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By Bernabe Montijo, Deputy Clerk

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SAN DIEGO - HALL OF JUSTICE COURTHOUSE**

11 GRECIA FIGUEROA,
12 Plaintiff(s),

13 v.

14 NATHAN FLETCHER, an individual; SAN
DIEGO METROPOLITAN TRANSIT
15 SYSTEM, a California public agency; and,
DOES 1-20, Inclusive,

16 Defendant(s).
17

CASE NO.: 37-2023-00012828-CU-OE-CTL
[Unlimited Jurisdiction]

*Assigned for all purposes to the Honorable
Matthew C. Braner, Dept. C-60*

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANT NATHAN FLETCHER'S
MOTION TO COMPEL PLAINTIFF'S
RESPONSE TO REQUEST FOR
PRODUCTION OF DOCUMENTS,
SET ONE**

DATE: October 27, 2023
TIME: 9:00 a.m.

Complaint Filed: March 28, 2023
Trial Date: Not Set

1 **I. INTRODUCTION**

2 Plaintiff Grecia Figueroa’s interactions with Mr. Nathan Fletcher were consensual. It is
3 for this very reason that Mr. Fletcher demanded – at his first opportunity – that Plaintiff produce
4 the entirety of their communications together. This request was simple and straightforward, and
5 compliance should have been easy. Indeed, Plaintiff included numerous, out-of-context
6 quotations and screenshots from their conversations throughout her sensationalized Complaint.
7 These messages indisputably remain in her possession. Curiously, however, Plaintiff has refused
8 to produce a *single* text, photo, video, or voice recording in discovery. Even more suspiciously,
9 she also refuses to communicate about the whereabouts of this obviously relevant evidence.
10 This behavior reeks of sanctionable gamesmanship and must not be permitted.

11 As detailed below, Mr. Fletcher knows the truth about his interactions with Plaintiff and
12 is eager to clear his name of legal wrongdoing. On the other hand, Plaintiff appears determined
13 to perpetuate this lawsuit for as long as possible, without producing any actual evidence to
14 support her carefully curated public narrative. Unfortunately for her, this is not a legitimate basis
15 for withholding evidence or evading basic discovery.

16 Mr. Fletcher respectfully requests that this Court order Plaintiff to produce all documents
17 in her possession, custody, and control and that are responsive to his Requests for Production,
18 Set One. Plaintiff was required to turn over these documents *weeks* ago, and yet she continues to
19 obfuscate the process. She has not provided any legitimate objections to Mr. Fletcher’s requests,
20 nor has she ever communicated a reason why the documents are being withheld. Consequently,
21 in addition to an order of compliance, Mr. Fletcher also seeks sanctions in the amount of
22 **\$10,720.00** in order to recover the fees and costs caused by the improper gamesmanship that
23 necessitated this wholly avoidable motion.

24 **II. SUMMARY OF RELEVANT FACTS**

25 Plaintiff filed her Complaint on March 28, 2023. (ROA #1). The Complaint alleged two
26 causes of action against Mr. Fletcher and included 19 direct quotations, as well as 10 screenshots,
27 that referenced specific written communications that spanned over a year. (Complaint ¶¶ 20, 22,
28 25, 27, 28, 29, 30, 32, 36, 44). In addition, Plaintiff alleged that she received “notifications” that

1 Mr. Fletcher viewed content on her Instagram profile (Complaint ¶ 16); voted on her public social
2 media polls (Complaint ¶ 19); reacted to her Instagram pictures and videos using emojis
3 (Complaint ¶ 20); sent her compliments on Instagram using direct messages (Complaint ¶ 23);
4 asked her to visit his hotel (Complaint ¶ 29); regularly encouraged her to meet in-person
5 (Complaint ¶ 33); messaged her while participating in meetings (Complaint ¶ 34, 36, 38); pursued
6 her via private DMs (Complaint ¶ 37, 50); and communicated with her verbally on the phone
7 (Complaint ¶ 42). Plaintiff references the exact date that many of these written communications
8 allegedly occurred (Complaint ¶¶ 16, 17, 19, 22, 23, 25, 27, 29, 32, 33, 36, 38, 42, 44, 48, 51).
9 Given that her causes of action clearly depend on these communications, as well as the greater
10 context in which they originated, they are unquestionably relevant and discoverable.

11 On May 25, 2023, Mr. Fletcher was served with the Complaint. Upon review, it was clear
12 that Plaintiff’s lawsuit was nothing more than an inaccurate and misleading narrative, designed
13 to inflame the public and garner unwarranted sympathy. To this end, even a casual glance at the
14 Complaint’s quotations/screenshots reveals that Plaintiff and Mr. Fletcher were engaged in a
15 larger dialogue, in which Plaintiff was an active participant. As one example among many, the
16 screenshot on page 11 of the Complaint reveals that Plaintiff replied to one of Mr. Fletcher’s
17 previous comments. The quotations in Paragraphs 25, 27, and 28 each contain ellipses, indicating
18 they too were made in a broader discussion. The Complaint also contained various descriptive
19 facts that could have only originated in the course of more prolonged communications. Mr.
20 Fletcher was a party to these conversations and is aware that many other messages were
21 strategically omitted by Plaintiff.

22 Given the Complaint’s numerous misrepresentations, Mr. Fletcher was eager to set the
23 record straight. On June 20, 2023, he propounded an initial, limited set of written requests on
24 Plaintiff that demanded she produce all communications, photos, videos, and voice recordings
25 between herself and Mr. Fletcher. (Declaration of Danielle Moore (“Moore Decl.”), ¶ 2, Ex. A).
26 The entire set of discovery included just four (4) total requests, and responses were due on July
27 24, 2023. (Id.) Additionally, anticipating that Plaintiff would attempt to evade these plainly
28 appropriate inquires, Mr. Fletcher also issued a records subpoena to Meta Platforms, Inc. on July

1 7, 2023. (Moore Decl. ¶3, Ex. B). The subpoena similarly sought production directly from Meta
2 of all his interactions with Plaintiff. (Id.) Meta’s document production was due August 7, 2023.
3 (Id.)

4 On July 14, 2023, Plaintiff filed a First Amended Complaint that alleged, among other
5 things and without factual support, that Mr. Fletcher’s conduct was “extreme and outrageous.”
6 (FAC ¶127).¹ Shortly thereafter, on July 24, 2023, Plaintiff served (what she purported to be)
7 verified written responses to Mr. Fletcher’s Requests for Production, Set One. (Moore Decl. ¶ 6,
8 Ex. C). However, Plaintiff failed to produce any documents, despite each of her responses
9 indicating that she would produce “responsive, non-privileged documents/things presently in its
10 possession, custody, or control...” (*sic*, Moore Decl. ¶ 7). To make matters worse, Plaintiff’s
11 written responses were not compliant with the California Code of Civil Procedure. For example,
12 she bizarrely asserted objections that were only applicable to *interrogatories*, while also claiming
13 that Mr. Fletcher’s discovery was “premature”. (Moore Decl. ¶ 6, Ex. C). Additionally, her
14 responses also indicated that she would only produce those documents which she deemed to be
15 “relevant to this action.” (Id.) Lastly, Plaintiff’s response to Request for Production No. 3 was
16 especially defective, given that her response seemingly agreed to produce only those documents
17 responsive to *her own discovery requests*. (Moore Decl. ¶8, Ex. D; Compare: *Plaintiff’s* RFP #3
18 verse *Fletcher’s* RFP #3). In short, Plaintiff did not produce any documents or assert any
19 legitimate objections, and instead simply copy and pasted responses that seemingly related to
20 non-existent interrogatories.

21 Given the glaring defects in Plaintiff’s responses, defense counsel emailed Plaintiff’s
22 counsel and asked that the missing document production be provided by the end of the week.
23 (Moore Decl. ¶ 9, Ex. E). Plaintiff’s counsel refused to respond. (Moore Decl. ¶10). In light of
24 this refusal to communicate, defense counsel sent a formal meet and confer letter the following
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26 ¹ To date, Mr. Fletcher has never been personally served with the First Amended Complaint and
27 Defense counsel has never executed a Notice and Acknowledge agreeing to accept service on his
28 behalf. (Moore Decl. ¶4). Plaintiff’s counsel refused to respond or coordinate service with
Mr. Fletcher, despite repeated attempts by Defense counsel on July 18 and 28, 2023. (Moore
Decl. ¶ 5). As a result, the date of service (if any) remains unclear.

1 morning. (Moore Decl. ¶11, Ex. F). The letter detailed the specific defects in Plaintiff’s discovery
2 responses and emphasized that all responsive documents are indisputably in Plaintiff (or her
3 attorney’s) current possession. (Id.) Moreover, due to the nature of Plaintiff’s allegations, as well
4 as her specific references to written communications in her Complaint, the letter highlighted that
5 there was simply no reasonable explanation for her delayed production, other than inappropriate
6 gamesmanship. (Id.) As a result, defense counsel indicated that Mr. Fletcher would promptly file
7 a Motion to Compel and seek sanctions if Plaintiff did not produce all responsive material by the
8 close of business on July 28, 2023. (Id.) *Again*, Plaintiff’s counsel refused to respond to defense
9 counsel’s letter and has still not produced a single responsive document. (Moore Decl. ¶ 12).

10 Plaintiff’s refusal to produce her communications is not surprising given that her written
11 communications will reveal the consensual nature of her interactions with Mr. Fletcher. To this
12 end and as discussed above, Mr. Fletcher also issued a subpoena to Meta Platforms, Inc. in which
13 he requested the production of all his interactions with Plaintiff on Meta’s social media platforms.
14 (Moore Decl. ¶ 3, Ex. B). Production of these documents was due on August 7, 2023 and Meta
15 Platforms itself never objected to the subpoena or its document requests. Nevertheless, Plaintiff
16 remained desperate to prevent the production of this obviously relevant information and served
17 several outlandish objections to the narrowly tailored inquires. Indeed, despite specifically
18 alleging in Paragraph 16 of her own First Amended Complaint that Mr. Fletcher viewed “content
19 on her [Instagram] profile”, Plaintiff’s counsel objected to the Meta subpoena on the grounds
20 that the word “content” was “vague, ambiguous, unintelligible, and/or overly broad.” (Moore
21 Decl. ¶13, Ex. G). While Meta’s compliance with the subpoena is an issue for another day,
22 Plaintiff’s extreme reluctance to produce relevant documents is telling. Plaintiff appears to be
23 more focused on litigating this case in the court of public opinion, rather than the court of law.
24 Her evasiveness to basic discovery clearly demonstrates the necessity of the present motion.

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1 **III. DEFENDANT IS ENTITLED TO IMMEDIATE PRODUCTION OF ALL**
2 **RESPONSIVE DOCUMENT**

3 If a party filing a response to a demand for inspection, copying, testing, or sampling under
4 Sections 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280 fails to permit the inspection,
5 copying, testing, or sampling in accordance with that party's statement of compliance, the
6 demanding party may move for an order compelling compliance. (Cal. Civ. Proc. Code §
7 2031.320(a)). Moreover, the court shall impose a monetary sanction against any party, person,
8 or attorney who unsuccessfully opposes a motion to compel compliance with a demand, unless
9 it finds that the one subject to the sanction acted with substantial justification or that other
10 circumstances make the imposition of the sanction unjust. (Cal. Civ. Proc. Code § 2031.320 (b)).

11 The facts giving rise to the instant motion are straightforward. Plaintiff's First Amended
12 Complaint contains 19 direct quotations, as well as 10 screenshots, that reference specific written
13 communications between herself and Mr. Fletcher. The FAC also makes numerous other
14 suggestions that these communications occurred in the course of broader conversations. Mr.
15 Fletcher has firsthand knowledge of these conversations, as well as many written messages that
16 were strategically omitted by Plaintiff. The disclosure of these documents is essential to
17 demonstrate the consensual nature of the interactions between the parties, as well as to refute that
18 there was anything "extreme or outrageous" about their dialogue.

19 For these reasons, Mr. Fletcher propounded a set of written discovery on Plaintiff –
20 representing just four total requests – in which he demanded she produce all communications,
21 photos, videos, and voice recordings in her possession, custody, and control. (Moore Decl. ¶ 2,
22 Ex. A). Plaintiff did not assert any legitimate objections to these requests and instead indicated
23 that she "will produce responsive, non-privileged documents/things presently in [her] possession,
24 custody, or control to the extent such documents/things are relevant to this action." Despite this
25 sworn affirmation, she continues to refuse to produce even a single document. She also refuses
26 to communicate as to when production can be expected. Given that numerous responsive
27 documents are incorporated into her First Amended Complaint, there is simply no reasonable

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1 justification for her delay. Documents are indisputably in her possession and Plaintiff must be
2 required to immediately produce them.

3 **IV. PLAINTIFF’S FAILURE TO PRODUCE DOCUMENTS WAS UNJUSTIFIED,**
4 **AND THUS SANCTIONS ARE WARRANTED**

5 As discussed at length above, Plaintiff and her counsel are refusing to litigate this case in
6 good faith. Mr. Fletcher’s initial discovery requests could not be more direct and straightforward,
7 and yet Plaintiff has refused to comply or communicate. To state the obvious, this is beyond
8 unprofessional and is sanctionable. For example, the present motion was avoidable if Plaintiff’s
9 counsel simply communicated as to when document production could be expected. Instead, they
10 outright refused to address the issue at all with counsel, despite repeated follow-ups. Mr. Fletcher
11 was left with no choice but to bring this motion in order to obtain the exonerating evidence that
12 everyone knows is in Plaintiff’s possession. Given that Plaintiff cannot demonstrate *any*
13 justification, much less *substantial* justification, in defense of her withholding these responsive
14 documents, sanctions are required pursuant to Cal. Civ. Proc. Code § 2031.320 (b).

15 As a result of Plaintiff and her counsel’s inappropriate conduct in deliberately
16 withholding and refusing to produce critical evidence to Mr. Fletcher, he requests an award in
17 the amount of **\$10,720.00**, representing the legal fees and costs he incurred in preparing and filing
18 this motion. (Moore Decl. ¶14-15).

19 **V. CONCLUSION**

20 It is regrettable (though not surprising) that Plaintiff and her counsel have engaged in
21 conduct that has obstructed Mr. Fletcher’s right to clear his name of legal wrongdoing. Mr.
22 Fletcher is entitled to obtain all relevant information to defend himself against Plaintiff’s baseless
23 claims. Plaintiff must not be permitted to disregard this fundamental entitlement, particularly
24 when her claims so clearly misrepresent the reality of the key events. An order compelling

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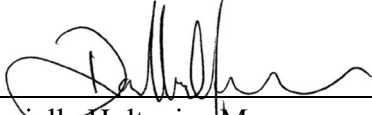
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1 Plaintiff to produce all response documents is necessary and sanctions in the amount of
2 **\$10,720.00** are warranted.

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DATE: August 10, 2023

FISHER & PHILLIPS LLP

By: 

Danielle Hultenius Moore
Stephanie Reynolds
Sean L. McKaveney
Attorneys for Defendant,
Nathan Fletcher

**PROOF OF SERVICE
(CCP §§1013(a) and 2015.5)**

I, the undersigned, am at least 18 years old and not a party to this action. I am employed in the County of San Diego with the law offices of Fisher & Phillips LLP and its business address is 4747 Executive Drive, Suite 1000, San Diego, California, 92121.

On August 10, 2023, I served the following document(s) **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT NATHAN FLETCHER'S MOTION TO COMPEL PLAINTIFF'S RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE** on the person(s) listed below by placing the original a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Zachary S. Schumacher (SBN 286898) SCHUMACHER PC 1901 1st Avenue, First Floor San Diego, California 92101	E: zach@schumacher-law.com T: 619-344-0800 <i>Co-Counsel for Plaintiff, Grecia Figueroa</i>
Jessica K. Pride (SBN 249212) Dante T. Pride (SBN 262362) Zachary Freire-Aviña (SBN 325460) THE PRIDE LAW FIRM 2831 Camino del Rio South, Suite 104 San Diego, California 92108	E: jpride@pridelawfirm.com E: dpride@pridelawfirm.com E: zfa@pridelawfirm.com CC: swhite@pridelawfirm.com aclark@pridelawfirm.com ; borozco@pridelawfirm.com T: 619-516-8166 F: 619-785-3414 <i>Co-Counsel for Plaintiff, Grecia Figueroa</i>
Janice P. Brown (SBN 114433) Corrin M. Phillip (SBN 310353) Kelsie E. Russell (SBN 346629) MEYERS NAVE RIBACK SILVER & WILSON 600 B Street, Suite 1650 San Diego, California 92101	E: jbrown@meyersnave.com E: cphillip@meyersnave.com E: krussell@meyersnave.com CC: ewilliams@meyersnave.com T: 619-330-1700 F: 619-330-1701 <i>Counsel for Defendant, San Diego Metropolitan Transit System</i>

[by ELECTRONIC SERVICE] - Pursuant to Code of Civil Procedure section 1010.6 (effective January 1, 2023), I electronically served the document(s) to the person(s) at the electronic service address(es) listed above.

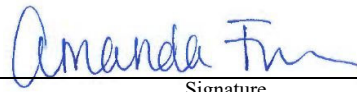
I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed August 10, 2023, at San Diego, California.

Amanda Funkhouser

Print Name

By:



Signature