda, Marie, and I all testified to under oath.

119. At summary judgment, Judge Miller ignored or mischaracterized all evidence which contradicted his statements or conclusions.

Judge Miller Mischaracterized Evidence Regarding Renee's Email to Miranda

120. In Plaintiffs' Summary Judgment Order, Judge Miller stated, "Although Renee addressed her email to Miranda, Miranda did not receive it directly." (Doc. 429, at 7.)

121. Judge Miller also stated, "The parties do not point to any evidence that Craig ever permitted the original message to make it to Miranda's electronic mailbox." (Doc. 429, at 7.)

122. However, these statements were refuted by Miranda's own deposition testimony. (Doc. 457, Ex. E, Tr: 164:5-15.)

123. Judge Miller ignored this testimony at summary judgment.

124. Judge Miller used these refuted statements to justify his claim that Plaintiffs had not pleaded self-publication and as a result, from a legal standpoint, Renee's statements were not published to a third-party.

125. However, Judge Miller ignored evidence in the record that Renee published her email to Sean, and Sean published the email to Ashley, both third parties. This

evidence was pointed out to the Court in Plaintiffs' opposition memorandum. (Doc. 394, at 39 n.16.)

126. During oral argument at summary judgment, Plaintiffs' Counsel also pointed out that Renee published her email to Sean and Sean published it to Ashley. (Doc. 421, Tr: 49:21-52:5.)

127. Judge Miller ignored this evidence at summary judgment.

128. Judge Miller stated that I had "set up the server so that Makayla and Miranda could not receive emails, except from email addresses approved by Craig and Marie." (Doc. 429, at 7.)

129. This was a mischaracterization of evidence in the record, since my deposition testimony indicated that ***Makayla and Miranda decided*** whether to approve email addresses from which they would receive correspondence. (Doc. 388, Ex. 21, Tr: 170:4-172:2.)

130. Judge Miller ignored or mischaracterized this evidence in Plaintiffs' Summary Judgment Order.

Judge Miller Mischaracterized Evidence Regarding Melvin

131. In Plaintiffs' Summary Judgment Order, Judge Miller stated:

> Absent particularly egregious circumstances or proof of an independent tort, Marie has no right to dictate whom Sean may contact or what he may say about her. Nor does she have a right to prevent others from sharing with Melvin what she and Craig have openly said about Melvin. (Doc. 429, at 28.)

132. In this paragraph, Judge Miller mischaracterized evidence in the record.

133. I had never discussed Marie's history as an abuse victim "openly" with any of the Defendants prior to their first contact with Melvin.

134. Statements in my June 2020 emails to Defendants were made only to warn and

inform Defendants of Marie's history of abuse, her ongoing fear of her father, and the potential threat he posed to our family.

135. I sent these emails so that Defendants would understand the harm they had caused to Marie by their first contact and to convince them to cease from taking any additional actions which would cause further harm to Marie.

136. Defendants proceeded with further contacts in spite of this information and despite my warnings.

137. Defendants testified that they had never met Melvin, knew almost nothing about him prior to their first contact, and only learned about Marie's family from Craig and Marie after their first contact with Melvin. (Sean's First Deposition: Doc. 387, Ex. 20, Tr: 113:3-14; Lisa's Second Deposition: Doc. 387, Ex. 19, Tr: 65:20-66:13.)

138. Judge Miller ignored or mischaracterized this evidence in Plaintiffs' Summary Judgment Order.

Judge Miller's Invitation to Resist Summary Judgment

139. In its December 6, 2022 Order and Memorandum Granting in Part, Denying in Part, and Reserving in Part Six Pre-Trial Motions, the Court stated:

> Plaintiffs can, of course, resist summary judgment by submitting an affidavit explaining why they believe they lack access to evidence that Defendants formed a conspiracy. (Doc. 366, at 54.)

140. Plaintiffs responded to the Court's invitation, prior to summary judgment, by submitting detailed sworn declarations which covered a wide range of issues surrounding our base claims and our conspiracy claims.

141. Including exhibits, these declarations totaled 366 pages.

142. Judge Miller completely ignored this evidence and never mentioned any of it in Plaintiffs' Summary Judgment Order.

143. Plaintiffs also submitted evidence of a "Revenge" campaign directed at me and my family in a deleted, but recovered, text message between Sean and Lisa recommending a book titled, "Revenge".

144. The word "revenge" was used 17 times in Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment, and 4 times during oral argument at summary judgment to describe this evidence and its significance. (Doc. 394, at 20, 44-48; Doc. 421, Tr: 33:24; 34:22; 53:20-21.)

145. Judge Miller ignored this evidence in its entirety and failed to use the word "revenge" a single time in Plaintiffs' Summary Judgment Order. (*See* Doc. 429.)

Judge Miller Concealed Relevant and Material Evidence in His December 6, 2022 Order

146. In his Dec 6, 2022 Order and Memorandum Granting in Part, Denying in Part, and Reserving in Part Six Pre-Trial Motions, Judge Miller used an ellipsis and bracketed text to conceal relevant and material evidence.

147. Judge Miller stated:

> Plaintiffs subpoenaed records from Sean and Renee's phone carriers. These records revealed that text messages had been sent between various Defendants, but they did not reveal the contents of those text messages. (Doc. 290, Exs. 2-3) Following the receipt of these phone records, Plaintiffs served additional requests for documents, including a request that Defendants:
>
> > produce all documents and [**electronically stored information**] comprising texts between [**Defendants**] between April 1, 2019 and November 19, 2020, which discuss any aspect of this case, Plaintiffs, Makayla, Miranda, Melvin [**Liebsch**], or Karen, including but not limited to, the **…** texts which the call detail records [**obtained from the phone carriers indicate were sent between Defendants**].

(Doc. 366, at 7-8.) (emphasis added to denote modified text)

148. However, my analysis revealed that the Court's statement differed significantly from the *actual* Request from Plaintiffs as shown below:

> Request No. 8: Please produce all documents and **ESI** comprising texts between **you and Lisa, Renee, or Ashley** between April 1, 2019 and November 19, 2020, which discuss any aspect of this case, Plaintiffs, Makayla, Miranda, Melvin, or Karen, including, but not limited to, the **239** texts which the call detail records **from AT&T indicate you exchanged with Lisa, the 398 texts you exchanged with Renee, and the 921 texts you exchanged with Ashley. If any of these texts cannot currently be found on your phone, please provide them using a backup program, such as the two programs (SyncTech SMS Backup & Restore and GilApps SMS Backup & Print) you have used previously during discovery. (See DEFENDANTS 230 and DEFENDANTS 634.)**

(Doc. 290, Exs. 5-7, at No. 8.) (emphasis added to denote omitted text)

149. Judge Miller's heavily modified version of Plaintiffs' request omitted specific references to Defendants by name, omitted the specific number of texts exchanged between Sean and each of the other Defendants, and omitted all references to Sean's **two backup programs** he had used previously during discovery to produce text messages.

150. Judge Miller's miscitation changed the meaning of the text and concealed and mischaracterized important relevant and material facts which undermined Judge Miller's conclusions.

151. Plaintiffs alerted Judge Miller to the existence of Sean's text message backups **nine** times throughout the course of this litigation.

152. Four of these alerts were made prior to and five of these alerts were made subsequent to Judge Miller's December 6, 2022 order.

153. Judge Miller ignored this evidence throughout our case and ***concealed*** this evidence in his December 6, 2022 order.

Judge Miller Mischaracterized Evidence From a Divorce Stipulation and Divorce Decree

154. In his December 6, 2022 Order and Memorandum Granting in Part, Denying in Part, and Reserving in Part Six Pre-Trial Motions, Judge Miller stated:

> In one, Sean asked Renee to keep looking for a letter from Craig supporting the truth of an allegation that Craig stole from Renee. (Doc. 259, Ex. A, at *969-970) This conversation related to a claim which Plaintiffs ultimately sought to add to their complaint, but which the Court denied because court records from the divorce supported the truth of the allegation. (Doc. 366, at 9)

155. Contrary to the Court's statement, court records from the divorce do not support the truth of this allegation.

156. Defendants introduced this false notion when they stated, "Moreover, as a matter of law, Craig was ordered by the divorce court to return certain items of Renee's belonging to her that he had taken from the home when he moved out." (Doc. 384, at 16.)

157. However, *prior to the finalizing of our divorce by the court*, Renee and I *both* signed a stipulation regarding the final distribution of marital property.

158. This stipulation does not indicate or imply that any money had been stolen by me.

159. This stipulation does not indicate or imply theft of any kind by me.

160. This stipulation was approved by the Todd County District Court in 1984.

161. The district court order also does not indicate or imply theft of any kind by me.

162. This subject was explained thoroughly in my declaration dated March 22, 2023, *prior to summary judgment*. (Doc. 418, ¶¶ 29-43.)

163. A reference to the location in the record of the signed stipulation was included in

my declaration. (Doc. 418, ¶ 32.)

164. Judge Miller ignored this portion of my declaration and mischaracterized this evidence at summary judgment to conclude that Sean's allegation of theft was substantially true.

165. Because of his mischaracterizations, I have recently begun to analyze Judge Miller's family law cases.

166. In the cases I have reviewed so far, there have been no allegations of theft, by Judge Miller or by either party involved, based on a divorce stipulation signed by both parties.

167. Judge Miller's conclusion that a divorce stipulation specifying the final distribution of marital property, which is signed by both parties and subsequently approved by a district court, supports the truth of an allegation of theft appears to be unique to Plaintiffs' case.

168. I have also begun to analyze other Minnesota family law cases which involve divorce stipulations.

169. In the cases I have reviewed so far, there have been no allegations of theft, by the presiding judge or by either party involved, based on a divorce stipulation signed by both parties.

170. Based on my analyses, Judge Miller's conclusion that a divorce stipulation specifying the final distribution of marital property, which is signed by both parties and subsequently approved by a district court, supports the truth of an allegation of theft appears to be unique to Judge Miller.

Judge Miller Mischaracterized Evidence Regarding Alleged Theft of Joint Marital Property

171. In Judge Miller's June 16, 2023 Order and Memorandum Granting Summary Judgment and Dismissing (Doc. 429), Judge Miller stated, "[Craig] does not assert any innocent reason for taking the silver certificates", and "it is a reasonable interpretation of these facts that Craig engaged in what an ordinary person would describe as theft."

172. Likewise, Attorney Kirsten Hansen has repeatedly argued, even in front of the Minnesota Court of Appeals during oral arguments, that I never offered an innocent explanation for why I took the silver certificates.

173. Allegations that I stole Renee's silver certificates are blatantly false and are a mischaracterization of the facts by both the Court and Defense Counsel.

174. The fact is that *neither Attorney Hansen nor Attorney Tentinger asked me during my deposition why I had the silver certificates in my possession.*

175. I submitted a sworn declaration dated March 1, 2023 in opposition to Defendants' Motion for Summary Judgment (Doc. 395).

176. In Paragraph 9 of my declaration, I stated, "The coin collections of myself, Renee, and Sheldon were intermingled and stored in the same storage box."

177. In Paragraph 21 of my declaration, I stated, "There were also some of Renee's silver certificates in the storage box which were quite rare, so I showed them to Jon."

178. The fact of the matter is that I **did not know** that the silver certificates were in the storage box with the coin collections when I instructed Jon to put the box in my van.

179. I had not looked inside the storage box before I instructed Jon to put the box in

my van.

180. I was surprised to see any silver certificates in the storage box when I reviewed its contents at my office in Bertha.

181. Additionally, I was the owner of **one** of the silver certificates in the storage box.

182. This silver certificate had been given to me by my grandparents, as a birthday present, when I was a child.

183. As such, I also needed to sort through the silver certificates to determine their rightful ownership.

184. Because I could not determine exactly which silver certificate originally belonged to me, I selected one in average condition.

185. I still have this **one** silver certificate in my possession.

186. All other silver certificates were returned to Renee **prior** to our divorce.

187. I had no intention of keeping the silver certificates that originally belonged to Renee before our marriage.

188. Because Renee and I were still married at the time of this event, this is a crime I could not have committed, and did not commit.

189. Despite these facts, Judge Miller falsely accused and ultimately convicted me publicly of stealing from Renee, without a trial, for sorting through joint marital property.

Judge Miller Mischaracterized Evidence Regarding Sean's Deletion of Evidence

190. In his December 6, 2022 order, Judge Miller totally ignored evidence that Sean had posted a public Google review about Plaintiffs, shortly *before* litigation began, deleted the review shortly *after* litigation began, and repeatedly made false

statements, under oath, about posting the review and deleting it. (Doc. 259, at 37.)

191. In his December 6, 2022 order, Judge Miller also stated:

> Sean testified in his second deposition that, on two occasions, in the weeks after receiving Plaintiffs' initial complaint, he went through his phone and deleted messages that he felt Craig would "twist" — **not necessarily in the sense of using them in litigation, but in a personal capacity**. (*Id*. at 9:2-7, 9:21-10:15, 10:23-11:7, 16:6-17:4)" (Doc. 366, at 11.) (emphasis added)

192. However, Judge Miller miscited and mischaracterized Sean's deposition testimony because Sean testified that he knew the deleted messages could potentially be used as evidence in this case. (Doc. 351, Ex. 8: Sean's Oct. 12, 2022 Depo. Tr. 21:21-22:5.)

193. In his order, Judge Miller cited Sean's deposition transcript 12 times, at 8:16-17, 9:2-7, 9:21-10:15, 10:16-19, 10:23-11:7, 11:8-10, 11:11-22, 12:11-15, 13:2-12, 16:6-17:4, 17:17-20, and 47:1-14, but failed to cite the *same transcript* at 21:21-22:5 where this key testimony is located.

194. Sean's testimony was specifically pointed out to Judge Miller in Plaintiffs' Reply Memorandum of Law In Support of Their Motion for Spoliation Sanctions and Other Relief Against Defendant Sean Stevenson filed on October 31, 2022. (Doc. 357, at 7.)

195. Judge Miller concealed and mischaracterized this evidence in his December 6, 2022 Order.

196. Judge Miller did not mention Sean's deletion of evidence in Plaintiffs' Summary Judgment Order.

197. However, Judge Miller reasoned and ruled much differently in another case involving spoliation of evidence.

198. In *David E Grosz and David E Grosz, as trustee of the David E. Grosz Trust U/A dated February 26, 1996 vs Radiant Creative Homes, LLC a/k/a Radiant Creative Homes LLC,* Judge Miller denied a motion to amend the complaint because he was "concerned with the potential spoilation of evidence due to [Mr. Grosz's] destruction of [Radiant's] construction". (56-CV-18-3239, Doc. 84, at 9.)

Judge Miller's Double Standard Regarding Discovery

199. On September 3, 2021, Plaintiffs brought three separate motions to compel against Defendants Sean, Renee, and Lisa. These three motions were denied in their entirety by Judge Miller in his order dated December 21, 2021.

200. Judge Miller severely limited Plaintiffs' discovery and accused Plaintiffs of embarking on a "fishing expedition". (Doc. 154, at 16-17.)

201. Judge Miller also stated, "Plaintiffs have provided the Court with a clear example of **discovery requests far beyond the bounds of liberal discovery**." (Doc. 154, at 17.) (emphasis added)

202. However, Judge Miller ***omitted sections*** of two cases he cited which argue instead for ***broad*** discovery:

- *Larson v. Indep. Sch. Dist. No. 314*: "More to the point, we have consistently construed the discovery rules in favor of broad discovery."
- *In re Milk Indirect Purchaser Antitrust Litig.*: "…dismissals prior to giving the plaintiff ample opportunity for discovery should be granted very sparingly."

203. During my research, I also found that Judge Miller reasoned and ruled much differently regarding a motion to compel *in a different case*.

204. In *Gregory P. Hammes and Stephanie C. Hammes, Plaintiffs vs. Terry Magnuson,*

Barb Magnuson, Steven Larson, and Lakes & Plains Realty, Inc. d/b/a/ Coldwell Banker at the Lakes, Defendant Terry Magnuson argued he was served an excessive number of interrogatories. (*See* Defendant Terry Magnuson's Memorandum of Law in Opposition to Plaintiffs' Motion to Compel Discovery, 56-CV-20-794, Doc. 23, at 22.)

205. In *Hammes*, Defendants argued that Plaintiffs served 314 interrogatories and "grossly exceeded the 50 interrogatory limit imposed by Minnesota Rules of Civil Procedure Rule 33.01(a)."

206. In his ruling in *Hammes* granting Plaintiffs' motion to compel, Judge Miller stated:

> The Court will not engage in the tedious task of explaining whether each interrogatory is appropriate on a line-by-line, question-by-question basis. The Court has reviewed the interrogatories and finds them to be appropriate. Therefore, the Court finds that Plaintiff's interrogatories do not exceed the permitted number because the "sub questions" are logically and factually related to the primary question.
>
> **Even if the subparts of the interrogatories were not factually related to the primary question, the Court finds that the discovery process is best accomplished by the liberal exchange of information. This process serves to both expedite the case at hand and to prevent a backlog of unnecessary litigation in the Courts. Therefore, assuming arguendo that Plaintiffs did exceed the 50 interrogatory limit, there was good cause to do so.**

(*Gregory P. Hammes and Stephanie C. Hammes, Plaintiffs vs. Terry Magnuson, Barb Magnuson, Steven Larson, and Lakes & Plains Realty, Inc. d/b/a/ Coldwell Banker at the Lakes,* 56-CV-20-794, Doc. 29.) (emphasis added)

207. In *Hammes*, Judge Miller stated the discovery process is best accomplished by the "***liberal exchange of information***", even if the ***statutory limit*** on the number of interrogatories was ***exceeded by over 6 times***.

208. Judge Miller repeatedly ***prevented*** the same liberal exchange of information in

our case that he encouraged in *Hammes*.

209. For example, Attorney Tentinger improperly withheld relevant evidence and then intentionally misled Plaintiffs and our attorney for months regarding a forensic examination and associated reports from Lisa's cell phone.

210. At least three reports were generated by Carney Forensics in May 2022 and sent to Attorney Tentinger at that time. Attorney Tentinger was then repeatedly updated regarding the progress of the forensic examination and the reports. (*See* Doc. 434 at 136-140.)

211. However, on September 12, 2022, after several status update requests by Plaintiffs' Attorney regarding the forensic examination of Lisa's cell phone, Attorney Tentinger stated:

> "As for Lisa's forensic examination, ***there is nothing to produce, the examination was never completed***." (Doc. 343, Exhibit 14, at 100.) (emphasis added)

212. This was a false statement by Attorney Tentinger.

213. It wasn't until November 8, 2022, *after* discovery had closed, *after* all depositions had been completed, and *after* the spoliation motion hearing that Defendants finally disclosed ***one*** of the purported Carney Forensics reports from Lisa's phone.

214. Judge Miller took no action with regard to the nearly 6-month delay in the production of one of the forensic examination reports from Lisa's cell phone.

215. The other May 2022 reports by Carney Forensics, which contained "57 responsive messages for production", "live and one deleted message for production to opposing party", and "five draft messages" have never been produced to

Plaintiffs. (Doc. 438, at 8-12; *See also* Doc. 432, at 137-144; *See also* Doc. 454, at 29-30.)

216. However, in a striking example of Judge Miller's bias and duplicity regarding discovery, Judge Miller ordered *Plaintiffs* to pay for half of these costs as part of his Order and Memorandum Regarding Costs and Disbursements (Doc. 466 at 10-11.) despite the fact that it was *Defendants* who deleted text messages from their own phones and necessitated the forensic examinations in the first place.

217. On July 20, 2023, Plaintiffs brought the issues surrounding the forensic examination of Lisa's phone to the attention of the Court in a 5-page letter. (*See* Doc. 437.)

218. On August 31, 2023, the Court filed its one-sentence response at the bottom of Plaintiffs' letter:

> 8/31/23- The Court will take no action on the above absent a formal motion. (Doc. 443, at 5.)

219. During the September 25, 2023 sanctions motion hearing, Attorney Tentinger stated:

> With regards to the -- well, I guess, briefly touching this because plaintiffs' counsel did, we went back and we audited every single text message, every single report we received and plaintiffs are in possession. ***The idea that we've been withholding additional stuff from Carney Forensics is just -- it's just completely fabricated.*** There was never any intention or any withholding of any evidence that we had produced for those reports. ***They have everything***. (Doc. 469, Tr: 37:22-38:5.) (emphasis added)

220. "They have everything" was a false statement by Attorney Tentinger and his references to "every single report" and "those reports" is further confirmation that he had previously made false statements to the Court and to Plaintiffs and their Counsel about the existence and production of forensic reports from Lisa's phone.

221. Plaintiffs could not be in possession of "everything", since the missing reports contained, "57 responsive messages for production", "live and one deleted message for production to opposing party", and "five draft messages" while the report produced to Plaintiffs contained no live messages (all 117 messages had been deleted), and only one draft message.

222. Judge Miller did not ask Attorney Tentinger to explain the discrepancies between these forensic reports, did not ask Attorney Tentinger to explain why the forensic report belatedly produced to Plaintiffs indicated that **all** text messages had been deleted from Lisa's phone, including several messages which had previously been disclosed by Lisa on February 11, 2022, and Judge Miller would not allow Plaintiffs to inquire further into the matter.

223. Ultimately, Judge Miller took no action to ensure the "liberal exchange of information" as it related to the forensic reports from Lisa's cell phone.

Judge Miller Falsely Portrayed Plaintiffs' Motions to Compel

224. In his December 21, 2021 Order, Judge Miller stated:

> The Court holds that Plaintiffs' assertion that there simply must be more information or documentation that Defendants are withholding or hiding is based on nothing more than Plaintiffs' belief that there must be more information. (Doc. 154, at 16.)

225. Judge Miller's accusation is false.

226. Plaintiffs relied on cell phone call detail records from AT&T which showed hundreds of *undisclosed* texts exchanged between Defendants, dozens of which occurred around every significant event in this case.

227. Rule 1006 summaries of key portions of this evidence were provided to the Court.

228. At the time, Plaintiffs were also aware of an *undisclosed* public Google review,

disparaging Plaintiffs, which was posted by Sean shortly *before* litigation began, and which was deleted shortly *after* litigation began. (Doc. 258, at 1.)

229. Judge Miller also stated, "Defendants have acted in good faith throughout the discovery process." (Doc. 154, at 17.)

230. Judge Miller's statement was later shown to be inaccurate when forensic examinations of Defendants' cell phones revealed relevant text messages which had not been disclosed.

231. Judge Miller's statement was later shown to be inaccurate when forensic examinations of Defendants' cell phones revealed relevant text messages which had been deleted, but were recoverable.

232. Judge Miller's statement was later shown to be inaccurate when Sean admitted to deleting evidence after the start of litigation and lying about it under oath. (Doc. 272.)

233. Judge Miller's statement was later shown to be inaccurate when Lisa made false and/or contradictory statements under oath (Doc. 424), and when it was shown that she had deleted text messages after the start of litigation. (Doc. 295.)

234. Judge Miller's statement was later shown to be inaccurate when Renee made false statements under oath which contradicted Defendants' own document production, and when it was shown that she had deleted text messages after the start of litigation. (Doc. 298.)

235. Judge Miller ignored this evidence in Plaintiffs' Summary Judgment Order.

236. However, Judge Miller reasoned and ruled much differently in another case involving contradictory testimony given under oath.

237. In *Brian Azure vs Jennie Bucholz*, Judge Miller ruled that contradictory testimony by Ms. Bucholz, under oath, was so serious that it negated the existence of a material fact in dispute and resulted in the granting of Mr. Azure's motion for summary judgment. (56-CV-18-2338, Doc. 46, at 4.)

Judge Miller Miscited and Mischaracterized the Holding of In Re Lawrence

238. In the Court's December 21, 2021 Order Denying Plaintiffs' Motions to Compel Discovery From Defendants, Judge Miller stated:

> The Court in *In re Lawrence* held that "Conversations amongst joint defendants are privileged and as such the subject of those conversations will not be disclosed," shielding co-parties conversations by means of the attorney-client privilege. (Doc. 154, at 8.)

239. I analyzed the actual holding of *In re Lawrence*.

240. This **quotation**, cited by Judge Miller as the holding of *In re Lawrence*, **does not exist** in *In re Lawrence*.

241. The earliest source for this quotation is found in text from Defendants' Answers to Interrogatories, which was then repeated in Defendants' opposition memoranda to the Court (Doc. 108, at 5, 9; Doc. 109, at 8; Doc. 111, at 4.)

242. As such, the Court had to have copied the text for its quotation either from one of Defendants' briefs to the Court or directly from Defendants' Answers to Interrogatories.

243. The Syllabus by the Court in *In re Lawrence* states:

> When an attorney represents more than one client related to a matter, the clients hold a joint attorney-client privilege. Waiver of a joint attorney-client privilege requires consent by all joint clients. *In re Lawrence*, 954 N.W.2d 597, 598 (Minn. Ct. App. 2020)

244. I personally brought Defense Counsels' initial misrepresentation of the holding of

In re Lawrence to the attention of Attorney Hansen and Attorney Tentinger during my February 24, 2022 deposition. (Doc. 388, Exhibit 21 at 173:25-179:21.)

245. Neither Attorney Hansen nor Attorney Tentinger corrected their misrepresentation of the holding of *In re Lawrence* to the Court.

246. Judge Miller did not correct Attorney Hansen's and Attorney Tentinger's misrepresentation of *In re Lawrence* to the Court.

247. My research into Minnesota case law revealed the following statement:

> Moreover, "making misrepresentations demonstrates a lack of honesty and integrity, and warrants severe discipline." *In re Lundeen*, 811 N.W.2d 602, 608 (Minn.2012). *In re Disciplinary Action against Torgerson*, 870 N.W.2d 602, 614–15 (Minn.), reinstatement granted, 872 N.W.2d 887 (Minn. 2015)

248. Judge Miller did not verify the accuracy of this quotation before including it in his December 21, 2021 Order Denying Plaintiffs' Motions to Compel Discovery From Defendants.

249. On January 7, 2022, Plaintiffs brought a letter for permission to file a motion for reconsideration which pointed out the Court's miscitation of *In re Lawrence*. (Doc. 166.)

250. Judge Miller did not correct his miscitation of *In re Lawrence*.

251. Judge Miller denied Plaintiffs' request, despite his own miscitation and mischaracterization of *In re Lawrence*. (Doc. 169.)

252. On August 8, 2022, Plaintiffs brought a second letter for permission to file a motion for reconsideration which informed the Court of factual evidence that Defendants' representations to the Court on January 10, 2022 (Doc. 167.), that they had produced all pre-litigation communications, were false and Plaintiffs had evidence of destruction of evidence. (See Docs. 258, 259.)

253. Without any analysis, the Court summarily denied Plaintiffs' request. (Doc. 266.)

Judge Miller's 2021 Schedule and Plaintiffs' Motions to Compel

254. Plaintiffs filed Motions to Compel against Lisa, Renee, and Sean, on September 3, 2021. (Docs. 83, 87, 91.)

255. In his December 21, 2021 Order, Judge Miller claimed the Court had "reviewed hundreds of pages of documents in this matter to properly assess and rule on Plaintiffs' Motions to Compel", and claimed the Court had performed a "lengthy and comprehensive review."

256. The paperwork submitted to the Court for these motions exceeded 620 pages.

257. The hearing for the Motions to Compel occurred on September 24, 2021 at 2:00 PM.

258. More than 45 pages of documents were submitted by Plaintiffs the day before the hearing, shortly before midnight. (Doc. 231, at 38-39.)

259. These 45 pages included Rule 1006 summaries of *newly discovered* evidence from AT&T cell phone call detail records, showing extensive communications between Defendants, including dozens of *undisclosed* text messages, surrounding key events in this case.

260. During the hearing, Judge Miller stated, "The Court has had the opportunity to review all the filings, including the most recent that have come into the file." (Doc. 231, Tr. 2:10-12.)

261. However, according to MCRO, Judicial Officer Kevin M. Miller participated in 1,242 hearings from September 3, 2021, when Plaintiffs' first motion papers were filed, through December 21, 2021 when Judge Miller's decision was issued.

262. There were 73 work days between September 3 and December 21, 2021.

263. This means that Judge Miller attended an *average of more than 17 hearings per day* during this time period.

264. According to Minnesota Rules of Civil Procedure 546.27, judges are required to issue a decision within 90 days to avoid consequences.

265. Judge Miller's order denying Plaintiffs' Motions to Compel in their entirety was issued 88 days after the hearing – only 2 days before the deadline – on December 21, 2021.

266. All of these events occurred following nationwide lockdowns and severe systemic disruptions due to the Covid-19 pandemic.

267. These events also occurred following the Minnesota Supreme Court's prioritization of criminal cases within the judicial system due to the pandemic.

268. Judge Miller's December 21, 2021 Motion to Compel order contained a miscitation of law, attributing a quotation to *In re Lawrence* that did not exist in that case, and was originally found in Defendants' Answers to Interrogatories. (Doc. 154, at 13.)

269. Judge Miller's order contained a ***misapplication*** of the law, applying the "Common Interest" doctrine, which had not been recognized in the state of Minnesota at the time of his order, to inter-Defendant communications.

270. Judge Miller's order failed to analyze whether Defendants had used the "Common Interest" doctrine to refuse to answer interrogatories about pre-litigation communications.

271. Judge Miller's order failed to analyze the non-production of hundreds of text

messages exchanged between Defendants, dozens of which occurred on key dates in this case. (Docs. 116, 119, and 122.)

272. Judge Miller's order failed to analyze whether Sean had backups that might have contained some or all of these missing text messages. (Doc. 118, at 1.)

273. Judge Miller's order failed to analyze whether it was proper that Defendants had disclosed only **two sentences** of inter-Defendant communications to date, but had listed **one hundred eleven (111) pages** of documents in their common privilege log. (Doc. 91, at 22-23.)

274. Judge Miller's order failed to analyze whether Defendants' privilege log, which contained only vague descriptions such as "Defendants' Journal Archive" and "Defendants' Notes to Counsel", was adequate to allow Plaintiffs to properly assess any claimed privileges according to Minnesota Rules of Civil Procedure 26.02 or case law from other jurisdictions.[1]

275. This evidence suggests to me that Judge Miller did not have (or failed to devote) sufficient time to properly and thoroughly review Plaintiffs' submissions in detail or review his own order for accuracy and completeness, and simply wanted to get rid of our case as quickly as possible.

Judge Miller Mischaracterized Evidence Regarding Defense Counsel's Actions

276. In Plaintiffs' Memorandum Of Law In Support Of Their Motion For A Protective

[1] *See, e.g., United States v. Constr. Prods. Research, Inc*., 73 F.3d 464, 473 (2d Cir. 1996) (finding privilege log was deficient as it contained "a cursory description of each document, the date, author, recipient, and 'comments'"); *Felham Enters. (Cayman) Ltd. v. Certain Underwriters at Lloyd's*, 2004 WL 2360159, at *3 (E.D. La. Oct. 19, 2004) (finding simple descriptions such as "attorney report," "client inquiry," "payment," and "attorney communication" were not sufficient to support a claim of privilege); *Clark v. Louisville Jefferson Cnty. Metro Gov't, Civil Action* 3:17-CV-419-GNS-CHL, 19-21 (W.D. Ky. Sep. 21, 2022) (specifically detailing the information required to be included in privilege logs)

Order And To Compel filed on July 8, 2022, Plaintiffs informed the Court that private emails from our former pastor were obtained by Defendants' private investigator, but were not disclosed for over 3 months.

277. However, in his order dated September 7, 2022, Judge Miller stated:

> …Defendants' investigator received documents from Pastor Lobb — **which were then promptly disclosed to Plaintiffs**… (Doc. 264, at 13.) (emphasis added)

278. Judge Miller mischaracterized this evidence in his September 7, 2022 Order.

Protective Order Violations

279. Judge Miller failed to enforce the protective order in our case, including, but not limited to the public release of confidential information such as medical records, confidential deposition testimony, private information about 3rd parties, and security system videos.

280. Some of these protective order violations are listed and described more fully in Marie's declaration filed simultaneously with my declaration.

Bias and Lack of Impartiality

281. Judge Miller's statements and actions, especially at summary judgment, when he is required by law to determine only whether disputed material facts exist and to view the evidence in the light most favorable to the non-moving party, in this instance Plaintiffs, leads me to believe that he is not, and has never been, impartial in our case, and that he has a deep-seated bias against Marie and I.

282. As documented in this declaration, Judge Miller's bias has affected his impartiality in four of his orders extending from December 21, 2021 through June 16, 2023.

283. I have also uncovered evidence that Judge Miller's bias and lack of impartiality is not limited to the four orders or to the time period described in this declaration.

284. I also found evidence that Judge Miller's actions, orders, and legal reasoning throughout Plaintiffs' case differ significantly from those of other Minnesota judges in similar cases, including Judge Miller's own peers and colleagues.

285. Examples of such recent cases by other Minnesota judges involving summary judgment include, but are not limited to:

- *20760 Cottagewood, LLC vs John Kraemer & Sons, Inc*., The Honorable Timothy J. McManus. (27-CV-21-318, Doc. 96.)
- *Hilda Ortiz Vega vs Jazmin Violante Francisco and D & T Property, Inc.*, The Honorable Susan N. Burke. (19HA-CV-23-4636, Doc. 48.)
- *William Jaworski, d/b/a Great Northern Hot Tubs vs Karyn R Schneider*, The Honorable Lois R. Conroy. (27-CV-23-4851, Doc. 48.)
- *Target Taxi, LLC, Integrity Mutual Insurance Company vs Max Reyes*, The Honorable Tracy L. Perzel. (19HA-CV-21-2564, Doc. 31.)
- *Thomas Pacholl vs Jeffry Quiggle*, The Honorable Patrick C. Diamond. (62-CV-23-772, Doc. 29.)
- *American Federal Bank vs Bell Bank*, The Honorable Tammy L. Merkins. (14-CV-21-876, Doc. 241.)
- *Verlan Fire Insurance Company vs Hammers Construction Inc., NCI Group, Inc. d/b/a Metallic Building Company*, The Honorable Johnathan R. Judd. (56-CV-21-723, Doc. 94.)
- *Paulette C. Satter vs Michael Yaggie*, The Honorable Sharon Grewell Benson. (56-CV-21-2044, Doc. 41.)
- *Andrew Cross, Daniel Gehrt vs Mark Sand and Gravel Company*, The Honorable Michael D. Fritz. (56-CV-22-2110, Doc. 59.)

Judge Miller Favored Attorney Kirsten Hansen

286. I was present for the January 20, 2021 change of venue motion hearing.

287. During the hearing, Attorney Kirsten Hansen announced to Judge Miller that she had been **told by her father** to tell Judge Miller that her father was retired Judge Mark Hansen. (Doc. 226, Tr. 3:25-4:6.)

288. Judge Miller responded that he had appeared before Judge Hansen, and that he had seen Judge Hansen around "a little bit". (Doc. 226, Tr. 4:7-15.)

289. I was immediately concerned about whether Marie and I could obtain a fair trial in Otter Tail County given Attorney Hansen's announcement and Judge Miller's familiarity with her father, Judge Mark Hansen.

290. However, neither Attorney Hansen nor Judge Miller deemed this to be a conflict. (Doc. 226, Tr. 4:12-21.)

291. Marie and I were not asked whether we, as parties in the litigation, considered this relationship to be a conflict of interest.

292. Because Attorney Hansen did not make her announcement earlier in the case and the first hearing had already occurred, it was too late for Marie and I to file a Notice of Removal under Minnesota Rules of Civil Procedure, Rule 63.03.

293. I researched publicly available information about Judge Mark F. Hansen and Judge Kevin M. Miller.

294. Neither Attorney Hansen nor Judge Miller revealed that Judge Mark Hansen had served as a judge in *both* Otter Tail County and in Becker County.

295. [redacted]

296. Judge Miller did not reveal that he had worked as an assistant county attorney for

Becker County from 2007 to 2018.

297. [redacted]

298. Judge Miller did not reveal that he had held numerous hearings at the Becker County Courthouse while serving as an Otter Tail County District Court Judge.

299. Judge Miller did not reveal that Judge Hansen had held several hearings at the Otter Tail County Courthouse while Judge Miller was in office.

300. Following the exchange between Attorney Hansen and Judge Miller regarding Attorney Hansen's father, Attorney Hansen announced that she represented clients Sean and Renee Stevenson. (Doc. 226, Tr. 4:22-23.)

301. Depositions for Marie and I were noticed by Attorney Hansen to occur on February 24 and 25, 2022, in a conference room *at the Otter Tail County Courthouse*.

302. Throughout our case, Judge Miller rarely challenged Attorney Hansen on any issue.

303. Throughout our case, Judge Miller sided with Attorney Hansen on most issues.

James E. Morrison

304. On April 2, 2024, Plaintiffs discovered for the first time that James Morrison, the law clerk whose name is listed as the document author for many of Judge Miller's orders in our case, was previously the law clerk for Judge Mark F. Hansen, Attorney Kirsten Hansen's father. (*See In Re: Guardianship and Conservatorship of Therese E. Belcher*, 56-PR-14-2528, Doc. 98, at 2.)

305. James Morrison is listed as the document author of at least eleven documents in

our case, including the following:

- September 7, 2022 Order Denying Plaintiffs' Motion for a Protective Order. (Doc. 264.)

- September 7, 2022 Order Denying Plaintiffs' second Request for Reconsideration of their Motions to Compel. (Doc. 266.)

- October 11, 2022 Second Order Awarding Attorney Fees as Discovery Sanction against Plaintiffs, with a final award of ***more than $17,000*** to Defendants. (Doc. 311.)

- December 6, 2022 Order Denying Plaintiffs' Request for Spoliation Sanctions Against Defendant Renee Stevenson. (Doc. 366.)

- December 6, 2022 Order Denying Plaintiffs' Request for Spoliation Sanctions Against Defendant Lisa Stevenson-Allen. (Doc. 366.)

- December 6, 2022 Order Denying Plaintiffs' Request for Spoliation Jury Instruction Against Defendant Sean Stevenson. (Doc. 366.)

- December 6, 2022 Order Denying Plaintiffs' Request for Attorney Fees Against Defendant Sean Stevenson. (Doc. 366.)

- December 6, 2022 Order Denying Plaintiffs' Limited Motion for Reconsideration. (Doc. 366.)

- December 6, 2022 Order Granting Defendants' Motion to Compel the production of a video protected by spousal privilege. (Doc. 366.)

- December 6, 2022 Order Reserving Plaintiffs' Motion to Extend Discovery. (Effective denial, since discovery had closed.) (Doc. 366.)

- December 6, 2022 Order Granting Defendants' Motion to Compel a list of Marie's known medical providers. (Doc. 366.)

- December 6, 2022 Order Denying Plaintiffs' Request for a Discovery Conference. (Doc. 368.)

- June 16, 2023 Order Granting Defendants' Summary Judgment in its entirety. (Doc. 429.)

- October 13, 2023 Order Denying Plaintiffs' request for attorney fees after successfully opposing Defendants' Motion for Rule 11 sanctions because it was untimely. (Doc. 466.)

- October 13, 2023 Order Granting Defendants ***over $60,000*** in fees and taxation against Plaintiffs. (Doc. 466.)

306. On May 15, 2024, Plaintiffs discovered, for the first time, file metadata which indicated James Morrison authored several more documents for Judge Miller dating back to 2018. (*See Thumper Pond Resort, LLC d/b/a Thumper Pond Resort vs Stock Building Supply Midwest, LLC, Kaashagen & Sons, Inc. n/k/a BJK Construction, Inc., Badger Midwest Holdings, LLC, Gorski and Associates, LLC, MiTek USA, Inc*., 56-CV-16-3000, Docs. 318, 330, and 331.)

307. On May 16, 2024, Plaintiffs discovered, for the first time, file metadata which indicated James Morrison authored documents in *Thumper Pond* for Judge Waldemar B. Senyk, Judge Miller's immediate predecessor. (*Id.,* Docs. 156 and 256.)

308. Judge Senyk was the presiding judge in an Otter Tail County criminal case, filed in 2000, involving Defendant Lisa Stevenson-Allen, formerly known as Lisa Lou Olson. (*See The State of Minnesota vs. Mervin Leroy Kelley,* 56-K2-00-001198.)

309. *Thumper Pond* Document 256, dated April 12, 2018, authored by James Morrison and signed by Judge Senyk, is titled, "Order and Memorandum Granting Motion for Summary Judgment in Favor of Defendant Kaashagen & Sons, Inc."

310. *Thumper Pond* Document 318, dated September 25, 2018, authored by James Morrison and signed by Judge Miller, is titled, "Order and Memorandum Regarding Costs and Disbursements", and awarded $134,589.03 to Kaashagen & Sons, Inc. out of $134,589.03 requested, or 100 percent.

311. According to MCRO, Kaashagen & Sons, Inc. was represented in *Thumper Pond* by attorneys Garth Unke and Kirsten Hansen, both current shareholders at Stich,

Angell, Kreidler & Unke, PA, along with Alex Herman, a former associate attorney at Stich Angell, and attorney Jeremy Lange.

312. Attorney Kirsten Hansen ***failed to disclose***, at any point, that James E. Morrison was her father's law clerk and that Mr. Morrison now clerked for Judge Miller.

313. Law Clerk James Morrison ***failed to disclose***, at any point, potential conflicts of interest between himself and Attorney Hansen, Judge Hansen, Judge Senyk, or Judge Miller.

314. Judge Miller ***failed to disclose***, at any point, that James E. Morrison was previously Judge Mark F. Hansen's law clerk, and now clerked for Judge Miller.

315. Judge Miller ***failed to disclose***, at any point, potential conflicts of interest involving law clerk James E. Morrison.

316. Judge Miller ***failed to disqualify*** his law clerk, James Morrison, due to these potential conflicts of interest.

Conclusion

317. Judge Miller's actions do not appear to be good-faith errors of fact or law as defined in Rule 2.2 of the Minnesota Code of Judicial Conduct.

318. Judge Miller's numerous false statements, miscitations, mischaracterizations, reliance on selected facts to justify conclusions, selective citations from cherry-picked case law, selective evidence, selective omissions, selective quotations, his setting aside of material facts and his avoidance and concealment of relevant information and contrary evidence, as detailed above, are ***not a complete list*** of the judicial misconduct I have uncovered through my analyses of his orders.

319. The totality of the evidence I have ***uncovered and documented*** leads me to

conclude that Judge Miller's decisions in our case have been arbitrary and capricious because he is biased against Marie and I and has favored Defendants and Defense Counsel.

320. My research into Judge Miller's actions revealed an applicable statement from a noted legal ethics authority:

- The right to an unbiased judge is fundamental. It has been regarded as so fundamental that criminal convictions have been reversed for violation of that right, even when there is overwhelming evidence of guilt. *William J. Wernz*

321. My research into Judge Miller's actions also revealed applicable statements from the Minnesota Court of Appeals:

- ("[I]mpartiality is the very foundation of the American judicial system."). "To maintain public trust and confidence in the judiciary, judges should avoid the appearance of impropriety and should act to assure that parties have no reason to think their case is not being fairly judged." *State v. Henry*, No. A06-671, 2007 WL 1470179, at *4 (Minn. Ct. App. May 22, 2007)

- Among other ways, a district court abuses its discretion if it acts "against logic and the facts on record," *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn.2002), or if it enters fact findings that are unsupported by the record, or if it misapplies the law, *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn.1997). *In re Adoption of T.A.M.*, 791 N.W.2d 573, 578 (Minn. Ct. App. 2010)

- In *Skarsten*, we reversed summary judgment for the insurer based on the resident-relative provision and cautioned "a court must not rely on selected facts in order to justify a conclusion." 381 N.W.2d at 19. Here, the district court's summary-judgment decision rested on "selected facts" because it ignored relevant evidence favorable to appellants' position, drew inferences unfavorable to appellants, and failed to view the record evidence in a light favorable to appellants. *Progressive Ins. v. Abel*, No. A21-1267, 2022 WL 2124869, at *5 (Minn. Ct. App. June 13, 2022)

322. My research into Judge Miller's actions also revealed statements from several

Minnesota Supreme Court cases which apply to this case:

- Canon 2(a) requires a judge to "respect and comply with the law" and to act "at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." *Complaint Concerning Winton*, 350 N.W.2d 337, 340 (Minn. 1984)

- The essential attributes of a judge are not only intellectual competence but adherence to ethical standards of conduct. *Complaint Concerning Winton*, 350 N.W.2d 337, 340 (Minn. 1984)

- Judges must conform to a higher standard of conduct than is expected of lawyers or other persons in society. *In re Miera*, 426 N.W.2d 850, 855 (Minn. 1988)

- A misrepresentation may be made by an affirmative statement that is itself false or by concealing or not disclosing certain facts that render facts disclosed misleading. *In re Conduct of Karasov*, 805 N.W.2d 255, 269 (Minn. 2011)

- Honesty is a minimum qualification expected of every judge. *In re Conduct of Karasov*, 805 N.W.2d 255, 276 (Minn. 2011)

- A judge violates Rule 1.2 by making a knowingly false statement. *In re Perez*, 843 N.W.2d 562, 565–67 (Minn.2014) *In re Conduct of Pendleton*, 870 N.W.2d 367, 379 (Minn. 2015)

323. Whether his actions are considered individually or cumulatively, Judge Miller has demonstrated a profound inability or unwillingness to be fair, impartial, or open-minded for almost the entirety of our case.

Disqualification

324. Rule 2.11 of the Minnesota Code of Judicial Conduct states in part:

> A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned…

325. Comments 1 and 2 of Rule 2.11 state:

> [1] Under this Rule, a judge is disqualified whenever the judge's impartiality

> might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (5) apply. In many jurisdictions, the term "recusal" is used interchangeably with the term "disqualification."
>
> [2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

326. Judge Miller did not recuse himself from any proceeding in our case.

327. On June 17, 2024, Plaintiffs filed a letter to the Court, requesting that Judge Miller voluntarily recuse himself from our case, for actual bias, in accordance with Rule 2.11 of the Minnesota Code of Judicial Conduct. (Doc. 487.)

328. In addition to our letter, Plaintiffs filed sworn declarations outlining some of the many irregularities we noted during our case which appear to violate the Minnesota Code of Judicial Conduct. (Craig: Doc. 488; Marie: Doc. 489.)

329. As clearly stated in Rule 2.11 and its associated comments, "A judge ***shall disqualify himself*** or herself in any proceeding in which the judge's impartiality might reasonably be questioned…" and "A judge's obligation not to hear or decide matters in which disqualification is required applies ***regardless of whether a motion to disqualify is filed***."

330. Judge Miller responded to our letter on June 24, 2024 and stated:

> The Court will not address this correspondence ***without proper motion***. (Doc. 491, at 5.) (emphasis added)

331. However, Judge Miller voluntarily recused himself in at least one other case involving a third-party relationship, ***without requiring a letter or a motion***, because the Defendant was an acquaintance of his daughter. (*Dustin LaRocque vs Kelsi Sletmoen*, 56-CV-21-476, Doc. 8.)

332. In *LaRocque*, Judge Miller disclosed his relationship with Ms. Sletmoen through

his daughter and voluntarily recused himself less than 10 days after the case was assigned to him.

333. In our case, Judge Miller downplayed and dismissed any conflict of interest with Attorney Kirsten Hansen, failed to disclose the relationship between his own law clerk and Judge Mark F. Hansen, the father of Defense Attorney Kirsten Hansen, failed to voluntarily recuse himself due to this undisclosed relationship, failed to disqualify his law clerk from this case, and refused to recuse himself when Plaintiffs requested his recusal through a letter to the Court and two sworn declarations, which exposed this relationship and detailed many other instances of judicial bias.

334. Judge Miller employed an ethical double standard with regard to his disclosure of relationships which could compromise his ability to remain impartial and to voluntarily recuse himself "if his impartiality might reasonably be questioned" as required by the Minnesota Code of Judicial Conduct.

335. The Minnesota Court of Appeals has stated:

- A judge is disqualified for a lack of impartiality under Rule 2.11(A) if *a reasonable examiner*, from the perspective of an objective layperson with full knowledge of the facts and circumstances, *would question the judge's impartiality*. *Troxel v. State*, 875 N.W.2d 302, 314 (Minn. 2016) (emphasis added) (quotations omitted). *State v. Wendt*, No. A19-0200, 2020 WL 7018925, at *7 (Minn. Ct. App. Nov. 30, 2020)

336. Once again, for the above reasons, I respectfully request that Judge Miller disqualify himself immediately from our case, **for actual bias**, in compliance with Rule 2.11 of the Minnesota Code of Judicial Conduct.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: July 22, 2024



Craig S. Stevenson