

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

220 Park Avenue

P.O. Box 991

Florham Park, New Jersey 07932

(973) 539-1000

Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">DEFENDANT SWEET GRASS FARM, LLC’S RENEWED MOTION TO COMPEL JONATHAN KANAREK TO RESPOND TO SUBPOENA DUCES TECUM AND/OR FIND HIM IN CONTEMPT OF COURT</p>
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TO: Jonathan Kanarek
4 Wilshire Drive
Livingston, New Jersey 07039

PLEASE TAKE NOTICE that, on February 3, 2023, at 9:00 a.m., or as soon thereafter as counsel may be heard, Schenck, Price, Smith & King LLP, attorneys for Defendant, Sweet Grass Farm LLC (“Defendant”), shall move before the Superior Court of New Jersey, Law Division, at the Morris County Courthouse, Morristown, New Jersey, for an Order seeking to Compel Jonathan Kanarek to Respond to Defendant’s Subpoena *Duces Tecum* dated November 18, 2022 and/or Find Him in Contempt of Court.

PLEASE TAKE FURTHER NOTICE that Defendant shall rely on the accompanying Certification of Counsel, with exhibits.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 1:6-2, the undersigned requests oral argument if timely opposition is filed. A proposed form of order is annexed hereto.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm, LLC

By: /s/ Mark K. Silver
Mark K. Silver, Esq.

Dated: January 18, 2023

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

220 Park Avenue

P.O. Box 991

Florham Park, New Jersey 07932

(973) 539-1000

Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">ORDER</p>
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THIS MATTER having been opened to the Court by Schenck, Price, Smith & King LLP, attorneys for Defendant Sweet Grass Farm, LLC (“SGF”), for an Order finding Jonathan Kanarek in contempt of Court and to Compel Response to the November 18, 2022 Subpoena *Duces Tecum*, by way of a Notice of Motion duly filed and served upon all counsel, and the Court having considered the papers submitted herein, and for good cause having been shown;

IT IS ON this ____ day of _____, 2023:

ORDERED that Jonathan Kanarek is hereby declared in contempt of Court; and it is further

ORDERED that Jonathan Kanarek shall furnish full and complete responses and the documents requested in Defendant SGF’s November 18, 2022 amended subpoena *duces tecum* within seven (7) days of this Order; and it is further

ORDERED that should Jonathan Kanarek fail to provide the requested response and documents within seven (7) days, SGF is authorized to file a motion with this Court seeking the issuance of a bench warrant; and it is further

ORDERED that a copy of this Order shall be served on all counsel within seven (7) days of the date of this Order.

Hon.

Opposed
 Unopposed

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

220 Park Avenue

P.O. Box 991

Florham Park, New Jersey 07932

(973) 539-1000

Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">CERTIFICATION OF MARK K. SILVER, ESQ. IN SUPPORT OF DEFENDANT SWEET GRASS FARM, LLC’S RENEWED MOTION TO COMPEL JONATHAN KANAREK TO RESPOND TO SUBPOENA DUCES TECUM AND/OR FIND HIM IN CONTEMPT OF COURT</p>
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I, MARK K. SILVER, ESQ., of full age, do certify as follows:

1. I am an attorney-at-law of the State of New Jersey and a Partner with the law firm of Schenck, Price, Smith & King LLP, attorneys for Defendant Sweet Grass Farm, LLC (“SGF”). I am the attorney responsible for handling this matter. As such, I have personal knowledge of the facts set forth herein.

2. I make this Certification in support of SGF’s Renewed Motion to Compel Jonathan Kanarek to Respond to SGF’s Subpoena *Duces Tecum* and/or Find Him in Contempt of Court.

3. On July 26, 2022, SGF issued its first subpoena *duces tecum* to Jonathan Kanarek requesting written communications related to the incident that occurred on August 7, 2019. (A

true and accurate copy of the July 26, 2022 Subpoena *Duces Tecum* is annexed hereto as “Exhibit A”).

4. Jonathan Kanarek was personally served with SGF’s subpoena *duces tecum* on July 27, 2022 at 11:15 A.M. **(A true and accurate copy of the Affidavit of Service annexed hereto as “Exhibit B”).**

5. Jonathan Kanarek’s response to SGF’s subpoena was due on August 16, 2022. **(See “Exhibit A”).**

6. Mr. Kanarek failed to respond to the subpoena or contact this office.

7. On August 24, 2022, SGF filed a motion seeking Jonathan Kanarek to respond and/or be held in contempt for failing to respond to SGF’s July 26, 2022. **(A true and accurate copy of SGF’s August 24, 2022 Motion is annexed hereto as “Exhibit C”).**

8. Mr. Kanarek failed to file an opposition to the motion or contact this office after receiving the motion papers via personal service.

9. Plaintiff filed an untimely cross-motion to quash the subpoena.

10. On November 4, 2022, the Court held oral arguments on the motion and cross-motion.

11. Mr. Kanarek failed to appear before the Court.

12. Nonetheless, in a November 14, 2022 Order and Opinion, Judge Sceusi quashed the July 26, 2022 Subpoena as drafted, but gave SGF permission to re-serve an Amended Subpoena. **(A true and accurate copy of Judge Sceusi’s November 14, 2022 Order and Opinion is annexed hereto as “Exhibit D”).**

13. Per the Court’s November 14, 2022 Order, Mr. Kanarek was to respond to the Amended Subpoena within 10 (ten) days. **(See “Exhibit D”).**

14. SGF issued an Amended Subpoena to Jonathan Kanarek on November 18, 2022. **(A true and accurate copy of SGF’s November 18, 2022 Amended Subpoena is annexed hereto as “Exhibit E”).**

15. Mr. Kanarek was personally served with the Amended Subpoena on November 28, 2022. **(A true and accurate copy of the Affidavit of Service is annexed hereto as “Exhibit F”).**

16. To date, Jonathan Kanarek has not responded to the subpoena. He has not contacted this office in response to this subpoena nor has anyone claiming to represent Jonathan Kanarek.

17. Plaintiff did not file any objection to the Amended Subpoena.

18. The information sought via subpoena is information known to have been in Mr. Kanarek’s possession. It is information that has not been produced by any other party or source to this litigation.

19. On August 31, 2020, Plaintiff posted to that forum that she had “videos” of event relevant to this action. **(A true and accurate copy of her posting is attached here as “Exhibit G”).**

20. On September 1, 2020, Plaintiff made a second statement confirming the existence of videos related to the events at issue. **(See Exhibit “G”).**

21. To date, despite being asked for in discovery, Plaintiff has failed to produce any such videos.

22. Similarly, the Morris County Prosecutor’s Office’s file failed to contain any such videos.

23. Upon information and belief, videos relevant to this litigation are or were in the possession of Jonathan Kanarek.

24. Specifically, audio recordings produced by the Morris County Prosecutor's Office establish that during an August 6, 2019 telephone call between Robert Goodwin and Jonathan Kanarek, Goodwin advised Kanarek that he just emailed him some "videos". Goodwin goes on to reference some specific time codes. **(A true and accurate of Recording "R-00007-1908070037" is in the possession of the undersigned attorney and is ready to be played for the Court should the Court desire to hear it.)**

25. Plaintiff references the existence of these videos as of August 2020. (*See* **"Exhibit G"**).

26. Jonathan Kanarek is now in violation of R. 1:9-5 and the Court's Order.

27. As a result, SGF makes the instant application.

I hereby certify, pursuant to Rule 1:4-4(b), that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm, LLC

Dated: January 18, 2023

By: /s/ Mark K. Silver
Mark K. Silver

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

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P.O. Box 991

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(973) 539-1000

Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p>
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**DEFENDANT SWEET GRASS FARM, LLC'S BRIEF IN SUPPORT OF ITS RENEWED
MOTION TO FIND JONATHAN KANAREK IN CONTEMPT OF COURT AND
COMPEL RESPONSE TO SUBPOENA *DUCES TECUM***

OF COUNSEL AND ON THE BRIEF:

Mark K. Silver, Esq. (019752000)

220 Park Avenue

P.O. Box 991

Florham Park, New Jersey 07932

(973) 539-1000

PRELIMINARY STATEMENT

In what should be a shock to – NO ONE – non-party Jonathan Kanarek continues to thumb his nose at the New Jersey legal system and ignore validly issued subpoenas and Court Orders. He has failed to comply, or even acknowledge the existence of the November 18, 2022 subpoena served upon him and/or the Court’s Order authorizing the subpoena. (*See* Certification of Mark K. Silver, Esq. (“Silver Cert.”) at “**Exhibits D and E**”). Defendant Sweet Grass Farm (“SGF”) hereby moves before this Court for an Order holding Jonathan Kanarek in contempt and to compel a response.

FACTUAL BACKGROUND

For the benefit of Your Honor, who is new to this case, Defendant Sweet Grass Farm (“SGF”) provides the following background.

A. RELATIONSHIP OF THE PARTIES AND CLAIMS

What started as a simple landlord/tenant dispute ultimately escalated into violence.

SGF’s majority owners are Bonnie and John Lundberg. The Lundbergs are an elderly couple in their 80s who had a love of horses. Many years ago, the Lundbergs met and became friendly with Michael Barisone (“Barisone”), a former Olympian and world class trainer of horses in the sport of “dressage”. Barisone was looking to open a training facility in New Jersey and John Lundberg was looking for someone to train him in dressage. The Lundbergs, through their corporation, SGF, purchased farmland located at 411 W. Mill Road, Long Valley, New Jersey (“the Property”). SGF entered into a very crude lease agreement with Barisone that permitted him to build a world class equestrian facility on the Property as well as buy equity into SGF.

Lauren Kanarek was a student/client of Barisone. Although not allowed pursuant to the terms of Barisone's lease with SGF, Barisone entered into an "oral barter arrangement" with Kanarek and her boyfriend, Robert Goodwin ("Goodwin"), wherein they would be allowed to: 1) live on the New Jersey Property; 2) board their five (5) horses; and 3) receive training from Michael Barisone for \$5,000 and the services of Robert Goodwin in renovating the Property. Given the fact that Kanarek did not have a lease with SGF, it is SGF's position that her legal status for all times relevant hereto, amount to nothing more than a trespasser.

It is not clear exactly what started the problems between Kanarek/Goodwin and Barisone, but problems escalated quickly. Kanarek and Goodwin became the proverbial "tenants from hell". Over the course of July and August of 2019, the police were called to the Property at least six (6) times. (Recordings of several of the 9-1-1 calls can be found here: https://www.youtube.com/watch?v=45R_MJsk5pU&t=92s). Kanarek engaged in the systematic and premediated acts of cyber-bullying and making terroristic threats against Barisone.

Plaintiff's Complaint alleges that on August 8, 2019, Kanarek and Goodwin were shot by Michael Barisone on the Property owned by SGF. Earlier this year, in the attendant criminal case, Barisone was tried on two counts of attempted murder. The jury unanimously found Barisone not guilty with respect to Goodwin, and not guilty by reason of insanity with respect to Kanarek.¹

Although Plaintiff has cast herself in the role of victim, one of Barisone's primary arguments at the criminal trial was that whatever happened on August 7, 2019, occurred because

¹ Your Honor may be aware of this case due to the local/national news coverage and the fact that the criminal trial was televised on the "Law and Crime" network. The entire criminal trial can be found on YouTube.

Kanarek and Goodwin engaged in a series of actions that literally drove Barisone insane.² As elicited at the criminal trial and through discovery to date, Kanarek/Goodwin's actions include:

- Kanarek/Goodwin placed illegal listening devices around the Property for the express purpose of recording Barisone and others. They would then engage in conversations with Barisone repeating information that they learned via those recordings. This created paranoia in Barisone to the point where he hired a vendor to sweep the Property for listening devices.
- Similarly, Goodwin was an unlicensed electrician performing electrical work on the Property. Angry with Barisone, Goodwin reported his own unlicensed electrical work to the township and the fire department. As a result, Barisone was temporarily evicted from his own living quarters while Kanarek and Goodwin remained in the guest house.
- Kanarek launched a social media campaign against Barisone. In connection with the criminal case, the Morris County Prosecutor's Office collected over 14,000+ pages of postings on Facebook by Kanarek related to Barisone. These posts contained numerous veiled and not so veiled threats of physical violence against Barisone.
- Kanarek filed a false claim against Barisone with *SafeSport* regarding the safety of children. *SafeSport* is the governing body for equestrian Olympian activities. In the world of equestrian sports, there can be nothing more damaging to a trainer's reputation than a *SafeSport* investigation.

B. JONATHAN KANAREK'S RELATIONSHIP TO THE CASE.

Jonathan Kanarek is the father of the Plaintiff. It is undeniable that he has (or at least at one time had) documents and/or materials relevant to this action. On July 26, 2022, SGF issued its first subpoena *duces tecum* to Jonathan Kanarek requesting written communications related to the incident that occurred on August 7, 2019, which forms the basis of Plaintiff's Complaint. (See Silver Cert. at "**Exhibit A**"). Jonathan Kanarek was personally served with SGF's subpoena *duces tecum* on July 27, 2022 at 11:15 A.M. (See Silver Cert. at "**Exhibit B**"). Jonathan Kanarek's response to SGF's subpoena was due on August 16, 2022. (See "**Exhibit A**"). He

² The jury's verdict indicates they found Barisone's arguments compelling.

never responded. Jonathan Kanarek never contacted this office in response to this subpoena nor did anyone claiming to represent Jonathan Kanarek.

On August 24, 2022, SGF filed a motion seeking Jonathan Kanarek to respond and/or be held in contempt for failing to respond to SGF's Subpoena dated July 26, 2022. (*See Silver Cert. at "Exhibit C"*). Jonathan Kanarek did not file an opposition to the motion or contact this office after receiving the motion papers via personal service. Plaintiff filed an untimely cross-motion to quash the subpoena.

On November 4, 2022, the Court held oral arguments on the motion and cross-motion. Mr. Kanarek failed to appear before the Court. Nonetheless, in a November 14, 2022 Order and Opinion, Judge Sceusi quashed the July 26, 2022 subpoena, but gave SGF permission to re-serve an Amended Subpoena. (*See Silver Cert. at "Exhibit D"*). Per the Court's November 14, 2022 Order, Mr. Kanarek was to respond to the Amended Subpoena within 10 (ten) days. *Id.* SGF issued an Amended Subpoena to Jonathan Kanarek on November 18, 2022. Mr. Kanarek was personally served with the Amended Subpoena on November 28, 2022. (*See Silver Cert. at "Exhibits E and F,"* respectively). To date, Jonathan Kanarek has not responded to the subpoena. He has not contacted this office in response to this subpoena nor has anyone claiming to represent Jonathan Kanarek. Plaintiff did not file any objection to the Amended Subpoena.

Upon information and belief, Jonathan Kanarek has (or at one time had) materials that are discoverable in this matter. SGF is currently investigating what evidence has been withheld and/or has otherwise been destroyed. For example, Plaintiff used to be a frequent poster on a public forum located at "Chronoofhorse.com." Plaintiff has specifically stated in numerous forum postings that she is in possession of "videos" of relevant events leading up to the days

before the alleged incident.³ (*See* Silver Cert. at “**Exhibit G**”). Despite numerous requests from SGF for the production of any videos relevant to this matter, Plaintiff has failed to produce *any* videos in this matter. Similarly, the Morris County Prosecutor Office’s file did not contain any videos and the Prosecutor’s Office has advised it never obtained any videos from Kanarek or Robert Goodwin. SGF has reason to believe the videos are, or at one time were, in the possession of Jonathan Kanarek.

In an August 6, 2019, voice recording produced by the Morris County Prosecutor’s Office, Robert Goodwin, in a telephone conversation with Jonathan Kanarek, explicitly states he had just emailed “videos” to Jonathan Kanarek. (*See* Silver Cert. at ¶ 24). In the recording, Goodwin references specific time codes in the “videos” to Jonathan Kanarek. *Id.* In other words, as of August 6, 2019, videos relevant to this litigation existed and were transmitted to Jonathan Kanarek.⁴ Plaintiff references the existence of these videos as of August 2020. (*See* Silver Cert. at “**Exhibit G**”). Either these videos exist and SGF is entitled to discover them OR they have been destroyed after the initiation of the lawsuit and SGF is entitled to explore issues related to the spoliation of evidence. Any claim that the materials sought are not relevant to this litigation is pure sophistry and fail to pass any legal test this Court wishes to apply.

Moreover, separate and apart from the above, Jonathan Kanarek is an unequivocal fact witness in this case. Jonathan Kanarek allegedly “negotiated” on Plaintiff’s behalf with Mr. Barisone and with his attorney, Steven Tarshis, regarding her alleged tenancy on the property. SGF wants documents first, and then intends to depose Mr. Kanarek about them.

Jonathan Kanarek is in violation of the Court’s November 14, 2022 Order. Even if the Order never existed, he has failed to respond to a subpoena pursuant to R. 1:9-5.

³Plaintiff has admitted in responses to interrogatories that the account utilizing the username “La-La Pop Rider” is registered to the Plaintiff. SGF has confirmed same via subpoena to the forum operator.

⁴ SGF is fully prepared to play the relevant excerpts of the recording should the Court wish to hear them.

CONCLUSION

For all of the foregoing reasons, SGF requests that the Court issue an Order finding Jonathan Kanarek in contempt of Court and/or an Order compelling Jonathan Kanarek to fully and completely comply with production of materials sought by SGF's subpoena.

Respectfully submitted,

SCHENCK PRICE SMITH & KING LLP

/s/ Mark K. Silver

Mark K. Silver, Esq.

Dated: January 18, 2023

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

220 Park Avenue

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Florham Park, New Jersey 07932

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Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">CERTIFICATION OF SERVICE</p>
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I, MARK K. SILVER, of full age, hereby certifies as follows:

1. I am an attorney-at-law in the State of New Jersey and Partner with the law firm of Schenck, Price, Smith & King LLP, attorneys for Defendant Sweet Grass Farm, LLC (“Defendant”) in the above-captioned matter.

2. I submit this Certification in support of Defendant’s Renewed Motion to find Jonathan Kanarek in contempt of Court and Compel Response to Defendant’s November 18, 2022 Subpoena *Duces Tecum*.

3. I hereby certify that a true and accurate copy of Defendant’s Notice of Motion, Certification of Mark K. Silver, Esq., with exhibits, Proposed Form of Order, and this Certification of Service were electronically filed with the Morris County Superior Court on January 18, 2023.

4. I further certify that a true and accurate copy of the aforementioned documents was served on all parties of record via electronic filing on January 18, 2023.

5. I further certify that a true and accurate copy of the aforementioned documents was sent for personal service on Jonathan Kanarek on January 18, 2023.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm, LLC

/s/ Mark K. Silver

Mark K. Silver

Dated: January 18, 2023

EXHIBIT A

Schenck Price

— SCHENCK PRICE SMITH & KING, LLP —

*Serving Our Clients and Community
For Over 100 Years*

Mark K. Silver

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July 26, 2022

VIA PERSONAL SERVICE

Jonathan S. Kanarek
4 Wilshire Drive
Livingston, New Jersey 07039

RE: Lauren Kanarek v. Sweet Grass Farm, LLC, et al.
Docket No.: MRS-L-2250-19

Dear Mr. Kanarek:

This firm represents defendant, Sweet Grass Farm LLC (“Sweet Grass”), in the above-referenced matter. In that regard, enclosed please find a Subpoena Duces Tecum which schedules a deposition and requests production of documents you may have in your possession. The purpose of the subpoena, however, is merely to secure copies of the requested documents.

In lieu of appearing personally for deposition, we will accept copies of the requested materials which are set forth in the attached subpoena. Accordingly, we will reimburse you for reasonable copying costs. Notwithstanding the above, do not produce the documents prior to the date set forth in the attached subpoena.

Thank you for your anticipated cooperation. Should you have any questions, please feel free to contact me.

Very truly yours,

SCHENCK, PRICE, SMITH & KING, LLP

/s/ Mark K. Silver

Mark K. Silver

MKS/me

Enc.

cc: Andrew L. O’Connor, Esq. (via -email)
John P. Graves, Esq. (via e-mail)
Christopher L. Deininger, Esq. (via e-mail)
Lane M. Ferdinand, Esq. (via e-mail)

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SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)
220 Park Avenue, P.O. Box 991
Florham Park, New Jersey 07932
(973) 539-1000
Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p>
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SUBPOENA DUCES TECUM

STATE OF NEW JERSEY TO: **Jonathan S. Kanarek**
4 Wilshire Drive
Livingston, New Jersey 07039

SIR:

YOU ARE HEREBY COMMANDED to attend and give testimony on **August 16, 2022**, at 10:00 a.m., at Schenck Price Smith & King LLP, 220 Park Avenue, P.O. Box 991, Florham Park, New Jersey 07932, attorneys for defendant, Sweet Grass Farm LLC (“Sweet Grass”), in the above-entitled action, and produce at the same time and place, the following:

- 1. Any and all written communications (including emails and/or texts) between you and Robert Goodwin regarding Michael Barisone and/or the Property located at 411 W. Mill Road, Long Valley, New Jersey during the time frame of January 1, 2019 to present. This request shall be interpreted to include, but not limited, to any written communications containing audio and/or video recordings sent to you by Mr. Goodwin between August 1, 2019 and December 31, 2019.**

- 2. Any and all written communications (including emails and/or texts) between you and Lauren Kanarek regarding Michael Barisone and/or the Property located at 411 W. Mill Road, Long Valley, New Jersey during the time frame of January 1, 2019 to present. This request shall be**

interpreted to include, but not limited, to any written communications containing audio and/or video recordings sent to you by Lauren Kanarek between August 1, 2019 and December 31, 2019.

- 3. Any and all written communications (including emails and/or texts) between you and Michael Barisone during the time frame between January 1, 2019 to December 31, 2019.**
- 4. Any and all written communications (including emails and/or texts) between you and Steve Tarshis during the time frame between January 1, 2019 to December 31, 2019.**
- 5. Any and all written communications (including emails and/or texts) between you and John Lundberg and/or Bonnie Lundberg during the time frame between January 1, 2019 to December 31, 2019.**

***CERTIFIED RECORDS WILL BE ACCEPTED IN LIEU OF APPEARANCE ***

Please be advised that you may not produce or release any of the documents requested by this Subpoena before **August 16, 2022**. Furthermore, if you are notified that a motion to quash the Subpoena has been filed, you may not produce or release the documents required until either ordered by the Court, or all parties consent thereto.

Failure to appear according to the command of this Subpoena will subject you to a penalty, damages in a civil suit and punishment for contempt of Court.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm LLC

By: /s/ Mark K. Silver
Mark K. Silver, Esq.

Michelle M. Smith
Michelle M. Smith
Clerk of the Superior Court

Dated: July 26, 2022

cc: Andrew L. O'Connor, Esq.
Nagel Rice, LLP
103 Eisenhower Parkway, Suite 103
Roseland, New Jersey 07068
Attorneys for Plaintiff

EXHIBIT B



Plaintiff
LAUREN KANAREK

Defendant
MICHAEL BARISONE, ET AL

Person to be served: JONATHAN S. KANAREK

Address:
4 WILSHIRE DRIVE
LIVINGSTON NJ 07039

Attorney:
SCHENCK PRICE SMITH & KING LLP
220 PARK AVENUE PO BOX 991
FLORHAM PARK NJ 07932

Papers Served:
COVER LETTER SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW
JERSEY
LAW DIVISION:
MORRIS COUNTY

DOCKET NO. MRS-L-002250-19

AFFIDAVIT OF SERVICE
(for use by Private Service)

Cost of Service pursuant to R4:4-30
\$ _____

Service Data:

Served Successfully Not Served _____ Date: 7-27-22 Time: 11:15 a.m. Attempts: _____

- Delivered a copy to him/her personally
- _____ Left a copy with a competent household member over 14 years of age residing therein at place of abode.
- _____ Left a copy with a person authorized to accept service, e.g. managing agent, registered agent, etc.

Name of Person Served and relationship/title
Jonathan S. Kanarek
personally

Description of Person Accepting Service:

Age: 70 Height: 6'0 Weight: 260 Hair: Gray Sex: male Race: white

Non-Served:

- () Defendant is unknown at the address furnished by the attorney
- () All reasonable inquiries suggest defendant moved to an undetermined address
- () No such street in municipality
- () No response on: _____ Date _____ Time _____
_____ Date _____ Time _____
_____ Date _____ Time _____

() Other: _____ Comments or Remarks _____

Subscribed and Sworn to me this
27th day of July 2022

Patricia Knapp
Notary Signature

I, JOHN KRATZ, was at
time of service a competent adult not having a direct
interest in the litigation. I declare under penalty
of perjury that the foregoing is true and correct.

John Kratz 7-27-22
Signature of Process Server Date

PATRICIA KNAPP
Notary Public, State of New Jersey
Commission # 2447530
My Commission Expires 06/25/2024

DGR LEGAL, INC.
1359 Littleton Road, Morris Plains, NJ 07950-3000
(973) 403-1700 Fax (973) 403-9222

Work Order No. 587879
File No. MRS-L-002250-19

EXHIBIT C

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

220 Park Avenue

P.O. Box 991

Florham Park, New Jersey 07932

(973) 539-1000

Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">DEFENDANT SWEET GRASS FARM, LLC'S MOTION TO FIND JONATHAN KANAREK IN CONTEMPT OF COURT AND COMPEL RESPONSE TO SUBPOENA DUCES TECUM</p>
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TO: Jonathan Kanarek
4 Wilshire Drive
Livingston, New Jersey 07039

PLEASE TAKE NOTICE that, on September 9, 2022, at 9:00 a.m., or as soon thereafter as counsel may be heard, Schenck, Price, Smith & King LLP, attorneys for Defendant, Sweet Grass Farm LLC (“Defendant”), shall move before the Superior Court of New Jersey, Law Division, at the Morris County Courthouse, Morristown, New Jersey, for an Order seeking to find Jonathan Kanarek in contempt of Court and to Compel Response to Defendant’s Subpoena *Duces Tecum* dated July 26, 2022.

PLEASE TAKE FURTHER NOTICE that Defendant shall rely on the accompanying Certification of Counsel, with exhibits.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 1:6-2, the undersigned requests oral argument if timely opposition is filed. A proposed form of order is annexed hereto.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm, LLC

By: /s/ Mark K. Silver
Mark K. Silver, Esq.

Dated: August 24, 2022

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

220 Park Avenue

P.O. Box 991

Florham Park, New Jersey 07932

(973) 539-1000

Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">ORDER</p>
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THIS MATTER having been opened to the Court by Schenck, Price, Smith & King LLP, attorneys for Defendant Sweet Grass Farm, LLC, for an Order finding Jonathan Kanarek in contempt of Court and to Compel Response to Subpoena *Duces Tecum*, by way of a Notice of Motion duly filed and served upon all counsel, and the Court having considered the papers submitted herein, and for good cause having been shown;

IT IS ON this ____ day of _____, 2022:

ORDERED that Jonathan Kanarek is hereby declared in contempt of Court; and it is further

ORDERED that Jonathan Kanarek shall furnish responses and the documents requested in Defendant Sweet Grass Farms' July 26, 2022 subpoena *duces tecum* within seven (7) days of this Order; and it is further

ORDERED that should Jonathan Kanarek fail to provide the requested response and documents within seven (7) days, SGF is authorized to file a motion with this Court seeking the issuance of a bench warrant; and it is further

ORDERED that a copy of this Order shall be served on all counsel within seven (7) days of the date of this Order.

Hon.

Opposed
 Unopposed

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

220 Park Avenue

P.O. Box 991

Florham Park, New Jersey 07932

(973) 539-1000

Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">CERTIFICATION OF COUNSEL IN SUPPORT OF DEFENDANT SWEET GRASS FARM, LLC'S MOTION TO FIND JONATHAN KANAREK IN CONTEMPT OF COURT AND COMPEL RESPONSE TO SUBPOENA DUCES TECUM</p>
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I, MARK K. SILVER, ESQ., of full age, do certify as follows:

1. I am an attorney-at-law of the State of New Jersey and a Partner with the law firm of Schenck, Price, Smith & King LLP, attorneys for Defendant Sweet Grass Farm, LLC ("SGF"). I am the attorney responsible for handling this matter. As such, I have personal knowledge of the facts set forth herein.

2. I make this Certification in support of SGF's Motion to find Jonathan Kanarek in contempt of Court and Compel Response to SGF's July 26, 2022 Subpoena *Duces Tecum*.

3. SGF comes before this Court seeking an Order finding Jonathan Kanarek in contempt of Court and compelling a response to SGF's July 26, 2022 Subpoena *Duces Tecum*.

4. On July 26, 2022, SGF issued a subpoena *duces tecum* to Jonathan Kanarek requesting written communications related to the incident that occurred on August 7, 2019 which

forms the basis of Plaintiff's Complaint. (See Subpoena *Duces Tecum* annexed hereto as "Exhibit A").

5. Jonathan Kanarek was personally served with SGF's subpoena *duces tecum* on July 27, 2022 at 11:15 A.M. (See Affidavit of Service annexed hereto as "Exhibit B").

6. Jonathan Kanarek's response to SGF's subpoena was due on August 16, 2022. (See "Exhibit A").

7. To date, SGF has not been made aware of any Motions to Quash having been filed related to this subpoena, nor received the requested documents from Jonathan Kanarek.

8. Jonathan Kanarek has not contacted this office in response to this subpoena nor has anyone claiming to represent Jonathan Kanarek.

9. Jonathan Kanarek is now in violation of the R. 1:9-5.

10. As a result, SGF makes the instant application.

I hereby certify, pursuant to Rule 1:4-4(b), that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm, LLC

By: /s/ Mark K. Silver
Mark K. Silver

Dated: August 24, 2022

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)

220 Park Avenue

P.O. Box 991

Florham Park, New Jersey 07932

(973) 539-1000

Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">CERTIFICATION OF SERVICE</p>
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I, MARK K. SILVER, of full age, hereby certifies as follows:

1. I am an attorney-at-law in the State of New Jersey and Partner with the law firm of Schenck, Price, Smith & King LLP, attorneys for Defendant Sweet Grass Farm, LLC (“Defendant”) in the above-captioned matter.

2. I submit this Certification in support of Defendant’s Motion to find Jonathan Kanarek in contempt of Court and Compel Response to Defendant’s July 26, 2022 Subpoena *Duces Tecum*.

3. I hereby certify that a true and accurate copy of Defendant’s Notice of Motion, Certification of Mark K. Silver, Esq., with exhibits, Proposed Form of Order, and this Certification of Service were electronically filed with the Morris County Superior Court on August 24, 2022.

4. I further certify that a true and accurate copy of the aforementioned documents was served on all parties of record via electronic filing on August 24, 2022.

5. I further certify that a true and accurate copy of the aforementioned documents was sent for personal service on Jonathan Kanarek on August 24, 2022.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm, LLC

/s/ Mark K. Silver
Mark K. Silver

Dated: August 24, 2022

EXHIBIT A



Mark K. Silver
Admitted in NJ, NY & PA
Direct Line: 973-798-4950
Email: Mks@spsk.com
220 Park Avenue
PO Box 991
Florham Park, NJ 07932
Telephone: 973-539-1000
Fax: 973-540-7300
www.spsk.com

July 26, 2022

VIA PERSONAL SERVICE

Jonathan S. Kanarek
4 Wilshire Drive
Livingston, New Jersey 07039

RE: Lauren Kanarek v. Sweet Grass Farm, LLC, et al.
Docket No.: MRS-L-2250-19

Dear Mr. Kanarek:

This firm represents defendant, Sweet Grass Farm LLC (“Sweet Grass”), in the above-referenced matter. In that regard, enclosed please find a Subpoena Duces Tecum which schedules a deposition and requests production of documents you may have in your possession. The purpose of the subpoena, however, is merely to secure copies of the requested documents.

In lieu of appearing personally for deposition, we will accept copies of the requested materials which are set forth in the attached subpoena. Accordingly, we will reimburse you for reasonable copying costs. Notwithstanding the above, do not produce the documents prior to the date set forth in the attached subpoena.

Thank you for your anticipated cooperation. Should you have any questions, please feel free to contact me.

Very truly yours,

SCHENCK, PRICE, SMITH & KING, LLP

/s/ Mark K. Silver

Mark K. Silver

MKS/me

Enc.

cc: Andrew L. O’Connor, Esq. (via -email)
John P. Graves, Esq. (via e-mail)
Christopher L. Deininger, Esq. (via e-mail)
Lane M. Ferdinand, Esq. (via e-mail)

{02856503.DOCX;1 }

SCHENCK PRICE SMITH & KING LLP

Mark K. Silver, Esq. (019752000)
220 Park Avenue, P.O. Box 991
Florham Park, New Jersey 07932
(973) 539-1000
Attorneys for Defendant, Sweet Grass Farm, LLC

<p>LAUREN KANAREK,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL BARISONE, SWEET GRASS FARMS, LLC, RUTH COX, JOHN DOES 1-30; ABC Corporations 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION MORRIS COUNTY</p> <p>DOCKET NO.: MRS-L-2250-19</p> <p style="text-align: center;">Civil Action</p>
--	---

SUBPOENA DUCES TECUM

STATE OF NEW JERSEY TO: **Jonathan S. Kanarek**
4 Wilshire Drive
Livingston, New Jersey 07039

SIR:

YOU ARE HEREBY COMMANDED to attend and give testimony on **August 16, 2022**, at 10:00 a.m., at Schenck Price Smith & King LLP, 220 Park Avenue, P.O. Box 991, Florham Park, New Jersey 07932, attorneys for defendant, Sweet Grass Farm LLC (“Sweet Grass”), in the above-entitled action, and produce at the same time and place, the following:

- 1. Any and all written communications (including emails and/or texts) between you and Robert Goodwin regarding Michael Barisone and/or the Property located at 411 W. Mill Road, Long Valley, New Jersey during the time frame of January 1, 2019 to present. This request shall be interpreted to include, but not limited, to any written communications containing audio and/or video recordings sent to you by Mr. Goodwin between August 1, 2019 and December 31, 2019.**

- 2. Any and all written communications (including emails and/or texts) between you and Lauren Kanarek regarding Michael Barisone and/or the Property located at 411 W. Mill Road, Long Valley, New Jersey during the time frame of January 1, 2019 to present. This request shall be**

interpreted to include, but not limited, to any written communications containing audio and/or video recordings sent to you by Lauren Kanarek between August 1, 2019 and December 31, 2019.

- 3. Any and all written communications (including emails and/or texts) between you and Michael Barisone during the time frame between January 1, 2019 to December 31, 2019.**
- 4. Any and all written communications (including emails and/or texts) between you and Steve Tarshis during the time frame between January 1, 2019 to December 31, 2019.**
- 5. Any and all written communications (including emails and/or texts) between you and John Lundberg and/or Bonnie Lundberg during the time frame between January 1, 2019 to December 31, 2019.**

***CERTIFIED RECORDS WILL BE ACCEPTED IN LIEU OF APPEARANCE ***

Please be advised that you may not produce or release any of the documents requested by this Subpoena before **August 16, 2022**. Furthermore, if you are notified that a motion to quash the Subpoena has been filed, you may not produce or release the documents required until either ordered by the Court, or all parties consent thereto.

Failure to appear according to the command of this Subpoena will subject you to a penalty, damages in a civil suit and punishment for contempt of Court.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm LLC

By: /s/ Mark K. Silver
Mark K. Silver, Esq.

Michelle M. Smith
Michelle M. Smith
Clerk of the Superior Court

Dated: July 26, 2022

cc: Andrew L. O'Connor, Esq.
Nagel Rice, LLP
103 Eisenhower Parkway, Suite 103
Roseland, New Jersey 07068
Attorneys for Plaintiff

EXHIBIT B



Plaintiff
LAUREN KANAREK

Defendant
MICHAEL BARISONE, ET AL

Person to be served: JONATHAN S. KANAREK

Address:
4 WILSHIRE DRIVE
LIVINGSTON NJ 07039

Attorney:
SCHENCK PRICE SMITH & KING LLP
220 PARK AVENUE PO BOX 991
FLORHAM PARK NJ 07932

Papers Served:
COVER LETTER SUBPOENA DUCES TECUM

SUPERIOR COURT OF NEW
JERSEY
LAW DIVISION:
MORRIS COUNTY

DOCKET NO. MRS-L-002250-19

AFFIDAVIT OF SERVICE
(for use by Private Service)

Cost of Service pursuant to R4:4-30
\$ _____

Service Data:

Served Successfully Not Served _____ Date: 7-27-22 Time: 11:15 a.m. Attempts: _____

- Delivered a copy to him/her personally
- _____ Left a copy with a competent household member over 14 years of age residing therein at place of abode.
- _____ Left a copy with a person authorized to accept service, e.g. managing agent, registered agent, etc.

Name of Person Served and relationship/title
Jonathan S. Kanarek
personally

Description of Person Accepting Service:

Age: 70 Height: 6'0 Weight: 260 Hair: Gray Sex: male Race: white

Non-Served:

- () Defendant is unknown at the address furnished by the attorney
- () All reasonable inquiries suggest defendant moved to an undetermined address
- () No such street in municipality
- () No response on: _____ Date _____ Time _____
_____ Date _____ Time _____
_____ Date _____ Time _____

() Other: _____ Comments or Remarks _____

Subscribed and Sworn to me this
27th day of July 2022

Patricia Knapp
Notary Signature

I, JOHN KRATZ, was at time of service a competent adult not having a direct interest in the litigation. I declare under penalty of perjury that the foregoing is true and correct.

John Kratz 7-27-22
Signature of Process Server Date


PATRICIA KNAPP
Notary Public, State of New Jersey
Commission # 2447530
My Commission Expires 06/25/2024

DGR LEGAL, INC.
1359 Littleton Road, Morris Plains, NJ 07950-3000
(973) 403-1700 Fax (973) 403-9222

Work Order No. 587879
File No. MRS-L-002250-19

EXHIBIT D

IT IS FURTHER ORDERED that service of this Order shall be deemed effectuated upon all parties upon its upload to eCourts. Pursuant to Rule 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of the date of this Order



Hon. Louis S. Sceusi, J.S.C
Retired, T/A on Recall

Opposed
 Unopposed

STATEMENT OF REASONS

Lauren Kanarek, Plaintiff

v.

Michael Barisone, Sweet Grass Farms, LLC, and Ruth Cox, Defendants

MRS-L-2250-19

Pending before the Court is Defendant Barisone’s Motion to Hold in Contempt, Motion to Compel, and Motion to Amend Answers. Also pending before the Court is Defendant Sweet Grass Farms’ Motion to Hold in Contempt and Motion to Compel. All of these Motions are opposed by Plaintiff. Plaintiff has also filed a Cross-Motion to Quash and a Cross-Motion for a Protective Order.

I. BACKGROUND

This present matter arises out of a criminal matter that occurred on August 7, 2019. On August 7, 2019, Michael Barisone (hereinafter “Defendant Barisone” or “Barisone”) confronted Lauren Kanarek (hereinafter “Plaintiff”) and shot towards her fiancé on the porch of the farmhouse at 411 W. Mill Road, Long Valley, New Jersey. Plaintiff was lawfully on the subject porch. During this confrontation, without warning or provocation, Defendant shot Plaintiff in the chest multiple times at point blank range. Defendant was arrested and charged with multiple counts of attempted murder, assault and battery, and weapons offenses. Defendant went to trial, where he was recently found guilty of attempted murder, but not criminally responsible due to insanity. Sweetgrass Farms (hereinafter “Defendant SGF” or “SGF”) was the owner of the farm and facility where the subject shooting occurred.

On August 24, 2022, Defendant Barisone filed a Motion to Hold Plaintiff’s Mother (Kirby Kanarek, who is a non-party witness) in Contempt. Defendant Barisone alleges Plaintiff’s Mother was served a subpoena on July 13, 2021 for which Defendant Barisone sought out copies of

transcripts Defendant believes Ms. Kirby was in possession of. Specifically, Defendant alleges Ms. Kirby is in possession of written transcripts of illegal audio recordings her family made at SweetGrass Farm in 2019. Plaintiff's Mother argues that Defendant Barisone's subpoena is overly broad, much of the information Defendant seeks was already gathered and produced to Defendant by the Morris County Prosecutors, and that this motion should therefore be quashed. In the alternative, Plaintiff argues that a protective order is appropriate should this Court refuse to quash any portion of Defendant's subpoena.

Defendant SGF has similarly filed a Motion to Hold Plaintiff's Father (Jonathan Kanarek, who is a non-party witness) in Contempt. Defendant SGF alleges that Plaintiff's Father was served a subpoena on July 26, 2022, for which Defendant SGF sought out "written communications related to the incident that occurred on August 7, 2019 which forms the basis of Plaintiff's Complaint." Plaintiff argues that "none of the materials sought in the subpoenas are relevant to any matter at hand, and are extremely burdensome for the non-party elderly parents of Plaintiff, and Defendants already have the materials for which they are seeking." Plaintiff again argues that this motion should be quashed, and to the extent any portion of Defendant SGF's subpoena is not quashed, a protective order is appropriate.

Further, Both Defendants have joined together in a Motion to Compel Plaintiff's in-person deposition. Specifically, Defendants argue remote depositions can and should be used "when all parties agree to use them, but in this instance, the parties do not agree." Defendants anticipate that Plaintiff's deposition will be a lengthy and exhibit intensive affair, and that a remote deposition would be more difficult. Plaintiff argues that she resides out of state in Florida, and the time and cost savings alone from conducting a remote deposition far outweigh any alleged detriment from not conducting the deposition in person. Plaintiff alleges Defendants fail to establish any prejudice

or burden from proceeding remotely, which has undoubtedly become default standard for conducting depositions that past two and a half years.

Lastly, Defendant Barisone has filed a Motion for Leave to File an Amended Pleading. Specifically, Defendant seeks to make corrections to certain responses in the Answer he initially filed. Defendant alleges that, those changes are needed due to the passage of time and further development of this matter in which the facts have changed in material ways. For example, Defendant argues that Barisone is no longer being held in jail because the criminal trial has concluded, which does not reflect in his Answer. Further, Defendant seeks to add a new counterclaim pursuant to the New Jersey Wiretapping and Electronic Surveillance Control Act, N.J.S.A. 2A:15A-1. Plaintiff argues that Defendant's motion must be denied because the counterclaim is barred by the statute of limitations, and the counterclaim does not relate back to the original pleading.

II. ANALYSIS

Here, Defendant Barisone and Defendant SGF's Motion to Hold in Contempt is denied. The Court finds that Defendants' subpoenas served on Plaintiff's parents are overly broad and therefore unreasonable. For example, as Plaintiff persuasively points out, Defendant's mission to obtain "any and all electronic communications" between Plaintiff's mother and father, for an undefined period of time, is far too vague of a request. Plaintiff's argument that the contents of the subpoenas are overbroad, if valid, would indeed constitute justification for noncompliance, and hence, Plaintiff's parents have a right to test that issue before being ordered to comply, or before being held in contempt for failure to comply.

On the facts germane to this issue, the Court finds no reason to hold either Plaintiff's mother or father in contempt. Manifestly, the subpoena of Kirby Kanarek and Jonathan Kanarek, issued by counsel for Defendants is hereby quashed as overbroad and unduly burdensome. Defendants may, however, re-serve subpoenas more specific in scope as to the documents it seeks to have produced, limited to issues and time periods relevant to the issues raised in this litigation. Defendants shall have ten (10) days upon receipt of this Order to resubmit more specific requests, and Kirby and Jonathan Kanarek shall have ten (10) days upon receipt of such requests to comply. Given the Court's granting of Plaintiff's Motion to Quash, Plaintiff's Motion for a Protective Order is manifestly moot and therefore denied.

As for Defendants' motion seeking to compel the in-person deposition of Plaintiff, this motion is hereby denied. As Plaintiff importantly points out, the COVID-19 pandemic has forced depositions across the country to proceed virtually for the past two and a half years. Although the cause for concern relating to the uprise in remote depositions has ultimately settled down, this Court recognizes its undoubtedly appealing nature. For example, virtual depositions are unquestionably more cost efficient to all parties involved, and allow for greater availability of deposition dates as no traveling need be done. Given that Plaintiff resides in Florida and raises concerns health concerns from traveling due to her weakened physical state, it logically follows that forcing Plaintiff to appear for an in-person deposition would serve no legitimate purpose, yet to the contrary, cause much harm. Indeed, even Defendants themselves point out in its moving papers that "SGF anticipates that [Plaintiff's] deposition will be a lengthy and exhibit intensive affair." See Def. Brief p. 5. This further supports Plaintiff's position that deposition should be done remotely. Defendants have proffered no evidence of undue prejudice, or any other support for that matter for which Plaintiff must be compelled to appear in person for depositions. Having failed to

sufficiently plead their position to this Court's satisfaction, Defendants' motion to compel must manifestly be denied.

Finally, Defendant Barisone has filed a motion seeking leave of Court to amend his pleading-- this motion must be granted. Because the achievement of substantial justice is the fundamental consideration, the denial of such a motion in the "interests of justice" is appropriate only when there would be undue prejudice to another party. Franklin Medical Associates v. Newark Public Schools, 362 N.J. Super. 494, 506 (App. Div. 2003). Further, when claims asserted in an amended pleading arise "out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading." R. 4:9-3.

In the instant case, Plaintiff challenges the allowance of the amendment on the grounds that it introduces a new cause of action after expiration of the New Jersey Wiretapping and Electronic Surveillance Control Act's statute of limitations, and thus, the count fails to state a claim and would immediately be subject to dismissal. The inquiry here is whether Defendant's claim as set forth in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the Original pleading. If it did, the amendment relates back to the date of the Original complaint, and the statute of limitations is inapplicable.

The Court concludes that the amendment does not state a new cause of action. Defendant's claim against Plaintiff is, among other things, for damages suffered due to alleged negligent or intentional acts that resulted in Defendant's emotional distress. Indeed, during Oral Argument on November 4, 2022, counsel for Defendant alleged Plaintiff "bugged" the premises of Sweet Grass Farms with illegal listening devices to "drive [Defendant] crazy." The Court finds that Defendant's allegations pursuant to the Wiretapping Act refer to the general pool of culpable acts with respect to

Defendant's emotional distress claims that Defendant pled in his Original Counterclaim. Thus, Defendant's Wiretapping claim relates back to the Original pleading date of March 2, 2020.

Stated more precisely, Defendant contends that Plaintiff's alleged bugging of the premises occurred on or about July 2019. Even assuming the Act's limitation date was two years from when the cause of action arose, as Plaintiff argues to this Court, the statute of limitations *still* would not have expired until July 2021. However, Defendant filed the Original pleading in March 2020. In short, because the Court finds the Wiretapping Act relates back to the Original pleading, Defendant is well within the confines of the statute to add a related claim. For these reasons, the Court grants Defendant's leave to amend his responsive pleadings, and accordingly rejects Plaintiff's opposition.

III. CONCLUSION

For the foregoing reasons Defendant Barisone's Motion to Hold in Contempt and Motion to Compel are hereby **DENIED**. Defendant Barisone's Motion to Amend is hereby **GRANTED**. Defendant Sweet Grass Farms' Motion to Hold in Contempt and Motion to Compel are hereby **DENIED**. Plaintiff's Cross-Motion to Quash is hereby **GRANTED**. Plaintiff's Cross-Motion for a Protective Order is hereby **DENIED**.

EXHIBIT E

Schenck Price

— SCHENCK PRICE SMITH & KING, LLP —

*Serving Our Clients and Community
For Over 100 Years*

Mark K. Silver

Admitted in NJ, NY & PA
Direct Line: 973-798-4950
Email: Mks@spsk.com
220 Park Avenue
PO Box 991
Florham Park, NJ 07932
Telephone: 973-539-1000
Fax: 973-540-7300
www.spsk.com

November 18, 2022

VIA PERSONAL SERVICE
AND OVERNIGHT MAIL

Jonathan S. Kanarek
4 Wilshire Drive
Livingston, New Jersey 07039

RE: Lauren Kanarek v. Sweet Grass Farm, LLC, et al.
Docket No.: MRS-L-2250-19

Dear Mr. Kanarek:

This firm represents defendant, Sweet Grass Farm LLC (“Sweet Grass”), in the above-referenced matter. In that regard, enclosed please find an Amended Subpoena Duces Tecum which schedules a deposition and requests production of documents you may have in your possession. The purpose of the subpoena, however, is merely to secure copies of the requested documents.

In lieu of appearing personally for deposition, we will accept copies of the requested materials which are set forth in the attached subpoena. Accordingly, we will reimburse you for reasonable copying costs. Notwithstanding the above, do not produce the documents prior to the date set forth in the attached subpoena.

Thank you for your anticipated cooperation. Should you have any questions, please feel free to contact me.

Very truly yours,

SCHENCK, PRICE, SMITH & KING, LLP

/s/ Mark K. Silver

Mark K. Silver

MKS/me

Enc.

cc: Andrew L. O’Connor, Esq. (via -email)
Christopher L. Deininger, Esq. (via e-mail)
Edward J. Bilinkas, Esq. (via e-mail)

{02929049.DOCX;1 }



Mr. Jonathan Kanarek
November 18, 2022
Page 2 of 2

John P. Graves, Esq. (via e-mail)
Lane M. Ferdinand, Esq. (via e-mail)

be interpreted to include, but not limited, to any written communications containing audio and/or video recordings sent to you by Lauren Kanarek between August 1, 2019 and December 31, 2019.

- 3. Any and all written communications (including emails and/or texts) between you and Michael Barisone during the time frame between January 1, 2019 to December 31, 2019.**
- 4. Any and all written communications (including emails and/or texts) between you and Steve Tarshis during the time frame between January 1, 2019 to December 31, 2019.**
- 5. Any and all written communications (including emails and/or texts) between you and John Lundberg and/or Bonnie Lundberg during the time frame between January 1, 2019 to December 31, 2019.**

***CERTIFIED RECORDS WILL BE ACCEPTED IN LIEU OF APPEARANCE ***

Please be advised that you may not produce or release any of the documents requested by this Subpoena before **December 2, 2022**. Furthermore, if you are notified that a motion to quash the Subpoena has been filed, you may not produce or release the documents required until either ordered by the Court, or all parties consent thereto.

Failure to appear according to the command of this Subpoena will subject you to a penalty, damages in a civil suit and punishment for contempt of Court.

SCHENCK PRICE SMITH & KING LLP
Attorneys for Defendant, Sweet Grass Farm LLC

By: /s/ Mark K. Silver
Mark K. Silver, Esq.

Michelle M. Smith
Michelle M. Smith
Clerk of the Superior Court

Dated: November 18, 2022

cc: Andrew L. O'Connor, Esq.
Nagel Rice, LLP
103 Eisenhower Parkway, Suite 103
Roseland, New Jersey 07068
Attorneys for Plaintiff

EXHIBIT F



SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:
MORRIS COUNTY

Plaintiff
LAUREN KANAREK

Defendant vs
MICHAEL BARISONE, ET AL

DOCKET NO. MRS-L-002250-19

Person to be served: JONATHAN S. KANAREK

AFFIDAVIT OF SERVICE
(for use by Private Service)

Address:
4 WILSHIRE DRIVE
LIVINGSTON NJ 07039

Cost of Service pursuant to R4:4-30
\$ _____

Attorney:
SCHENCK PRICE SMITH & KING LLP
220 PARK AVENUE PO BOX 991
FLORHAM PARK NJ 07932

Papers Served:
COVER LETTER; AMENDED SUBPOENA DUCES TECUM

Service Data:

Served Successfully X Not Served _____ Date: 11-28-22 Time: 9:35AM Attempts: _____

X Delivered a copy to him/her personally Name of Person Served and relationship/title
JONATHAN S KANAREK
_____ PERSONALLY

Left a copy with a competent household member over 14 years of age residing therein at place of abode.

Left a copy with a person authorized to accept service, e.g. managing agent, registered agent, etc.

Description of Person Accepting Service:

Age: 75 Height: 5'11" Weight: 185 Hair: S/P Sex: MALE Race: WHITE

Non-Served:

- () Defendant is unknown at the address furnished by the attorney
- () All reasonable inquiries suggest defendant moved to an undetermined address
- () No such street in municipality
- () No response on: _____ Date _____ Time _____
_____ Date _____ Time _____
_____ Date _____ Time _____

() Other: _____ Comments or Remarks _____

Subscribed and Sworn to me this 29th day of Nov 2022

I, MICHAEL GIALANELLA, was at time of service a competent adult not having a direct interest in the litigation. I declare under penalty of perjury that the foregoing is true and correct.

Patricia Knapp
Notary Signature

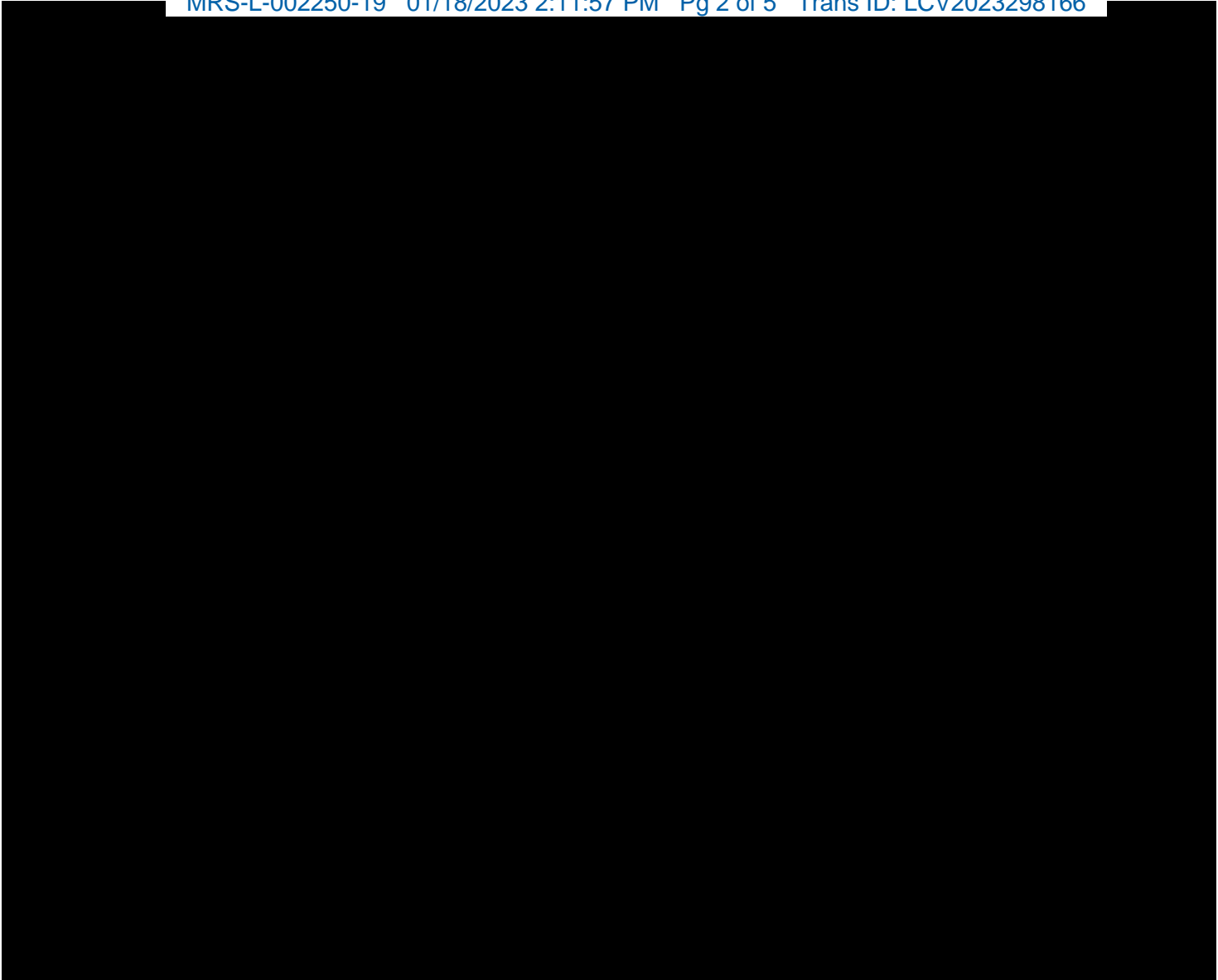
Michael Gialanella 11-29-22
Signature of Process Server Date



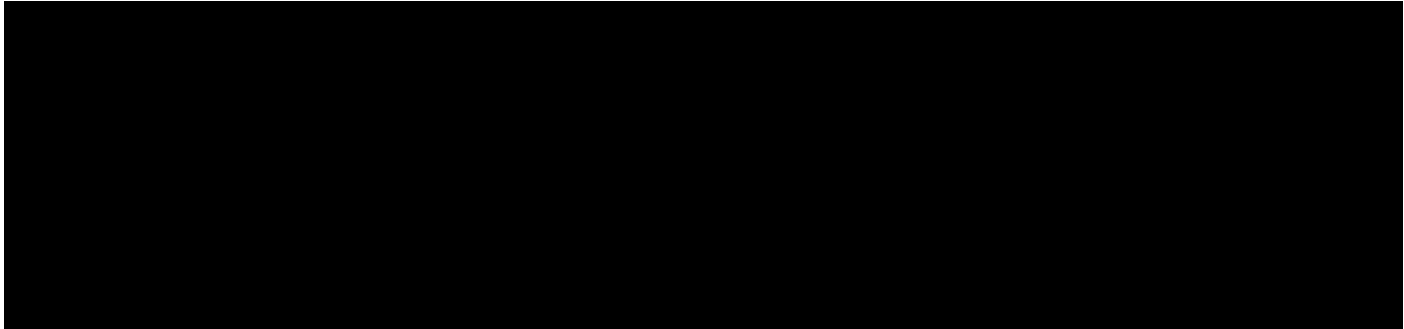
DGR LEGAL, INC.
1359 Littleton Road, Morris Plains, NJ 07950-3000
(973) 403-1700 Fax (973) 403-9222

Work Order No. 608874
File No. MRS-L-002250-19

EXHIBIT G



La-LaPopRider #1000 August 31, 2020, 11:45pm



Exactly! Also, in my 911 call (possibly difficult to hear) when the officer asks if we're in immediate danger right then. I responded by saying "I feel we very much could be. The vehicle is back." (Those two sentences may have been broken up into two separate sentences, if the officer asked something else in between.) I haven't reviewed the calls in very long time.

On at least two occasions where MB called the cops & I spoke to them afterwards, I let them know that I would not be calling them to harass them (like my adversaries) unless I felt I was in real danger. I

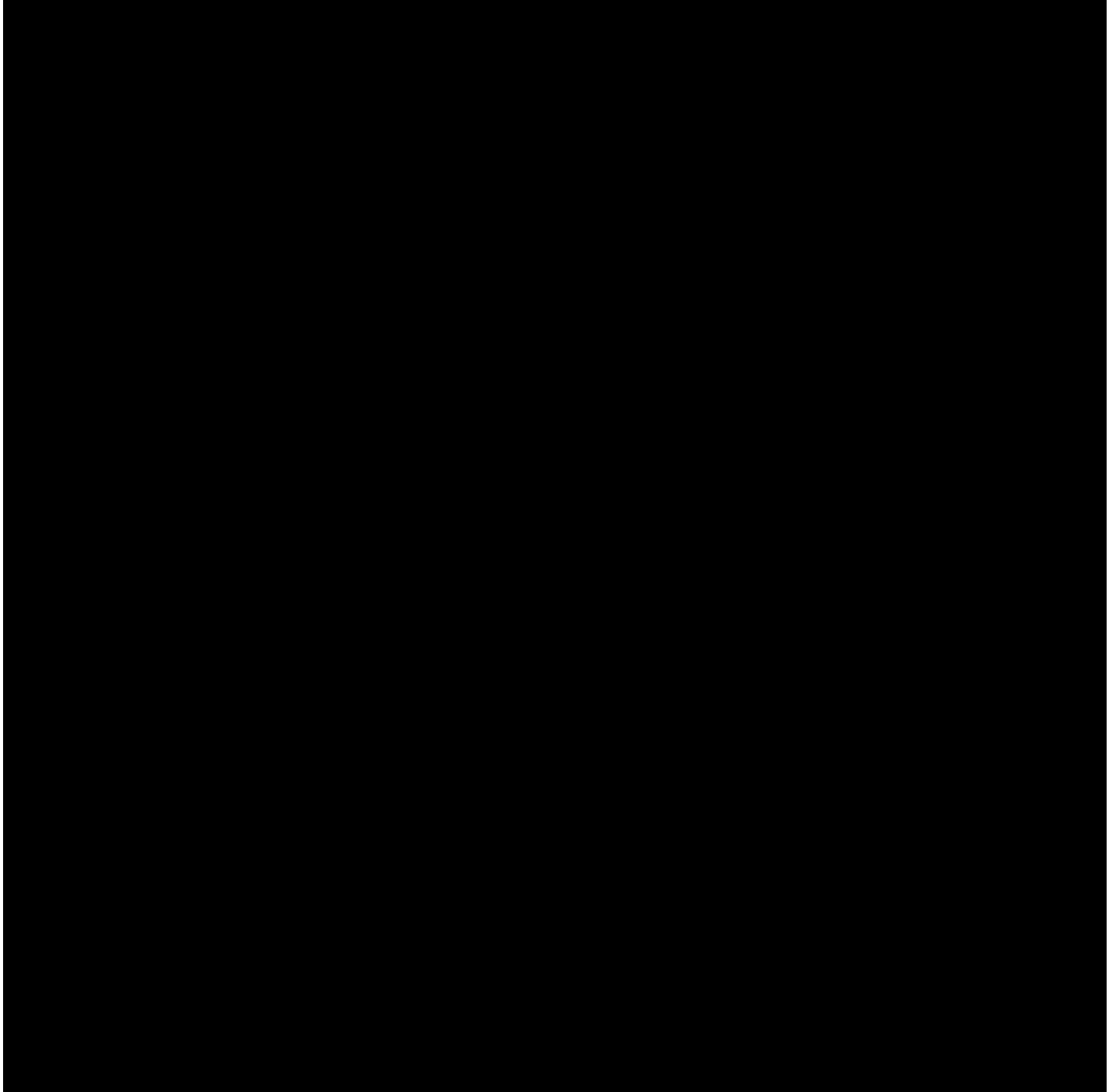
8/23/22, 10:36 AM

That's a twist - Dressage - Chronicle Forums

apologized to them for being called repeatedly by MB, for absolutely no reason.

I do, so wish I could share the contents of the documents mb actually thought we'd be stupid enough to sign. He even tried to block us from going in the Barn to ride, (something the DA told him repeatedly he was not allowed to do) until we signed his ominous paperwork... When we refused, he called the cops. Those papers literally, haunt me. I think they disturbed the cops as well. I have a video of that entire event- beginning to end. So crazy! Truly...

1 Like



8/23/22, 10:35 AM

WOW! New Info in Barisone-Kanarek Saga - Dressage - Chronicle Forums

La-LaPopRider #481 September 1, 2020, 12:20am

eggbutt:

How about all the discovery? How about his mention of the illegal recordings? 19,000 pages of evidence from LK's social media alone! Holy cow!!! The mention of LK and RG contacting SS? The mention that the CPS accusations were unfounded? The thought the attorney expects an acquittal (or did I misread that)? Gosh, all that sounds new to me!!

Wait... So, to be clear, you think a defense attorney is going to say "My client is GUILTY!" Nothing in his fictitious statements are new. Except, perhaps, the irony of it. Defense attorney falsely claims victim has made false claims. Ironic. And... incidentally, the same exact TACTIC used by every other defense attorney in the land of defense attorneys.

- 1.) I have always maintained the fact- I reported MB & others to SafeSport. (Nothing new.)
- 2.) I have always maintained the fact- I have video & audios. (Nothing new.)
- 3.) You have no idea who contacted CPS. (Nothing new.)

8/23/22, 10:35 AM

WOW! New Info in Barisone-Kanarek Saga - Dressage - Chronicle Forums

4.) Attorneys who are so convinced their client is "not guilty," doesn't waive a speedy trial. (Nothing new.)

What IS "new," exactly??? Please share with the class.

1 Like

