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STATE OF MINNESOTA

COUNTY OF OTTER TAIL

DISTRICT COURT

SEVENTH JUDICIAL DISTRICT

CASE TYPE: CONTRACT

Precision Locating, LLC and Arvig Enterprises, Inc.,

Plaintiffs,

v.

Martin D. Starkebaum,

Defendant.

Court File No. 56-CV-25-198

Judge Kevin M. Miller

PLAINTIFFS' FIRST AMENDED MEMORANDUM OF LAW IN SUPPORT OF ITS FIRST AMENDED MOTION TO FOR LEAVE TO AMEND COMPLAINT TO SEEK PUNITIVE DAMAGES

INTRODUCTION

Plaintiffs Precision Locating, LLC ("Precision") and Arvig Enterprises, Inc. ("Arvig" and collectively referring to Precision and Arvig as "Plaintiffs") submit this Amended Memorandum of law in support of their Amended Motion for leave to amend to include a claim for punitive damages against Defendant Martin Starkebaum ("Starkebaum"). Starkebaum has engaged in a pattern of conduct calculated to harm Plaintiffs and others with whom he believes he has a right to retaliate against for perceived slights. Starkebaum has attempted to conceal his own role in the publication of the defamatory November 14, 2024, Facebook post that forms the basis of this subject matter and has attempted to fabricate evidence to support his defense. Accordingly, Plaintiffs move for leave to amend their complaint to seek punitive damages.

PROCEDURAL POSTURE

Plaintiffs took the deposition of Defendant on May 2, 2025, and promptly made a motion compel with the Court on July 3, 2025, which was granted on October 17, 2025, with following findings:

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> Defendant provided testimony at a deposition on May 2, 2025. Plaintiffs ended Defendant's deposition with two hours 13 minutes remaining due to Defendant's evasive responses. The Court finds that Defendant's conduct during the deposition was *intentional and made in effort to frustrate the deposition questioning*.

(Index No. 148, Declaration of Kurt J. Erickson (hereinafter "Erickson Dec."), Ex. O) (emphasis added). After it was granted, and with Defense Counsel John Ella in trial in Carlton County, Minnesota on another matter, Plaintiffs set the deposition of Defendant for November 17, 2025, the soonest available date for opposing counsel. (Erickson Dec., Ex. O).

Plaintiffs also took the deposition of E.S., Starkebaum's minor daughter, at the soonest available time after the Court overruled Defendant's objections to it, and after the Court was again required by Defendant to rule again, as to where the deposition of E.S. would take place. (Erickson Dec., Ex. P).

At the April 6, 2026, hearing, the Court instructed Plaintiffs to amend their motion for punitive damages to include additional evidence filed with the Court in letter format in late March. In short, Plaintiffs have done everything they can to abide by the Court's scheduling order and instructions and now ask to find that there is good cause under Minn. R. Civ. P. 6.02 and 16.02 to consider amendment to add punitive damages, including based on the deposition testimony from Defendant's second deposition, from the deposition of E.S., and from the sworn Declarations of Christopher and Lacey Mayen.

FACTUAL BACKGROUND

Prior to the present lawsuit, Martin Starkebaum filed a Charge of Discrimination with the Minnesota Department of Human Rights alleging Precision discriminated against him because of being a bisexual transgender woman. While investigating Starkebaum's claims, Precision obtained evidence that Starkebaum called his Precision coworkers "pedophiles," "rapists," and "chomos"

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(an abbreviation for the phrase "child molester"). That Charge was mediated by the Parties, which ultimately resulted in a Settlement Agreement that included a non-disparagement clause to which Starkebaum is bound. That agreement was executed on September 10, 2024 (May 2, 2025, Deposition of Martin Starkebaum ("First Starkebaum Dep.") at 36:7-12).

Following Starkebaum's termination from Precision, he and another employee of Precision whom Starkebaum had befriended, Christopher Mayen, remained in touch with one another and spoke about various work and personal matters. (Index No. 184, March 24, 2026, Declaration of Lacey Mayen (Hereinafter "L. Mayen Dec.") at ¶ 3). During this time, Starkebaum stated to Mayen that Precision employees Matthew Guthmiller and Derek Schmidt were pedophiles. (Index No. 181, March 24, 2026, Declaration of Christopher Mayen (Hereinafter "3/24/2026 C. Mayen Dec.") at ¶ 2). Starkebaum also told Mayen about his conspiracy theories that Precision and/or Arvig was involved in some kind of fraud ("cooking their books") by illegally moving money or adjusting prices. (Erickson Dec., Ex. C (hereinafter "Mayen Dep.") at 46:6-17). Starkebaum further stated to Mayen that Precision and/or Arvig had illegally discriminated against him due to being gay or transgender. (Mayen Dep. at 48:7-21). Prior to November 14, Starkebaum provided this information to Mayen suggestively, stating that he "could not control what [Mayen] did with it." (3/24/2026 C. Mayen Dec. at ¶ 3). Mayen interpreted Starkebaum's tone and phrasing as intending him to publish it. *Id*. As a result, Mayen anonymously published a post to Facebook accusing Plaintiffs of knowingly hiring pedophiles and rapists to work in school zones and explicitly alleged—by full legal name name—four current or former Precision and Arvig employees to be pedophiles and rapists. (Erickson Dec., Ex J; Erickson Dec., Ex. C (hereinafter "Mayen Dep.") at 29:1-30:23; 3/24/2026 C. Mayen Dec at ¶¶ 2-3.)

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On or around November 14, 2024, Plaintiffs became aware that the anonymous post had been published to Facebook group for local utility locators falsely accusing Plaintiffs of knowingly hiring pedophiles and rapists to work near schools. The author of the post further asserted that Plaintiffs were "cooking there [sic] books" and "discriminating against the LGBTQ community." (Erickson Dec. Ex. J). A comment by the author indicated that he received this information from some other source. *Id*. (the author states "So ive [sic] been told."). Additionally, the thread of comments included responses from a user named "Martin Doe"[1] endorsing the views expressed by the author and accusing an employee of stolen valor. *Id.* Plaintiffs initially believed Starkebaum to be the direct author of the post in part due to the verbiage and references to pedophilia which Starkebaum had been known to make in the past. Plaintiffs confronted Starkebaum shortly after the publication of the post, reminding Starkebaum of his obligations under the non-disparagement clause of the Settlement Agreement. The same day, within at most a few hours of confronting Starkebaum's attorney, Starkebaum contacted Mayen about the post. (November 17, 2025, Deposition of Martin Starkebaum ("Second Starkebaum Dep.") at 131:18-24). Starkebaum told Mayen that he "just got a call from [his] attorney" about the Facebook post and expressed fear that he would be in legal trouble for violating his settlement agreement. (Mayen Dep. 84:9-25). Starkebaum expressed that he thought the post was funny but indicated his concern he would get in trouble and therefore asked Mayen to take responsibility for the post. (3/24/2026 C. Mayen Dec. at ¶ 6.) Shortly after, Starkebaum began threatening Mayen to ensure that Mayen admitted full responsibility and cleared his own name. *Id*. at ¶¶ 7-9).

[1] Starkebaum admits he was the owner of the "Martin Doe" account. Erickson Dec., Ex. I (hereinafter "Defendant's Responses to Plaintiffs' RFAs").

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The post was deleted approximately two days after its posting, after Starkebaum told Mayen that it needed to come down lest Starkebaum get into legal trouble. (Mayen Dep. at 84:23-87:21). Plaintiffs subsequently sued Martin Starkebaum for breaching the Settlement Agreement and for defamation and defamation per se.

I. WRITTEN DISCOVERY BY PLAINTIFFS

Plaintiffs served Starkebaum with Requests for Admission on January 15, 2025, requesting Starkebaum admit to authorship of the post, that Starkebaum requested or otherwise directed Mayen to make the post, and that Starkebaum subsequently requested Mayen remove the post from the Facebook group. (Erickson Dec., Ex. H (hereinafter "Plaintiffs' RFAs") at ¶¶ 1, 7, 8, 9). Starkebaum responded on February 14, 2025, denying each of these Requests for Admission. (Defendant's Responses to Plaintiffs' RFAs). Starkebaum gave the following responses to Requests 1, 7, 8 and 9:

> **REQUEST FOR ADMISSION No. 1.** Admit that, on or around November 14, 2024, you authored the Facebook post attached hereto as Exhibit A under the guise of an anonymous Facebook account accusing Plaintiffs of hiring pedophiles and rapists and naming Matthew Guthmiller and Derek Schmidt.
>
> **RESPONSE:** Defendant Starkebaum denies Request Number 1.
>
> **REQUEST FOR ADMISSION No. 7.** Admit that you directed, instructed, asked, requested, demanded, encouraged, assisted, or were in any way involved with Christopher Mayen's authoring of the Facebook post attached hereto as Exhibit A.
>
> **RESPONSE:** Defendant Starkebaum denies this request.
>
> **REQUEST FOR ADMISSION No. 8.** Admit that since you instructed Christopher Mayen to delete the Facebook post attached hereto as **Exhibit A**[2] on November 15, 2024, after Mr. Klassen contacted you about the post.

[2] Exhibit A within the RFAs refers to the screenshots of the Facebook post, attached here as Erickson Dec., Ex J.

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> **RESPONSE:** Defendant Starkebaum objects to this Request because it makes no sense. In order to deliver a good faith attempt to respond to these Requests, Defendant disregards the word "since" from his reading of the Request, which appears to request that he admit he "instructed Christopher Mayen to delete the Facebook post after John Klassen called him, and Mr. Starkebaum denies this.
>
> **REQUEST FOR ADMISSION No. 9.** Admit that the Facebook post attached hereto as **Exhibit A** is a true and correct copy of the Facebook post made on or around November 14, 2024, in the Facebook group titled "The Cable Vine – Utility Locating."
>
> **RESPONSE:** Defendant Starkebaum cannot admit or deny for the following reasons: He is not certain how long the post was "up". The exhibit appears to be a collection of screenshots taken from a cell phone. As stated above, Defendant Starkebaum did not make the post and does not know what it looked like at the time it was posted on or about November 14, 2024.

Id. Plaintiffs also requested Starkebaum admit the statements, if false, were defamatory or defamatory *per se*. Starkebaum gave the following responses:

> **REQUEST FOR ADMISSION NO. 17.** Admit that if false, the statements in Exhibit A are defamation *per se.*
> **RESPONSE:** Defendant Starkebaum admits this request.
>
> **REQUEST FOR ADMISSION NO. 18.** Admit that if the statements in Exhibit A are false and therefore defamation *per se,* Plaintiffs are presumed to have been damaged by the defamation *per se.*
> **RESPONSE:** Defendant Starkebaum admits this request.

Id. In sum, Starkebaum does not dispute that the statements within the November 14, 2025, post are defamatory if false; his only dispute is whether he called Precision and Arvig employees such as Matthew Guthmiller, Derek Schmidt, and other rapists and pedophiles, whether Precision and Arvig knowingly hired or employed these people despite this, and whether the statements are true.

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II. STARKEBAUM'S COMMUNICATIONS TO CHRISTOPHER MAYEN

Mayen confirmed that he authored the November 14, 2025, Facebook post when deposed[3] on March 13, 2025, but testified that Starkebaum previously told him on multiple occasions that Matthew Guthmiller[4] (one of the former Precision employees named in the post as allegedly being a rapist and/or pedophile) is a pedophile, Guthmiller molested Starkebaum's minor daughter E.S., and that the information contained in the Facebook post as it relates to Guthmiller was obtained from Starkebaum. (Mayen Dep. at 38:12-40:8; 91:20-25; 92:24-93:10). Mayen stated that Starkebaum told Mayen sometime around September 2024. (Mayen Dep. at 56:5-22). Mayen indicated he had no other source of information pertaining to Guthmiller being an alleged rapist or pedophile other than Starkebaum. (Mayen Dep. at 91:20-25). Mayen further stated that when Starkebaum told him this information, he "could not control what [Mayen] did with it." (3/24/2026 C. Mayen Dec. at ¶ 3). This language was intended as a suggestion, which Mayen took to make the November 14 Facebook post. *Id*.

Regarding Precision employee Shane Lester, Starkebaum's comment on the November 14, 2025, Facebook post referenced Lester as committing the crime of stolen valor in relation to Mayen's comment that "Shane Lester is a military deserter." (Erickson Dec., Ex. K; Mayen Dep. at 41:13-19). When deposed, Lester agreed that Starkebaum was referencing himself.[5] (Erickson

[3] Following the deposition of Mayen and Starkebaum's discovery responses, subsequently sought leave to amend their complaint to reflect Mayen's authorship of the Facebook post. (Erickson Dec.¶ 18; Ex. Q).

[4] Matthew Guthmiller lived with Starkebaum and Starkebaum's daughter, E.S., as a roommate for several months after Starkebaum separated from his child's mother. Starkebaum ultimately kicked Guthmiller out of his house. (Erickson Dec., Ex. A (hereinafter "First Starkebaum Dep.") at 98:6-19).

[5] Starkebaum inexplicably attempted to portray his comments as not being directed at Lester in his second deposition. Starkebaum was commenting under a post accusing a specific person, Shane Lester, of being a deserter and falsely claiming to be a decorated veteran. Starkebaum's attempts to reconstrue his comment "isn't stolen valor a crime" under the same thread is incoherent. *See* Erickson Dec., Ex. B (hereinafter "Second Starkebaum Dep.") at 24:2-25).

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Dec., Ex. E (hereinafter "Lester Dep.") at 133:5-15). Lester also testified that the allegations about him claiming to be a decorated veteran and stealing valor were not true. (Lester Dep. at 73:1-5).

Mayen also made clear that he had no other source that Precision or Arvig liked to hire rapists or pedophiles apart from Starkebaum. (Mayen Dep. at 92:24-93:10). Crucially, Mayen stated that he believed Starkebaum gave him the information about Guthmiller specifically so that Mayen would publish it:

> Q. Okay. Do you believe that the information he gave you with regard to Guthmiller was information that he was giving so that you could publish that information in one way or another?
>
> A. Yes.

(Mayen Dep. at 117:8-12). When Starkebaum later requested that Mayen tell the police and a hearing officer about Guthmiller committing sex crimes, Mayen declined and again explained that everything he knew about the situation came from Starkebaum, what Starkebaum was requesting he say was not accurate, and that—in Mayen's words—Mayen was "not going to lie for anybody or anyone." (Mayen Dep. at 61:15-62:8; 96:24-98:22). In other words, based on what Mayen heard from Starkebaum, Mayen was confident enough to accuse Guthmiller of being a pedophile and a rapist on a public website, but not confident enough to make that representation to the police.

Mayen additionally testified—contrary to Starkebaum's responses to Plaintiff's Requests for Admissions and Starkebaum's deposition testimony[6]—that Starkebaum called Mayen and indicated that Starkebaum did know what the post looked like on November 14, that Starkebaum thought it was "hilarious," and later did ask Mayen to remove the Facebook posts and make a statement to "get him off the hook." (Mayen Dep. at 84:4-86:24). Despite all this, Mayen stated that he was aware that Guthmiller had no convictions for any sex crimes. (Mayen Dep. at 35:8-

[6] First Starkebaum Dep. at 171:1-3.

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36:2). In sum, Mayen admits that he made the Facebook post, that the information contained in the post was obtained from Starkebaum, that Starkebaum repeatedly wanted him to make and publish such allegations to the police, in a hearing, and to others, and that the allegations contained therein regarding rape and pedophilia are not true.

III. STARKEBAUM'S HARASSMENT OF MATTHEW GUTHMILLER

In addition to telling Mayen that Matthew Guthmiller was a pedophile and that Precision and Arvig hired him with knowledge of this, Starkebaum repeatedly harassed Guthmiller. Guthmiller testified that he had blocked Starkebaum on all forms of communication but received messages from unknown numbers using the same verbiage of "chomo" that Starkebaum used regularly. (Guthmiller Dep. 64:6-14; Erickson Dec., Ex. R). The messages accused Guthmiller of being a "chomo," and Guthmiller responded believing the messages came from Martin Starkebaum. (Erickson Dec., Ex. R). Guthmiller testified that the language and the timing indicated the messages were from Starkebaum. (Guthmiller Dep. at 55:22-25; 56:15-17) Additionally, the practice of using "burner phones" was something that Starkebaum had done to evade detection in the past. (Guthmiller Dep. at 64:11-65:16) For this reason, in addition to Starkebaum making physical threats to shoot Guthmiller,[7] Guthmiller obtained a harassment restraining order. (Erickson Dec., Ex. N).

IV. STARKEBAUM'S ALLEGATIONS AND REPORTS REGARDING MATTHEW GUTHMILLER AND DEREK SCHMIDT

A. Starkebaum—and every other witness—fundamentally concedes there is no evidence that Guthmiller or Derek Schmidt is a pedophile or rapist or that Precision or Arvig knowingly employed pedophiles and rapists.

Neither Matthew Guthmiller nor Derek Schmidt have been arrested for, charged with, or convicted of pedophilia or rape. When deposed, Guthmiller testified that he had no convictions for

[7] Guthmiller Dep. at 49:16-20.

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any sex crimes and that Starkebaum made false claims that Guthmiller molested Starkebaum's daughter. (Erickson Dec., Ex. D (hereinafter "Guthmiller Dep.") at 59:2-7; 103:23-104:8; 118:3-14). Regarding Guthmiller, Mayen indicated he doubted Starkebaum's report, thought it did not make sense, and found it to be inconsistent with how Mayen understood Guthmiller's character. (Mayen Dep. at 62:5-19). Additionally, Schmidt testified that, in addition to calling Guthmiller and himself "chomos," Starkebaum attempted to spread rumors that he was a rapist inaccurately based on Schmidt's sealed juvenile record. (Erickson Dec., Ex. F (hereinafter "Schmidt Dep.") at 116:13-117:1; 117:25-24). Similarly, Mayen testified that he heard rumors that Schmidt had a juvenile offense but that he had never seen any actual conviction. (Mayen Dep. at 34:9-35:3).

Though Starkebaum was evasive about whether Guthmiller has any convictions for sex crimes or is a sex criminal, he ultimately admits that Guthmiller is not a convicted pedophile, rapist, or any other type of sex criminal:

> Q. Well, has his guilt been established? Has Matthew Guthmiller been convicted of a sex crime?
>
> A. We're sure waiting, aren't we? And I haven't accused him of anything.[8]
>
> Q. Answer the question. Answer the question. Has Matthew Guthmiller been convicted of a sex crime?
>
> A. Not to my knowledge, but, you know, I didn't check.

(First Starkebaum Dep. at 115:25-116:6). Similarly, regarding Derek Schmidt, Starkebaum repeated a rumor he hard regarding Schmidt having a minor charge but ceded that he had not

[8] Though nonresponsive to the question, this is but one example of where Starkebaum contradicts himself and the testimony of other witnesses. *See, e.g.*, First Starkebaum Dep. at 94:6-97:11 (Starkebaum states that he did not believe he called Guthmiller a pedophile); Second Starkebaum Dep. at 5:23-6:11) (Starkebaum states he did call Guthmiller a pedophile in a text message); Erickson Dec., Ex. M (Starkebaum's police report alleging that Guthmiller molested E.S.

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actually seen any convictions for rape in Schmidt's record. (First Starkebaum Dep. at 161:8-162:19). Ultimately, Starkebaum admitted that he has no concrete evidence that either Schmidt or Guthmiller is a convicted pedophile or rapist. And when asked whether (Erickson Dec., Ex. G (hereinafter "Meader Dep.") at 104:20-106:1).

B. Starkebaum's attempt to paper a file by filing a police report against Matthew Guthmiller after he was sued for defamation.

Despite the utter lack of evidence that Guthmiller is a pedophile, Starkebaum filed a police report on December 20, 2024, alleging Guthmiller molested his daughter, E.S., prior to June of 2023. (Erickson Dec., Ex. M). This was months after any alleged molestation was alleged to have occurred.[9] (First Starkebaum Dep. at 98:20-99:23). Starkebaum claims this enormous delay was because E.S. did not report that she had been molested by Guthmiller until about a month before he filed the report on December 20, 2024, but that he could not remember precisely when she told him. (First Starkebaum Dep. at 99:20-100:22). Starkebaum additionally indicated that he took no legal action regarding *the alleged sexual abuse of his minor daughter, for over a year*. *Id.* Tellingly, Starkebaum would not provide an answer explaining why he did not call the police and pursue charges against Guthmiller when he first learned of the alleged molestation of E.S. (First Starkebaum Dep. at 113:3-116:6). When deposed the second time, Starkebaum changed his story

[9] Starkebaum also attempts to construe his reason for kicking Matthew Guthmiller out of his house as a result of Guthmiller being repetitively inappropriate around E.S. and "grooming" her. (First Starkebaum Dep at 99:8-19). Starkebaum claims he removed Guthmiller for this reason in June of 2023. (First Starkebaum Dep. at 146:9-147:3). However, Starkebaum's text messages with Guthmiller stating his reasons for kicking Guthmiller out state Guthmiller is a bad friend, avoiding Starkebaum, etc., but absolutely nothing about inappropriate behavior around E.S. (Second Starkebaum Dep. at 56:8-58:4) (Starkebaum read this text into the record at the deposition, which is quoted in its entirety at the cited pages). In fact, the only mention of Starkebaum's daughter by Starkebaum is his lamenting that Guthmiller "didn't even tell [E.S.] happy birthday at her party." Beyond this inexplicable inconsistency, Starkebaum also ceded that he gave Guthmiller, the alleged groomer of E.S., months of additional time to move out after he was already aware of alleged inappropriate behaviors. (Second Starkebaum Dep. at 81:5-20).

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again and stated that E.S. actually could have told him in either December 2024, September 2024, or any time prior to filing the report, potentially even April of 2024. (Second Starkebaum Dep. 75:24-76:13).

When Plaintiffs took the deposition of E.S. on December 3, 2025, E.S. stated that she could not remember any specific instance in which the conduct described in the police report occurred:

> Q. I want to talk a tiny bit more about the instances that Matt would hug you and either touch your butt or your breasts. Can you remember one time specifically that Matt touched your breasts? And kind of describe that for me, where you guys were standing, how this happened, how did he initiate that.
>
> A. I don't remember any time specifically.
>
> Q. Okay. What about do you remember any time specifically where you touched your butt?
>
> A. Not a specific time.
>
> Q. Did Matt ever touch you underneath your clothing?
> A. Underneath? No.
>
> Q. Can you remember the first time that Matt either said or did something where an alarm went off in your head and you said, hey, this is inappropriate and I'm really uncomfortable?
>
> A. Not a specific time. Maybe the first time he hugged me and touched me weird.

(Erickson Dec., Ex. T (hereinafter "E.S. Rought Draft Dep.") at 30:14-31:11). Moreover, E.S. confirmed that the first time Starkebaum approached the police was December of 2024, over a year after the initial report in 2023. (E.S. Rough Draft Dep. at 34:15-35:3). Starkebaum also agreed to stipulate that no penetrative or oral sexual conduct between Guthmiller and Starkebaum in order to avoid questioning E.S. on that matter. (E.S. Rough Draft Dep. at 56:8-22).

The December 20, 2024, report was less than a month after Plaintiffs filed this lawsuit and Guthmiller obtained a harassment restraining order against Starkebaum on November 26, 2024.

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(Erickson Dec., Ex. N). Starkebaum also asked Mayen to tell the police about the alleged sexual abuse of E.S. by Guthmiller at or soon after Starkebaum filed the police report. (Mayen Dep. at 96:24-97:6). Starkebaum's requests of Mayen during this period including asking Mayen to testify at the harassment restraining order hearing regarding Guthmiller in a way that Mayen believed would require him to lie on Starkebaum's behalf. (Mayen Dep at 61:15-62:8). Tellingly, Mayen explained that he believed that Starkebaum had a vendetta against Guthmiller. When discussing the aftermath of the Facebook post, Starkebaum's prior accusations that Guthmiller was a rapist and a pedophile, and the conversations that Mayen had with Starkebaum, Mayen stated:

> Q. All right. Just so I understand, when he's telling you that it's hilarious that you're outing Guthmiller, what conversation is that?
>
> A. He just -- just -- he has some -- to me, to me, personally, it's just a weird obsession, getting back at him for outing him. Like I said, it seems like -- in my words, I say it seems like he's on a crusade to destroy Matt completely.

(Mayen Dep. at 87:14-21). Mayen also stated that Starkebaum told him that Starkebaum enjoyed seeing Guthmiller suffer. (Mayen Dep. at 101:22-102:20). In short, each of Starkebaum's contentions about the truth of his statement that Precision and Arvig employees are pedophiles and rapists, and that Precision and Arvig knowingly hire such individuals is belied by evidence of Starkebaum's conduct proceeding and following the reports.

Plaintiffs attempted to question Starkebaum about the basis for not further pursuing his report about E.S. being sexually abused until December of 2024. Plaintiffs were unable to obtain answers to basic questions on this subject due to Starkebaum's evasive, dilatory, and nonresponsive answers. (Erickson Dec., Ex. P). To the extent that Starkebaum did respond, he first stated that he never specifically called Guthmiller a pedophile, but perhaps a "pedo, chomo, baby toucher, you know" (First Starkebaum Dep. at 94:6-97:11). Starkebaum later 'clarified' that he did

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not believe he called Guthmiller a pedophile because it was "too long of a word" and that he couldn't remember calling him a "chomo" or a "pedo," but that he would not dispute Mayen's that Mayen received all this information about Guthmiller from Starkebaum. (First Starkebaum Dep. at 119:9-120:14). Then, upon being deposed a second time on November 17, 2025, after the Court's October 17, 2025, requiring Starkebaum to appear again because he was intentionally evasive during his first deposition, Starkebaum contradicted himself on the matter yet again:

> Q. Okay. All right. Mr. Starkebaum, have you called Matt Guthmiller a pedophile?
>
> A. One time in a text message in 2023.
>
> Q. And did -- isn't it true that you called him a pedophile to Christopher Mayen?
>
> A. No. I generally don't use that word.
>
> Q. I need an answer to the question consistent with the judge's order. Have you called Mr. Guthmiller a pedophile to Christopher Mayen? Yes or no?
>
> A. Not since my settlement.
>
> Q. Again, we can get the judge on the line, and then he can sanction you. Have you called Mr. Guthmiller a pedophile to Christopher Mayen? Yes or no?
>
> A. I might have.

(Second Starkebaum Dep. at 5:23-6:11). Starkebaum also contradicted his prior suggestion that he may have used the word "chomo," testifying on November 17, 2025, that he never called Guthmiller a "chomo." (Second Starkebaum Dep. at 8:15-22).

V. STARKEBAUM'S STATEMENTS REGARDING PLAINTIFFS' KNOWLEDGE OF HIRING OR EMPLOYING PEDOPHILES AND RAPISTS

As discussed earlier, Mayen indicated that his contention that Precision and Arvig knowingly employed rapists and pedophiles, as it related to Matthew Guthmiller, was entirely

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sourced from Starkebaum. (Mayen Dep. at 124:11-15). On this matter, Starkebaum once again contradicts himself repeatedly. When asked at his first deposition whether it was false that Precision and Arvig knowingly hired pedophiles, Starkebaum inexplicably contradicted his own answers to prior Requests for Admission, producing the following exchange:

> Q. Would you agree with me that stating that Arvig has knowingly hired pedophiles is false?
>
> A. (Sotto voce reading). I'd say that they kind of did knowingly hire pedophiles because they're part of the hiring process, and they do background checks.
>
> Q. So then is your response to Request For Admission Number 16 on page 6 false?
>
> A. I think that I have no information or evidence that Arvig had knowingly hired pedophiles. So that's back t, like, splitting hairs again.
>
> Q. Well, let's look at some of the other requests, because if we flip back a page –
>
> A. Well, it's pretty much the whole document is just that question.
>
> Q. If you look back at page 5, and we will look at Request For Admission Number 14 and for the first Request For Admission Number 15, you answered the opposite as it relates to Precision, and you said you do have evidence that Precision knowingly hires pedophiles but you wrote under oath under penalty of perjury that you have no information that Arvig hires or knowingly hires pedophiles. My question is, are your answers in this document false?
>
> A. I think it's really open to how someone wants to interpret it.

(First Starkebaum Dep. at 174:15-175:14). At his second deposition, Starkebaum then changed his story to state that he had no information suggesting that Precision or Arvig had knowledge that various employees were rapists or pedophiles prior to being hired. (Second Starkebaum Dep. at 11:17-12:20).

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VI. STARKEBAUM'S INTIMIDATION OF CHRISTOPHER MAYEN

Beginning when Starkebaum was confronted with his obligations under the settlement agreement, he began a concerted effort to pressure Mayen to take responsibility for the November 14 Facebook post and shift responsibility for himself despite his efforts to induce Mayen to make the post. Shortly after, Starkebaum told Mayen that he "just got a call from [his] attorney" about the Facebook post and expressed fear that he would be in legal trouble for violating his settlement agreement. (Mayen Dep. 84:9-25). Starkebaum threatened Mayen, lying that he had recorded telephone calls where Mayen admitted to authorship of the post and would use them against Mayen. (3/24/2026 C. Mayen Dec. at ¶¶ 7-9). Starkebaum further threatened that he would falsely report that Mayen was hiding income in his child support proceedings, so that he would be obligated to additional child support to the mother of one of Mayen's children. *Id.* at ¶¶ 8-9. He ultimately demanded that Mayen sign an affidavit admitting responsibility without informing Mayen of the legal consequences of doing so. *Id.* at ¶ 10.

During this litigation, Starkebaum further attempted to induce Mayen to make additional defamatory statements about Plaintiffs to the public to injure them. On [date], Starkebaum sent a photo the signature block and contact information for an employee of Independent School District 728, Jospeh Samek.[10] *Id.* at ¶ 14. Mayen spoke with Starkebaum over the phone about the contact information photo, and Starkebaum prompted Mayen to publish the allegations that are the subject of this lawsuit (i.e., that Plaintiffs knowingly or intentionally employ rapists and pedophiles to

[10] Plaintiffs requested that Starkebaum produce his text messages with Christopher Mayen regarding the subject matter of this lawsuit. *See* Index No. 180. Starkebaum produced several pages of messages with Mayen with redactions for "relevance," including redacting this photo regarding Joseph Samek. *Id*. Defendant has offered no explanation for why this message, which is relevant and demonstrates Starkebaum's continuing intent to injure Plaintiffs, was redacted. *Id*.

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work near schools), in order to dissuade the school district from using Plaintiffs' services. *Id.* at ¶ 14. In this instance, Mayen refused to do so. *Id.*

Finally, throughout the litigation in this case, Starkebaum has attempted to prevent Mayen from cooperating with Plaintiffs' counsel, apparently in an effort to protect himself from liability. Starkebaum repeatedly told Mayen not to settle with Plaintiffs, and even not to share any information about Mayen admitting to authorship with Mayen's wife. *Id.* at ¶¶ 6-9; 15-16. Mayen eventually told his wife and explained that he had been pressured by Starkebaum not to tell her or to settle the matter with Plaintiffs. (L. Mayen Dec. at ¶¶ 6-7; 11-12). Upon mediating Mayen's related matter in January of 2026, Starkebaum made one final attempt to exert control over Mayen by pressuring Mayen not to settle. (3/24/2026 C. Mayen Dec at ¶ 15).

LEGAL STANDARD

After the initial amendment window has expired, a party may amend a pleading "only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." Minn. R. Civ. P. 15.01. *See also Hempel v. Creek House Trust,* 743 N.W.2d 305, 313 (Minn. App. 2007) ("[W]hen the amendment, if adopted, would modify the district court's scheduling order, a showing of good cause is required.") (internal citation omitted). Good cause exists when a party's ability to conduct discovery is hampered by another party's obstructionism and the party has been diligent in seeking discovery. *Bixler by Bixler v. J.C. Penney Co.*, 376 N.W.2d 209, 216–17 (Minn. 1985). In that situation, it is appropriate to allow amendment of the scheduling order to allow a motion for punitive damages to be made. *Medical Graphics Corp., v. Hartford Fire Ins. Co.*, 171 F.R.D. 254, 264-65 (D. Minn. 1997); *e.g., McKenzie v. NSP*, 440 N.W.2d 183, 185 (Minn. Ct. App. 1989) (finding that "In addition, the trial court's denial of a motion to amend does not finally foreclose the claim for punitive damages, since discovery may lead to evidence sufficient to justify a renewed motion.").

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Plaintiffs are seeking leave to amend following the Court's permission to depose Starkebaum for an additional seven hours in its October 17, 2025, order. [11] Plaintiffs diligently arranged to depose Starkebaum at his earlies availability, which occurred on November 17, 2025. (Second Starkebaum Dep.). Plaintiff's request to amend to include a claim for punitive damages will not require any additional discovery beyond which the Court has already permitted. Moreover, the timing ultimately results from Starkebaum nonresponsiveness. Plaintiffs were not prepared to justify seeking leave under Minn. Stat. § 549.19 without clarification of key facts that Starkebaum intentionally evaded and refused to disclose in his first deposition. (Erickson Dec., Ex. O; Ex. P). Specifically, Plaintiffs were unable to obtain clear testimony from Starkebaum regarding the timing of his reports of Guthmiller allegedly molesting Starkebaum's daughter E.S., including why and under what circumstances Starkebaum chose to delay making a report until December of 2024. Accordingly, Plaintiffs have shown good cause for the timing of the request to seek leave, in addition to fulfilling the evidentiary burdens under Minn. Stat. § 549.19 and Minn. Stat. § 549.20.

Additionally, a plaintiff must seek leave of the court to amend a complaint specifically to include a claim for punitive damages. Minn. Stat. § 549.191. A motion for punitive damages must establish sufficient prima facie evidence under the standard in Minn. Stat. §549.20 subd.1 through "one or more affidavits showing the factual basis for the claim." Minn. Stat. § 549.191. On such a motion, the Court will then consider whether the plaintiff has established the Defendant acted with "deliberate disregard for the rights or safety of others" under Minn. Stat. §549.20 subd.1, which states:

[11] Plaintiffs also received additional evidence in the form of the March 24, 2026, declarations of Christopher and Lacey Mayen and the attached exhibits, which was obviously not known to Plaintiffs at the time Plaintiffs originally sought to amend the complaint to seek punitive damages in December 2025. This new factual information provides an additional basis to amend.

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> (a) Punitive damages shall be allowed in civil actions only upon clear and convincing evidence that the acts of the defendant show deliberate disregard for the rights or safety of others.
>
> (b) A defendant has acted with deliberate disregard for the rights or safety of others if the defendant has knowledge of facts or intentionally disregards facts that create a high probability of injury to the rights or safety of others and:
>
> (1) deliberately proceeds to act in conscious or intentional disregard of the high degree of probability of injury to the rights or safety of others; or
>
> (2) deliberately proceeds to act with indifference to the high probability of injury to the rights or safety of others.

The "deliberate disregard" standard is met when a defendant exhibits behavior that shows a willful, reckless or malicious intent to disregard the rights of another. *Bougie v. Sibley Manor, Inc.*, 504 N.W.2d 493 (Minn. Ct. App. 1993) (*citing Wirig v. Kinney Shoe Corp.*, 461 N.W.2d 374, 381 (Minn. 1990) and *Admiral Motor Freight, Inc. v. O'Connor & Hannan*, 494 N.W.2d 261, 268 (Minn. 1992)).

A Plaintiff carries this burden through clear and convincing evidence; this is accomplished by producing evidence that is admissible, competent, and probative. *Berczyk v. Emerson Tool Co.*, 291 F. Supp.2d 1004, 1010 (D. Minn. 2003). In applying the standard under Minn. Stat. §549.20, the court only considers prima facie evidence brought by the plaintiff—that is, "evidence which, if unrebutted, would support a judgment in that party's favor." *Swanlund v. Shimano Indus. Corp.*, 459 N.W.2d 151, 154 (Minn. Ct. App. 1990). In other words, the Court "should examine the evidence in support of a punitive damages claim, without considering the evidence submitted in opposition to the claim." *Olson v. Snap Products, Inc.*, 29 F. Supp.2d 1027, 1034, n. 1 (D. Minn. 1998) (citing *Northwest Airlines, Inc. v. American Airlines, Inc.*, 870 F. Supp. 1499, 1502-03 (D. Minn. 1994); *Swanlund*, 459 N.W.2d at 154.

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ARGUMENT

VII. PLAINTIFFS HAVE ADDUCED SUFFICIENT EVIDENCE TO SUPPORT A CLAIM FOR PUNITIVE DAMAGES

A. Plaintiffs have established, by clear and convincing evidence, a *prima facie* case of defamation by Starkebaum.

A claim for defamation under Minnesota law has three elements: "(1) the defamatory statement is 'communicated to someone other than the plaintiff,' (2) the statement is false, and (3) the statement 'tend[s] to harm the plaintiff's reputation and to lower [the plaintiff] in the estimation of the community.'" *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 919–20 (Minn. 2009) (quoting *Stuempges v. Parke, Davis & Co.*, 297 N.W.2d 252, 255 (Minn. 1980)); *Becker v. Alloy Hardfacing & Eng'g. Co.*, 401 N.W.2d 655, 660-61 (Minn. 1987); *Anderson v. Kammeier*, 268 N.W.2d 366, 371-72 (Minn. 1977). A statement is defamatory when it tend[s] to injure the plaintiff's reputation and expose the plaintiff to public hatred, contempt, ridicule, or degradation." *Erickson v. Sawyer*, 650 F. Supp. 3d 758, 765 (D. Minn. 2023) (quotation omitted), *appeal dismissed*, 2023 WL 4875190 (8th Cir. May 12, 2023).

1. Plaintiffs have adduced clear and convincing evidence that Starkebaum stated that Precision and Arvig Employees knowingly employs pedophiles and rapists.

First, testimony from the deposition of Chrisopher Mayen, as well as his sworn statement from March 24, 2026 plainly demonstrate that Starkebaum not only communicated to Mayen that Precision and Arvig employed pedophiles and rapists, but that this was Mayen's only basis for believing Precision employee Matthew Guthmiller was a pedophile or that he was knowingly hired as a pedophile was because Martin Starkebaum told Mayen that Guthmiller[12] was a pedophile and made post-hoc accusations that Guthmiller sexually abused E.S. (Mayen Dep. at 61:15-62:8;

[12] Schmidt also confirmed that Starkebaum also called both himself and Guthmiller "chomos." (Schmidt Dep. at 116:13-117:1).

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96:24-98:22). Mayen's March 24 declaration further explains that Starkebaum attempted to induce him to make the false November 14 Facebook post, providing Mayen with alleged information about precision employees with the intent for Mayen to publish it. (3/24/2026 C. Mayen Dec. at ¶ 3). Testimony from Mayen—who described Starkebaum as a friend[13]—stating that Starkebaum was the source of his belief in Precision and Arvig knowingly hiring pedophiles and rapists is unassailable evidence that Starkebaum made such statements. There is no doubt that Starkebaum made these accusations on multiple occasions and attempted to influence Mayen to make posts to this effect multiple times.

Though the Court should not consider opposing evidence on a motion to seek leave to add a claim for punitive damages, Starkebaum's denials are inconsistent and self-contradictory, and therefore circumstantial evidence of having made the statements. When asked whether Starkebaum called Guthmiller a pedophile, Starkebaum's knee-jerk response was to say that "pedophile" is too long of a word for him to use. (First Starkebaum Dep. at 119:9-120:14). He suggested that he might have instead used word "pedo" or "chomo" instead of "pedophile." (First Starkebaum Dep. at 94:6-97:11). He then contradicted himself again in his second deposition, admitted he called Guthmiller a pedophile[14] but not a "chomo," and then once again suggesting he "might" have called Guthmiller that term. (Second Starkebaum Dep. at 5:23-6:11). Plaintiffs have accordingly met their burden of demonstrating, by clear and convincing evidence, the element of communication to a party other than the plaintiff through both Mayen and Starkebaum's testimony to this effect.

That Starkebaum constantly evaded basic questions, contradicts himself, and considers his answers to Plaintiff's Requests for Admission to be "open to interpretation" demonstrates

[13] Mayen Dep. at 81:18-22.
[14] Starkebaum first stated that the only time he called Guthmiller a pedophile was in a text message in 2023. *See* Erickson Dec., Ex. S.

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consciousness of guilt and an utter lack of any credibility to his denials. In short, Starkebaum's evasiveness, self-contradiction, and nonresponsiveness confirms Christopher Mayen's testimony that Starkebaum was the sole source of the allegations about Guthmiller and colluded with or encouraged him to publish information alleging that Precision and Arvig knowingly hire and employ rapists and pedophiles.

2. Plaintiffs have adduced clear and convincing evidence that Starkebaum's statements were false.

Considering the second element, the falsity of Starkebaum's claims that various Precision and Arvig[15] employees are rapists and pedophiles and that Precision and Arvig employed them knowing this, Plaintiffs have easily met this element through Starkebaum's own admissions. Starkebaum explicitly ceded that Guthmiller had not be convicted of any sex crime. (First Starkebaum Dep. at 115:25-116:6). Regarding Schmidt, both Mayen and Schmidt stated that Starkebaum attempted to spread rumors that he was a rapist inaccurately based on Schmidt's sealed juvenile record. (Schmidt Dep. at 116:13-117:1; 117:16-24; Mayen Dep. at 34:9-35:3).

Guthmiller himself testified when deposed by counsel for Starkebaum that he has never been convicted of any sex crime. (Guthmiller Dep. 59:2-7). Moreover, Guthmiller stated that Starkebaum's report regarding Guthmiller allegedly molesting E.S. was not true, specifically that Starkebaum had "falsified" the report. (Guthmiller Dep. 103:23-104:8). Guthmiller also indicated that the police reports indicated law enforcement did not credit Starkebaum's complaint. (Guthmiller Dep. 26:2-5). Guthmiller agreed that E.S. never so much as said she was uncomfortable with Guthmiller during the period he lived with Starkebaum and E.S. (Guthmiller

[15] When deposed, Precision and Arvig representative Lori Meader explained that Precision, not Arvig hired or employed the employees Starkebaum and Mayen accused of being pedophiles and rapists. (Meader Dep. at 74:25-75:3). That Arvig hired or employed these individuals is therefore obviously untrue.

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Dep. 118:3-14). Finally, Mayen gave practically identical testimony outlining that Guthmiller has no convictions for sex crimes. (Mayen Dep. at 35:8-36:2). And Mayen indicated he believed these allegations to be false because he refused to lie to the police and to a hearing officer at Starkebaum's request. (Mayen Dep at 61:15-62:8). In short, every single witness has consistently testified that the allegation that Guthmiller is a pedophile is false.

In short, Starkebaum's statements were obviously false for three reasons: First that Starkebaum waited months to report E.S.'s alleged molestation, along with his choice to time it only after this lawsuit was filed, indicates his story was invented for the sake of creating a defense and is therefore false. Second, that Mayen thought what Starkebaum was saying was untrue and refused to corroborate his allegations clearly indicates it was untrue. Finally, the pervasive enmity that Starkebaum has for Guthmiller is unassailable evidence of his motive to conduct himself in this manner, ranging from harassment to attempting to convince witnesses to lie on his behalf.

3. Alleging that a company employs "pedophiles and rapists" is *per se* defamatory.

The third element, reputational harm, is undisputably met because referring to someone as a pedophile or a rapist, and by extension that a company knowingly employs pedophiles and rapists is defamation *per se*. An accusation that a person has committed a serious crime is typically considered defamatory *per se*, without any proof of damages. Restatement Second of Torts § 569 (1977); *Longbehn v. Schoenrock*, 727 N.W.2d 153, 158-159 (Minn. Ct. App. 2007) (determining that calling someone a "pedophile" is defamation *per se*). Under Minnesota law, "[i]f the defamation affect[s] the plaintiff in his business, trade, profession, office or calling, it is defamation per se and "thus actionable without any proof of actual damages." *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 920 (Minn. 2009). The words must relate to the defamed party within its professional capacity. *Anderson v. Kammeier*, 262 N.W.2d 366, 372 (Minn. 1977).

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Defendant obviously made statements about Plaintiffs' hiring practices and the hired individuals in their professional capacity. In the present case, Defendant stated that Precision hired pedophiles and rapists. The statements imputed serious sexual misconduct and criminal activity to individuals Plaintiffs hired. Calling a person or an employer a pedophile, and stating that an employer employs pedophiles or uses the service of pedophiles is without question defamation *per se. Longbehn*, 727 N.W.2d at 158-59; *see Swartwood,* 2018 WL 6596281 at *2 (finding "sexual predator" sufficiently descriptive to survive a motion to dismiss defamation claim); *Redlich,* 152 A.D.3d at 433 (affirming denial of summary judgment against defendants alleged of sending defamatory mailers accusing the plaintiff gubernatorial candidate of being a "sick, twisted pervert" and a related "Sexual Predator Alert"); *Montana,* 2021 WL 2963801 at *8 (finding public statement that individual is a pedophile to be defamation per se); *Ewers,* 2024 WL 973771 at *8 (accusation of a crime, if false, is defamation per se). *Longbehn* involved an accusation striking like the case before this court. The plaintiff was referred to by the name "Pat the Pedophile." *Id.* at 159. The court went on to "hold that in almost every circumstance a reasonable listener would believe that calling a person a pedophile imputes serious sexual misconduct or criminal activity to that person. It is, therefore, defamatory per se." *Id.* Moreover, pedophilia is a crime under Minnesota law. Minn. Stat. § 609.352. Rape is also a crime under Minnesota law. Minn. Stat. § 609.341 *et seq.*

B. Plaintiffs have established a *prima facie* case that Starkebaum acted with a deliberate disregard for their rights.

"Deliberate disregard" occurs when the defendant has "knowledge of facts or intentionally disregards facts that create a high probability of injury to the rights or safety of others," and deliberately proceeds to act in conscious or intentional disregard of that probability, or to act with indifference to that probability. Minn. Stat. § 549.20, subd. 1. Behavior that shows a willful,

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reckless or malicious intent to disregard the rights of another is sufficient to demonstrate deliberate disregard. *Bougie v. Sibley Manor, Inc.*, 504 N.W.2d 493 (Minn. Ct. App. 1993) (citations omitted).

Factors which bear on the amount of punitive damages to be awarded, and which are therefore relevant evidence to considering whether to grant a party leave to seek punitive damages include "the duration of the misconduct and any concealment of it, the attitude and conduct of the defendant upon discovery of the misconduct," among others. Minn. Stat. §549.20 subd. 3. Additional factors include the need for punishment and deterrence, and the financial state of the defendant. *Hooser v. Anderson*, A15-1738 (Minn. App. Apr 25, 2016) (unpublished opinion) (citing *Jensen v. Walsh*, 623 N.W.2d 247, 251 (Minn. 2001) ("The purposes of punitive damages are to punish the perpetrator, to deter repeat behavior and to deter others from engaging in similar behavior.").

1. Starkebaum's evasiveness towards the obvious meaning and consequences of his statements evinces deliberate disregard.

Starkebaum repeatedly attempted to feign ignorance regarding the implication of his accusations that Matthew Guthmiller is a pedophile, Derek Schmidt is a rapist, and Precision and Arvig knowingly employs such rapists and pedophiles. Starkebaum could not even provide a straight answer the question of whether calling someone a pedophile or a rapist has a negative connotation.[16] His refusal to cede even that calling someone a pedophile would cause them reputational harm evinces an extreme level of defensiveness and evasiveness that compels the conclusion that Starkebaum is conscious of his own guilt, and therefore that his behavior was both willful and malicious.

[16] At his first deposition, Starkebaum refused to agree that calling a person a rapist or a pedophile is a negative term. Starkebaum quibbled over terms, evaded, and was nonresponsive for approximately five pages of deposition transcript. (First Starkebaum Dep. at 49:16-54:5).

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Starkebaum's obvious intent to malign Guthmiller, Precision, and Arvig is inherent in his decision to describe these employees as *being rapists and pedophiles*. To contrast, the Minnesota Court of Appeals declined to find that a district court erred by not permitting punitive damages in *Longbehn v. Schoenrock*, a defamation case where the record demonstrated that the defendant did not intend to malign the plaintiff. 727 N.W.2d 153, 158-159 (Minn. Ct. App. 2007). The defendant used an offensive nickname for the plaintiff that included the word "pedophile," but there was no evidence the defendant meant to assert the plaintiff was a pedophile; the defendant was merely attempting to identify the plaintiff using that nickname for a purpose unrelated to maligning him. *Id.* The converse must also be true—where the defendant does demonstrate an intent to malign the plaintiff by stating they are, in fact, a pedophile, such an act is inherently malicious. Starkebaum cannot claim non-maligning intent here, because he explicitly indicated that Guthmiller sexually abused his child, Schmidt committed rape, and Precision and Arvig knew these facts and chose to employ them anyway. There is no alternative conceivable purpose than to malign these parties, and Starkebaum has demonstrated reckless disregard through accusations that are plainly calculated to malign.

2. Starkebaum's conduct pertaining to his report against Matthew Guthmiller establishes deliberate disregard.

Starkebaum did not only make false statements about Matthew Guthmiller being a pedophile and sexually molesting his child; Starkebaum has attempted to abuse criminal process and persuade a witness to lie in support of his claims in an apparent attempt to settle a vendetta against Guthmiller or potentially even fabricate facts in this case to support his defense. Starkebaum testified that he did not contact the police after he supposedly kicked Guthmiller out of his house for being inappropriate around E.S. in June of 2023. He also testified that he did not contact the police directly after he was allegedly told that Guthmiller molested E.S. Instead,

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Starkebaum waited over a year after the initial allegation, and at least one month after he claims he learned of the molestation of E.S., until after the point at which this suit was filed and Guthmiller filed a harassment restraining order against Starkebaum. Starkebaum could not offer any coherent explanation for why he chose this course of action, or for why he decided to functionally ignore the alleged molestation of his daughter for months—until, of course, after he was sued by Precision and Arvig and Guthmiller sought the restraining order. This inexplicable conduct and his inability to justify it evinces not only that Starkebaum's report was not credible, but that he was consciously attempting to construct post-hoc evidence of his claims and further harass Guthmiller in retaliation for seeking the order. Moreover, Starkebaum's gleeful predilection with how Guthmiller would be negatively affected—and in Mayen's words, "suffer"—rather than exhibit concern for E.S. clearly demonstrates both that his report was bad faith, and that he was aware of the consequences his statements would have on Guthmiller, Precision, and Arvig.

In particular, the apparent negative relationship between Guthmiller and Starkebaum is persuasive evidence of Starkebaum's willfulness in falsely accusing Guthmiller and other employees of Precision and Arvig of being rapists and pedophiles. Ill will between a plaintiff and defendant may constitute evidence of intentional malice. *Diversified Water Diversion, Inc. v. Standard Water Control Systems, Inc.*, No. A07-1828. (Minn. App. Sep 23, 2008) (unpublished opinion). Requesting that a witness make inaccurate representations to law enforcement or to a hearing officer is inherently malicious, especially where the representations involve an attempt to substantiate an accusation of child sexual abuse. Worse still, Starkebaum was reportedly delighted in the suffering it caused Guthmiller. Starkebaum's conduct surrounding his report of Guthmiller, the testimony from Mayen regarding Starkebaum wanting to "destroy" Guthmiller, and Mayen's description of how Starkebaum attempted to convince Mayen to lie on his behalf demonstrates a

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level of bad faith in his statements about Guthmiller than cannot conceivably be called anything less than willful and malicious.

3. Starkebaum's conduct pertaining to Christopher Mayen establishes deliberate disregard.

Starkebaum consistently attempted to use Mayen to avoid responsibility for his own conduct. His attempts to influence Mayen after his realization that he may be in legal trouble represent exactly the kind of concealment of misconduct that warrants punitive damages. Minn. Stat. §549.20 subd. 3. In particular, Starkebaum asked Mayen to take full responsibility from the post, thereby concealing his own role in providing Mayen information and inducing Mayen to make the post. (3/24/2026 C. Mayen Dec at ¶ 3). Starkebaum further attempted to conceal his misconduct when he 1) repeatedly threatened Mayen, including with lying in a child support proceeding, 2) instructed Mayen not to tell others about his agreement to take responsibility for the Facebook post, and 3) instructed Mayen not to settle with Plaintiffs because it might subject him to liability. *Id*. at ¶¶ 6-10

Finally, Starkebaum reproduced his conduct towards Mayen in inducing him to make the November 14 Facebook post by attempting to defame Plaintiffs to a school district and potential client of Plaintiffs *Id*. at ¶ 14. Though Mayen refused in this instance, it demonstrates a pattern of conduct and lack of remorse for which punitive damages is appropriate.[17]

C. The relevant factors weigh in favor of assessing punitive damage against Starkebaum.

Here, both "the duration of the misconduct and any concealment of it, the attitude and conduct of the defendant upon discovery of the misconduct," weigh in favor of permitting punitive damages against Starkebaum. Minn. Stat. §549.20 subd. 3. Starkebaum attempted to manufacture

[17] Starkebaum further attempted to conceal this interaction in redacting responsive and relevant discovery materials. *See* Index No. 180.

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a defense for his case by reporting Matthew Guthmiller to the police. Additionally, he continued his harassment of Guthmiller post agreeing not to disparage Precision or Arvig. He has also asked others to lie on his behalf, threatened Mayen, attempted to persuade Mayen to make additional defamatory remarks, delayed and frustrated discovery, and contradicted himself so frequently that the only rational conclusion is that Starkebaum is being dishonest and attempting to cover up or obscure his defamatory statements against Precision, Arvig, and its employees.

Regarding the factor related to the defendant's economic state, Starkebaum's personal finances remain a mystery. Plaintiffs anticipate that Starkebaum will argue he is indigent and therefore punitive damages are not warranted. However, Starkebaum testified at his deposition that he has been able to pay his mortgage month-over-month without issue. (Second Starkebaum Dep. at 15:23-18:7). Starkebaum apparently has an informal business selling vehicles, occasionally sells guns or other items, and has other irregular employment or assistance from other sources to make ends meet. (Second Starkebaum Dep. at 18:18-21:25). There is no basis to conclude on this factor that an assessment of punitive damages would be unfair against Starkebaum. Indeed, all other factors and the gravity of his conduct weigh in favor of assessing punitive damages against him.

CONCLUSION

A claim for punitive damages seeks to punish a defendant for wrongdoing and deter future conduct. Such a claim is warranted here, as Precision and Arvig have demonstrated that Starkebaum not only defamed them but did so with deliberate disregard for their rights. For the reasons stated herein and in Plaintiffs' moving brief, Plaintiffs respectfully ask for the opportunity to assert a claim for punitive damages against Starkebaum.

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Respectfully submitted,

Dated: August 6, 2026

/s/ Kurt J. Erickson

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded to the party against whom the allegations in this pleading are asserted pursuant to Minn. Stat.§ 549.211.

Date: August 6, 2026

/s/ Kurt J. Erickson
Kurt J. Erickson

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