

01013

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Attorneys for Barisone

LAUREN KANAREK,	:	SUPERIOR COURT OF NEW
	:	JERSEY LAW DIVISION – MORRIS
<i>Plaintiff,</i>	:	COUNTY
v.	:	
	:	
MICHAEL BARISONE; SWEETGRASS	:	
FARMS, LLC; RUTH COX; JOHN	:	DOCKET NO.: MRS-L-2250-19
DOES 1-30; ABC CORPORATIONS 1-	:	
20,	:	
	:	
<i>Defendants,</i>	:	

**NOTICE OF MOTION FOR LEAVE TO FILE
& SERVE AN AMENDED ANSWER
WITH AMENDED COUNTERCLAIM PURSUANT TO R. 4:9-1**

TO: Andrew L. O’Connor, Esq.
Nagel Rice LLP
103 Eisenhower Parkway
Roseland, NJ 07068

ON NOTICE TO:

Mark Silver, Esq.
Schenck Price
220 Park Avenue, P.O. Box 991
Florham Park, New Jersey 07932

John P. Graves, Esq.
Law Offices of John P. Graves
18 Macculloch Ave.
Morristown, NJ 07960

Lane M. Ferdinand, Esq.
Law Offices of L.M. Ferdinand
505 Morris Ave.
Springfield, NJ 07081

COUNSELOR:

PLEASE TAKE NOTICE that November 4, 2022, at 9:00 a.m. or as soon thereafter as counsel may be heard, defendant-counterclaim plaintiff MICHAEL BARISONE (“BARISONE”)

cross-move before this Court pursuant to R. 4:9-1, for an Order (a) granting BARISONE leave to file and serve his proposed Amended Counterclaim presented herewith, and (b) granting BARISONE such other relief as may be just and proper.

PLEASE TAKE FURTHER NOTICE that in support of that motion BARISONE will rely upon his attorney's certification (with exhibits, if any), his letter brief, and any and all other papers filed herewith.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith, and that oral argument is requested if there is opposition filed with respect to this motion.

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By : _____
CHRISTOPHER L. DEININGER, ESQ.

Dated: October 19, 2022

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20,	:	
	:	
<i>Defendants,</i>	:	

**ORDER GRANTING BARISONE LEAVE
TO FILE & SERVE AN AMENDED PLEADING**

THIS MATTER having been opened to this Court on motion of defendant-counterclaim-plaintiff MICHAEL BARISONE (“Barisone”) who has made a motion for an Order granting him leave to file and serve an amended pleading; and the Court having reviewed the parties’ papers in support and/or opposition to the motion; and having considered the parties’ oral arguments (if any); and for good cause shown,

IT IS ON THIS _____ DAY OF _____, 2022

ORDERED that the defendant-counterclaim-plaintiff MICHAEL BARISONE’s motion for leave to amend shall be and hereby is GRANTED; and it is further

ORDERED that within thirty (30) days from the date of this Order, Barisone shall file with the Court through eCourts, and shall serve upon all other parties by email to their attorney of record, Barisone’s amended pleading in a form substantially similar to the proposed form presented to this Court in support of his motion; and it is further

ORDERED that a true and accurate copy of this Order shall be served upon all parties, through their respective counsel of record, within ___ days of the date hereof.

_____ , J.S.C.

___ Opposed

___ Unopposed

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20,	:	
	:	
<i>Defendants,</i>	:	

**CERTIFICATION OF CHRISTOPHER L. DEININGER, ESQ.,
IN SUPPORT OF MOTION TO AMEND ANSWER & COUNTERCLAIM**

CHRISTOPHER L. DEININGER, ESQ., of full age, hereby certifies and says the following under penalty of perjury:

1. I am an attorney at law duly admitted in the State of New Jersey, and counsel in the above-captioned matter for defendant-counterclaim-plaintiff MICHAEL BARISONE (“BARISONE”).

2. I am making this CERTIFICATION in support of BARISONE’s motion for leave to file an amended pleading.

3. The statements I make herein are based upon my personal knowledge, unless noted otherwise.

4. Annexed hereto as **Exhibit A** is a true and correct copy of BARISONE’s proposed amended pleading, produced in “redline” so that my proposed changes are fully disclosed.

5. The purpose of the amendment is to change certain responses in BARISONE’s

original Answer to the Complaint, because facts and circumstances have changed over time and so must BARISONE's responses. For example, BARISONE is no longer being held in jail at the Morris County Correction Facility; there was a verdict in BARISONE's favor at the criminal trial; and, other changed circumstances which necessitate amending BARISONE's Answer.

6. Another purpose for this motion is to amend BARISONE's counterclaim to add a new count, asserting a claim for civil damages under N.J.S.A. 2A:156A-1 et seq. That amendment is sought based upon plaintiff Lauren Kanarek's testimony at the criminal trial in April 2022 in which she admitted, under oath, to participating in the making of audio recordings on the premises of Sweet Grass Farms, which recording were made without the knowledge or consent of any of the participants in the conversations.

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



CHRISTOPHER L. DEININGER, ESQ.

Dated: October 19, 2022

EXHIBIT A

01013

Christopher L. Deininger, Esq., N.J. Bar ID No. 004271996
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PROPOSED AMENDED ANSWER OF DEFENDANT MICHAEL BARISONE, WITH AFFIRMATIVE DEFENSES, COUNTERCLAIM, CROSS-CLAIMS, JURY DEMAND, ETC.

MICHAEL BARISONE (“Barisone”), through his attorneys, Deininger & Associates, LLP, for his Amended Answer to the Complaint, says the following:

FACTS COMMON TO ALL COUNTS

1. DeniedAdmitted.
2. Barisone is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and leaves plaintiff to her proofs.
3. DeniedAdmitted.
4. Denied.
5. Denied.
6. Denied.
7. Denied.

8. DeniedAdmitted, because Barisone was found “not guilty” and/or “not guilty by reason of insanity” on all counts, following a jury trial which went to verdict in his favor on or about April 14, 2022.

9. Barisone is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and leaves plaintiff to her proofs.

10. Barisone is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and leaves plaintiff to her proofs.

11. Barisone is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and leaves plaintiff to her proofs.

COUNT ONE

(Strict Liability)

12. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

13. Denied.~~Barisone admits that he resided at the farm and was operating his business there; but otherwise denies the allegations which include legal conclusions as to which no responses is required.~~

14. Barisone admits that he use to stay resided at the farm part of the year and was operating his business there, up until 2019; but otherwise denies the allegations which include legal conclusions as to which no responses is required.

15. Denied.

16. Denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

COUNT TWO

(Negligence)

17. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

18. ~~Denied. Barisone admits that he resided at the farm and was operating his business there; but otherwise denies the allegations which include legal conclusions as to which no responses is required.~~

19. ~~Denied. Barisone admits that he resided at the farm and was operating his business there; but otherwise denies the allegations which include legal conclusions as to which no responses is required.~~

20. Denied.

21. Denied.

22. Denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

COUNT THREE

(Negligence as to Barisone)

23. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

24. Denied.

25. Denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

COUNT FOUR

(Assault and Battery as to Barisone)

26. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

27. Denied.

28. Denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

COUNT FIVE

(Negligence as to Ruth Cox, Etc.)

29. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

30. The allegations in the paragraph do not pertain to Barisone and, therefore, no response is required. Otherwise, denied.

31. The allegations in the paragraph do not pertain to Barisone and, therefore, no response is required. Otherwise, denied.

32. The allegations in the paragraph do not pertain to Barisone and, therefore, no response is required. Otherwise, denied.

33. The allegations in the paragraph do not pertain to Barisone and, therefore, no response is required. Otherwise, denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

COUNT SIX

(Negligent Infliction of Emotional Distress)

34. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

COUNT SEVEN

(Intentional Infliction of Emotional Distress)

40. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

COUNT EIGHT

(Punitive Damages)

47. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

48. Denied.

49. Denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

COUNT NINE

[Not Labeled]

50. Barisone repeats and realleges each of his prior responses as though set forth at length herein.

51. The allegations in the paragraph do not pertain to Barisone and, therefore, no response is required. Otherwise, denied.

52. The allegations in the paragraph do not pertain to Barisone and, therefore, no response is required. Otherwise, denied.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE

The Complaint fails to state claims and/or causes of action upon which relief could be granted.

SECOND SEPARATE DEFENSE

Defendant was not competent at the time of the alleged incident and, as a result, should have no liability to Plaintiff for her injuries, by reason of Barisone's mental state and/or condition which included but was not limited to temporary insanity, battered-person-syndrome cause by Plaintiff's campaign of emotional battery against Defendant and/or persons in his care.

THIRD SEPARATE DEFENSE

Alternatively, Plaintiff's claims and/or prayers for relief are barred by application of principles of self-defense and defense of others, including adults, teenagers, children and/or horses using the farm.

FOURTH SEPARATE DEFENSE

Injuries and damages sustained by the Plaintiff are the result, in whole and/or material part, of the Plaintiff's own acts and omissions, including but not limited Plaintiff's acts and omission which constituted the root cause of an alleged injury, and/or Plaintiff's negligent, reckless, and/or intentional failure to avoid injuries she sustained.

FIFTH SEPARATE DEFENSE

Plaintiff's claims are barred by her own intervening intentional, reckless, malicious, and/or negligent acts, actions and/or omissions.

SIXTH SEPARATE DEFENSE

Plaintiff's claims and damages are barred, and/or must be reduced, by application of principles of comparative negligence and/or comparative fault, including but not limited to the law as expressed under the New Jersey Comparative Negligence Act.

SEVENTH SEPARATE DEFENSE

In the event that it is determined that this Defendant has liability to Plaintiff for her injuries and/or damages (which liability is denied), this Defendant is entitled to a credit, set off, and/or other reduction with respect to any and all collateral source payments Plaintiff received as a result of the incident(s), in accordance with N.J.S.A. § 2A:15-97.

EIGHTH SEPARATE DEFENSE

Plaintiff's claims are barred by application of the legal doctrines and principles, including but not limited to the estoppel, release, waiver, and/or binding admissions against interest.

NINTH SEPARATE DEFENSE

Plaintiff's alleged injuries and damages are the result of the acts and omissions of persons or entities other than the Defendant, including but not limited to acts and omissions by Plaintiff and/or third-party persons or entities over which Defendant had no control.

TENTH SEPARATE DEFENSE

Plaintiff's claims are barred, in whole or in part, by Plaintiff's negligence, neglect, and/or failure to act reasonably, timely, and/or appropriately.

ELEVENTH SEPARATE DEFENSE

Plaintiff's claimed injuries and damages, in whole or in part, are the direct and proximate result and consequence of Plaintiff's unreasonable failure to take advantage of preventative or corrective opportunities; her unreasonable failure to avoid harm; and/or her unreasonable failure to mitigate injury and damages.

TWELFTH SEPARATE DEFENSE

All or some of Plaintiff's claims are barred because the Defendant owed no duty to Plaintiffs, and/or because the Defendant was excused from such duties based upon Plaintiff's acts and omissions.

THIRTEENTH SEPARATE DEFENSE

Any duty owed to the Plaintiff by the Defendant was discharged and/or excused.

FOURTEENTH SEPARATE DEFENSE

Plaintiffs' alleged injuries and damages were not proximately caused by any act or

omission of the Defendant.

FIFTEENTH SEPARATE DEFENSE

Plaintiffs' claims are barred and/or any recovery must be reduced, based upon the doctrines of offset, recoupment, and/or Plaintiffs' duties to the Defendant.

SIXTEENTH SEPARATE DEFENSE

Plaintiff assumed the risk of conduct for the incident out of which this Complaint has arisen.

SEVENTEENTH SEPARATE DEFENSE

Plaintiff was unlawfully at the premises where the incident occurred, making unlawful use of it at the time the incident occurred, and therefore should be barred from recovery.

EIGHTEENTH SEPARATE DEFENSE

Defendant reserves the right to amend this answer to assert additional separate defenses and/or modify or withdraw those already asserted.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against PLAINTIFF LAUREN KANAREK, dismissing her claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____
Christopher L. Deininger, Esq.

Dated: ~~November~~, 2022 ~~February 29, 2020~~

ANSWER TO CROSSCLAIMS

MICHAEL BARISONE, by and through his attorneys Deininger & Associates, LLP, as and for his answer to any and all crossclaims asserted against him, states as follows:

1. Defendant denies all cross claims, including but not limited to all crossclaims for contribution and indemnification, that have been or will be asserted against him.
2. Defendant incorporates all of his separate defenses to the complaint as separate and affirmative defenses to all crossclaims that have been or will be asserted against him.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against any and all CROSS-CLAIM PLAINTIFFS, dismissing their claims with prejudice, and awarding MICHAEL BARISONE such other relief as may be just and proper.

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____
Christopher L. Deininger, Esq.

Dated: ~~November~~ February 29, 2020, 2022

CROSSCLAIMS FOR CONTRIBUTION & INDEMNIFICATION

1. MICHAEL BARISONE hereby makes a claim for contribution pursuant to the Joint Tortfeasors Contribution Law, N.J.S.A. 2A:53-1 et seq., against any and all co-defendants. Alternatively, MICHAEL BARISONE contends that in the event that proofs develop in discovery or at trial to establish a basis for liability on the part of any other defendant, and such defendant or defendants enter into a settlement agreement, in whole or in part with plaintiff, then MICHAEL

BARISONE asserts a claim for credit reducing the amount of any judgment in favor of Plaintiff against him to reflect the degree of fault to the settling defendants pursuant to Young v. Latta, 123, N.J. 584(1991).

2. Without admitting any liability herein, MICHAEL BARISONE claims complete common law and contractual indemnification from all co-defendants.

WHEREFORE, MICHAEL BARISONE demands judgement in his favor, and against any and all co-defendants, jointly and severally, and awarding him damages for contribution and/or indemnification, including but not limited to attorney’s fees, litigation expenses, and costs of suit, and awarding him such other relief as may be just and proper.

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____
Christopher L. Deininger, Esq.

Dated: ~~November~~, 2022~~February 29, 2020~~

AMENDED COUNTERCLAIM AGAINST PLAINTIFF

Defendant MICHAEL BARISONE (“Barisone”), by and through his attorneys, Deininger & Associates, LLP., as and for his Counterclaim against plaintiff LAUREN KANAREK (“Kanarek”), says as follow:

FACTS COMMON TO ALL COUNTS

1. At all times relevant hereto, Barisone was and remains a resident of Morris County, New Jersey.

2. Upon information and belief, Kanarek is not a resident of Morris County, New Jersey but, rather, lives a transient lifestyle in which she resides in many locations including, but not limited to, from time to time, Morris County, New Jersey.

3. Kanarek has a criminal history which, upon information and belief, includes a charge and/or conviction for criminal assault.

4. Kanarek has a history of illegal drug use including, upon information and belief, heroin.

5. Kanarek has a history of tortious and/or criminal, antisocial behavior, including but not limited to stalking; bullying; threats of harm, injury, and mayhem against persons she chooses to target; threats against public figures; gaslighting; fraud; false reports; and other behaviors which are harmful, injurious, and destructive to the people she victimizes.

6. Upon information and belief, there is a dozen or more families, persons and businesses in the United States who were victimized by Kanarek through abuse, stalking, crime, and/or other forms of serious abuse, prior to August 2019 when Kanarek turned her sights upon Barisone.

7. At all times relevant hereto, Kanarek was and remains a significant user of various forms of social media including Facebook through which, upon information and belief, Kanarek has more than 10,000 Facebook "Friends," messenger communication contacts, chats, and like online activities (collective, whether on Facebook and/or other platforms, "Facebook").

8. For purposes of causing personal injury to Barisone, his business, injury to his good name and reputation, and/or injury to the like interests of Barisone's girlfriend and other people close to Barisone (collectively, the "Barisone Family"), Kanarek perpetrated a campaign against Barisone and the Barisone Family, which included, without limitation, Kanarek's utilization of Facebook to publish, promote, and disseminate statements, accusations, and falsehoods that were explicitly

threatening; explicitly and/or implicitly threatening injury and violence; causing the subject to be stalked; causing the subject to be bullied; harmful; deceptive; deceitful; false; causing the subject serious and severe emotional pain and distress; harming the subject's good name and/or reputation; causing the subject to be "destroyed"; harming the subject's family and friends; and/or that otherwise were grossly inappropriate, harmful, and/or injurious.

9. At all times relevant hereto, Kanarek's purpose was to cause injury, pain, distress, and upset of a severe and significant nature.

10. At all times relevant hereto, Kanarek's acts, actions and omissions were perpetrated maliciously, intentionally, recklessly and/or negligently.

11. At all times relevant hereto, Kanarek's wrongful acts, actions, and omissions included, for example, making false accusation of child abuse, false accusations of animal abuse, false accusation of insurance fraud, false reports to agencies providing child-protective-services, and other falsehoods through which her intention was to cause harm.

12. For example, Kanarek harassed Barisone by utilizing technology to "bug" (i.e., unlawfully eves drop) upon private conversation Barisone was having; and/or, alternatively, harassed Barisone for purposes of causing him severe and significant emotional distress by claiming that she had unlawful eves-dropping of Barisone's residence and/or business for purposes of stalking him and Barisone Family members.

13. As another example, Kanarek threatened physical violence and harm by and through her internet posting that her "weapons [were] hot" (a phrase indicating that she had a firearm, loaded with ammunition, and its chamber hot) and she was coming for Barisone and/or Barisone Family members.

14. At the time she made that threat, Kanarek was known to be familiar with firearms, to have claimed and/or actual access to a firearm, and to have used a firearm in the past for purposes of shot at her boyfriend and/or his motorcycle while she was in a fit of rage.

15. At all times relevant hereto, Kanarek had a duty to Barisone and the Barisone Family members to refrain from stalking, harming, harassing, threatening, threatening-with-violence, demeaning, injuring, and/or damaging the persons Kanarek was victimizing (including, most notably, Barisone).

16. At all times relevant hereto, Kanarek materially breach her duty(ies) to Barisone and the Barisone Family members, through the acts, actions, and omissions referenced above.

17. As a direct and proximate result and consequence of Kanarek's wrongful acts, actions, and omissions, Kanarek cause injury to Barisone including but not limited to: (a) placing him in fear for his life and physical wellbeing; (b) placing him in fear for the lives and physical wellbeing of Barisone Family members; (c) placing him in fear for the lives and physical wellbeing of Barisone's business staff, clients and the horses owned and/or boarded by Barisone at his dressage farm; (d) emotional distress, including emotional distress with physical manifestations; (e) traumatic stress; (f) emotional breakdown; (g) post-traumatic stress; (h) battered-person-syndrome; (i) psychiatric ailments and eventual breakdown; (j) destruction of his state of mental peace, tranquility, enjoyment and stability; (k) injury to his business; (l) injury mental state; (m) unlawful invasion of his privacy; (n) property damage; (o) irreparable harm; (p) financial harm; (q) physical harm; and (r) other injuries.

COUNTERCLAIM COUNT 1
(Negligent Infliction of Emotional Distress)

18. Barisone repeats and realleges the all prior allegations of this Counterclaim as though set forth at length herein.

19. Kanarek was negligent towards Barisone, and breached duties owed to him, including but not limited to duties identified above.

20. As a direct, proximate and foreseeable result of Kanarek's negligence and/or carelessness, Kanarek cause Barisone to be injured by and through severe emotional distress.

21. As a direct, proximate and foreseeable result of Kanarek's negligent acts, actions, and omissions, Barisone sustained serious and severe personal injuries, disability, pain and suffering, emotional distress, has sustained past and future lost income, and other injuries both personal and business in nature.

WHEREFORE, MICHAEL BARISONE demands judgment against LAUREN KANAREK for compensatory damages, punitive damages, interest, costs of suit; preliminary and permanent injunctive relief in the form of restraints barring LAUREN KANAREK from making posts about or referencing Barisone on the World Wide Web, and/or through any and all forms of social media, and/or otherwise stalking, harassing, and/or seeking to cause harm or injury to Barisone; and such other relief this Court deems just and proper.

COUNTERCLAIM COUNT 2
(Intentional Infliction of Emotional Distress)

22. Barisone repeats and realleges the all prior allegations of this Counterclaim as though set forth at length herein.

23. Kanarek has a lengthy history of antisocial cyber activities, including but not limited to cyber stalking; cyber threats of harm, injury, and mayhem against persons she chooses to target; cyber threats against public figures; and other behaviors which are harmful, injurious, and destructive to the people she victimizes.

24. There is a dozen or more families, persons and businesses in the United States who were victimized by Kanarek through abuse, stalking, crime, and/or other forms of serious abuse, prior to August 2019 when Kanarek turned her sights upon Barisone.

25. Kanarek's extensive history of cyber-abuse against her numerous victims establishes a pattern, practice, and modes operandi of Kanarek's intentional, tortious, harmful conduct against Barisone and others.

26. Kanarek intentionally inflicted severe emotional distress upon Barisone; maliciously inflicted severe emotional distress upon Barisone; recklessly inflicted severe emotional distress upon Barisone; and/or knew or otherwise should have known that emotional distress was the likely result of her acts, actions, and omissions directed at Barisone, Barisone Family members, Barisone's business, and/or the persons who associated with Barisone through his work in the field of dressage.

27. As a direct, proximate, and foreseeable result of Kanarek's conduct, Barisone suffered extreme emotional distress and harm.

28. Kanarek's conduct was extreme and/or outrageous.

29. Kanarek's conduct was the cause of Barisone's emotional distress.

30. The emotional distress Barisone suffered is severe.

31. As a direct, proximate and foreseeable result of Kanarek's acts, actions and/or omissions, Kanarek cause Barisone to be injured by and through severe emotional distress.

32. As a direct, proximate and foreseeable result of Kanarek's acts, actions, and omissions, Barisone sustained serious and severe personal injuries, disability, pain and suffering, emotional distress, has sustained past and future lost income, and other injuries both personal and business in nature.

WHEREFORE, MICHAEL BARISONE demands judgment against LAUREN KANAREK for compensatory damages, punitive damages, interest, costs of suit; preliminary and permanent injunctive relief in the form of restraints barring LAUREN KANAREK from making posts about or referencing Barisone on the World Wide Web, and/or through any and all forms of social media, and/or otherwise stalking, harassing, and/or seeking to cause harm or injury to Barisone; and such other relief this Court deems just and proper.

COUNTERCLAIM COUNT 3
(Negligence)

33. Barisone repeats and realleges the all prior allegations of this Counterclaim as though set forth at length herein.

34. As stated previously, Kanarek had duties to Barisone which she breached materially, causing Barisone injury and damages.

35. For example, in or about the beginning of August 2019, Kanarek knew, was aware of, and/or should have known, that her harassment of Barisone and/or Barisone Family members had caused Barisone to suffer a mental, psychiatric, and/or emotional breakdown.

36. In or about the beginning of August 2019, Kanarek knew, was aware of, and/or should have known, that due to Barisone's injured mental, psychiatric, and/or emotional state, Kanarek's continued harassment of and caustic interaction with Barisone was more likely than not to devolve into a confrontation involving a significant risk of physical injury and/or harm to the herself, Barisone, and/or other persons on the farm.

37. One of Kanarek's duties was Kanarek's duty care to cease and desist in her harassment, confrontation, and/or other caustic interactions with Barisone.

38. As a direct, proximate and foreseeable result of Kanarek's negligence and/or carelessness, Kanarek cause Barisone to be injured, pain, suffering, and damages.

39. As a direct, proximate and foreseeable result of Kanarek's negligent acts, actions, and omissions, Barisone sustained serious and severe personal injuries, pain and suffering, emotional distress, has sustained past and future lost income, and other injuries both personal and business in nature.

COUNTERCLAIM COUNT 4
(Civil Action For Damages Arising From Unlawful Recording of Private Conversations)

40. Barisone repeats and realleges the all prior allegations of this Counterclaim as though set forth at length herein.

41. Commencing in or about April 2019 and continuing thereafter, Kanarek planned and conspired to unlawfully and tortuously blackmail, intimidate, torment, antagonize, distress and otherwise injury Barisone, for the purpose of destroying Barisone, Barisone's business, Barisone's personal relationships, Barisone's mental and emotional states, and Barisone's physical wellbeing.

42. In furtherance of one or more of those unlawful objectives, Kanarek caused wireless recording devices (the "Recording Devices") to be purchased for the unlawful purpose of planting the devices in areas at Sweet Grass Farm, to make audio recordings of conversations in which the speakers being recorded had reasonable expectations of privacy that no one beyond the actual participants in the conversations would hear or otherwise be privy to what was being said.

43. Thereafter, on numerous occasions, Kanarek caused on or more of the Recording Devices to be placed in the barn hidden under benches in the stall area of the barn; in the club room of the barn where people were residing; in Barisone's private office on the far side of the building where the club room was located; and/or in other areas where Barisone had a reasonable expectation of privacy against having his conversations, and/or the conversations of his family and/or guests, subjected to audio recordings by someone who was not a participant in the conversations.

44. Thereafter, on numerous occasions, Kanarek utilized those surreptitiously-placed Recording Devices to make audio recordings of conversation in which no participants in the conversation had consented to being recorded.

45. Thereafter, on numerous occasions, Kanarek accessed the surreptitiously-made audio recordings to listen to the recordings; to play the recordings for other persons who were not participants in the conversations recorded; to make copies of the recordings and distribute the recordings to persons who were not participants in the conversations recorded; to gas-light, stalk, and taunt Barsione with things said privately in the conversations recorded; and, to commit other acts, actions, and omissions made unlawful under New Jersey law, including but not limited to N.J.S.A. 2A:156A-24 and/or other laws rules and regulations impacting Kanarek's behaviors.

46. Pursuant to N.J.S.A. 2A:156A-1 et seq., New Jersey is a "one party" consent state which means that , in order to lawfully record a conversation, one of the parties to the conversation must give consent to the recording.

47. At the criminal trial which occurred in March-April 2022, Kanarek has made public statement and testified under oath that she caused the Recording Devices to be placed on the property located at 411 W. Mill Lane for the purpose of recording conversations of Barisone and others without their knowledge or consent.

48. The recordings Kanarek caused to be made were made without any participant in the conversation having given consent to have the conversation recorded.

49. Now and at all times relevant hereto, the spaces where Kanarek caused the Recording Devices to be placed were private property wholly owned by Sweet Grass Farms LLC and leased to Barisone.

39.— As a direct, proximate and foreseeable result of Kanarek’s unlawful acts, actions, and omissions connected with her surreptitious use of Recording Devices, Barisone was caused injury and resulting damage, including but not limited to serious and severe personal injuries, pain and suffering, emotional distress, has sustained past and future lost income, and other injuries both personal and business in nature.

WHEREFORE, MICHAEL BARISONE demands judgment against LAUREN KANAREK for compensatory damages, attorney’s fees and litigation expenses, statutory damages, punitive damages, interest, costs of suit; preliminary and permanent injunctive relief in the form of restraints barring LAUREN KANAREK from making posts about or referencing Barisone on the World Wide Web, and/or through any and all forms of social media, and/or otherwise stalking, harassing, and/or seeking to cause harm or injury to Barisone; and, such other relief this Court deems just and proper.

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____
Christopher L. Deininger, Esq.

Dated: November, 2022~~February 29, 2020~~

NOTICE OF ALLOCATION

Pursuant to R. 4:7-5, this answering defendant hereby advised that if any co-defendants presently named or hereafter named, who are not represented by this law firm, settle the within matter prior to the conclusion of trial, the liability of any settling co-defendant(s) shall remain at issue and

the defendants shall seek an allocation of the percentage of fault, negligence, and/or other liability by the finder of fact against each and every settling co-defendant and/or a credit in favor of this answering defendants consistent with such allocation.

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



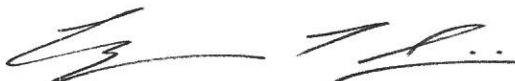
By: _____
Christopher L. Deininger, Esq.

Dated: ~~November~~, 2022 ~~February 29, 2020~~

JURY DEMAND

This Defendant demands a trial by jury as to all claims, issues, and causes of action arising in this civil action.

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____
Christopher L. Deininger, Esq.

Dated: ~~November~~, 2022 ~~February 29, 2020~~

DEMAND FOR STATEMENT OF DAMAGES

Pursuant to the Rules of this Court, R. 4:5-2, the Defendant / Counterclaimant demand that Plaintiff provide a statement as to her damages, within five (5) days.

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____

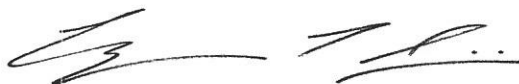
Christopher L. Deininger, Esq.

Dated: ~~November~~, 2022 ~~February 29, 2020~~

DESIGNATION OF TRIAL COUNSEL

Christopher L. Deininger, Esq., and Edward J. Bilinkas, Esq., are is hereby designated as trial counsel for defendant-counterclaim-plaintiff MICHAEL BARISONE ~~Defendants / Counterclaimants.~~

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____
Christopher L. Deininger, Esq.

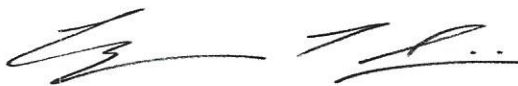
Dated: ~~November~~, 2022 ~~February 29, 2020~~

CERTIFICATION

I hereby certify that there are no other pending actions between or among interested parties which presently involve the subject matter of this action. I further certify that there are other pending action related to certain transactions and occurrences referenced in this action, namely Sweet Grass Farms, LLC et al. v. Michael Barisone et al., pending in New Jersey Superior Court, Morris County, Chancery Division, and State of New Jersey v. Michael Barisone, pending in New Jersey Superior Court, Morris County, Criminal Division. This matter is still under investigation by the undersigned. I further certify that the matter in controversy is not the subject of any

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

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____
Christopher L. Deininger, Esq.

Dated: ~~November~~ February 29, 2020, 2022

CERTIFICATION UNDER R. 4:5-1(b)(3)

I certify that confidential personal identifying information has been removed from the documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

DEININGER & ASSOCIATES, LLP
Attorneys for Barisone



By: _____
Christopher L. Deininger, Esq.

Dated: ~~November~~ February 29, 2020, 2022

Deininger & Associates LLP

Attorneys at Law

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chris@deiningerlaw.com

October 19, 2022

VIA ECOURTS FILING

Hon. Louis S. Sceusi, J.S.C.

Superior Court of New Jersey, Morris County

Court & Washington Streets

P.O. Box 910

Morristown, New Jersey 07960-0910

**RE: Lauren Kanarek v. Michael Barisone, et al.,
Docket No. MRS-L-2250-19**

**MICHAEL BARISONE's Motion For Leave to File & Serve an
Amended Pleading.**

Return Date: November 18, 2022

Dear Judge Sceusi:

Plaintiff Michael Barisone (Barisone) is submitting this letter brief in support of his motion for leave to serve and file his proposed amended complaint.

ARGUMENT

Under the court rules, an application for leave to amend a pleading is required to be granted liberally, without consideration of the ultimate merits of the amendments. Notte v. Merchants Mutual Insurance Co., 185 N.J. 490, 500-501 (2006); and R. 4:9-1. Indeed, absent abject futility or undue prejudice, the discretion to grant leave to amend is appropriate even after a matter is remanded on appeal. Bustamante v. Borough of Paramus, 413 N.J. Super. 276, 298 (App. Div.

2010); and Town of Harrison Bd. V. Netchert, 439 N.J. Super. 164, 178-179 (Law. Div. 2015).

The standard a defendant must meet to succeed on an argument of “futility” is the same high standard for dismissal of a complaint for failure to state a claim upon which relief can be granted, made under R. 4:6-2 (e).

“[The] test to be applied in such instances requires a ‘painstaking’ examination of ‘the complaint in depth and with liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim, opportunity being given to amend if necessary.’ *Printing Mart v. Sharp Elecs. Corp.*, 116 *N.J.* 739, 746, 563 *A.2d* 31 (1989) (quoting *Di Cristofaro v. Laurel Grove Mem’l Park*, 43 *N.J. Super.* 244, 252, 128 *A.2d* 281 (App.Div.1957)). [The court is] ‘not concerned with the ability of plaintiffs to prove the allegation[s] contained in the complaint’ and are required to afford plaintiffs ‘every reasonable inference of fact.’ *Ibid.* ‘The examination of a complaint’s allegations of fact required by the aforestated principles should be one that is ... undertaken with a generous and hospitable approach.’ *Id.*

C.f. Communications Workers of America, AFL-CIO v. Whitman, 335 N.J. Super. 283, 288-289 (App. Div. 2000).

As demonstrated by his proposed amended pleading, BARISONE is seeking leave here to make corrections to certain responses in the Answer he initially filed. Those changes are needed because, due to the passage of time and further development of the incidents and disputes involving Lauren Kanarek and BARISONE, the facts have changed in certain material ways. For example, BARISONE is no longer being held in jail in Morris County, New Jersey, because the criminal trial resulted in a verdict of “not guilty by reason of insanity” and/or straight up “not guilty” on all the criminal counts BARISONE was facing.

Also, at the criminal trial, Lauren Kanarek for the first time disclosed (in statements made on the witness stand, under oath) facts demonstrating that she caused wireless recording devices to be placed surreptitiously at Sweet Grass Farm, and made unlawful audio recordings of private

conversations in which none of the participants consented to being recorded. We have added a new proposed count to the counterclaim seeking damages based upon those acts, actions, and omissions, by Lauren Kanarek which, in our view, are actionable under N.J.S.A. 2A:156A-1 et seq.

CONCLUSION

For the foregoing reasons, plaintiff Barisone is respectfully requesting that his motion for leave to file and serve his proposed amended pleading be granted in all respects.

Respectfully,
DEININGER & ASSOCIATES, LLP

A handwritten signature in black ink, appearing to read 'C. L. Deininger', is written over a horizontal line.

Christopher L. Deininger, Esq.

cc: Opposing Counsel through eCourts filing

CERTIFICATION OF SERVICE

I, CHRISTOPHER L. DEININGER, ESQ., certify under penalty of perjury, that on October 19, 2022, I caused true and accurate copies of the defendants' **Notice of Motion For Leave to File Amended Pleading (with certification of service), Letter Brief, Proposed Form of Order, and Supporting Certifications (with exhibit)**, to be served upon the Clerk of the New Jersey Superior Court, and upon all counsel of record, through e-Courts.

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

DEININGER & ASSOCIATES, LLP
Attorneys for the Barisone



By : _____
CHRISTOPHER L. DEININGER, ESQ.