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Attorneys for Plaintiff, Michael Milosh

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Michael Milosh, an individual,

Plaintiff,

v.

Gibbs Law LLP, a California Limited Liability
Partnership; Karen Barth Menzies, an
individual; Greenberg Gross LLP, a California
Limited Liability Partnership; Deborah S.
Mallgrave, an individual; Brian L. Williams, an
individual; Jemma E. Dunn, an individual; and
Does 1 through 100, inclusive,

Defendants.

Case No. 22STCV28350

Complaint for Malicious Prosecution

[Jury Demand]

Introduction

1. Plaintiff, Michael Milosh, is a musician. Defendants are attorneys who have no respect for the law or the truth. In an effort to extort money, garner fame, and drum-up new business, Defendants filed a frivolous lawsuit against Mr. Milosh that lacked any legal basis or factual support. The lawsuit lacked probable cause and was filed for malicious reasons. Mr. Milosh was forced to retain counsel and move to dismiss the lawsuit. Defendants did not even oppose the dismissal. They did not oppose it because they knew from the onset that they lacked any basis to assert a viable claim. But Defendants filed it because they thought they could use the publicity to extort a settlement from Mr. Milosh. When that did not work, Defendants dismissed the lawsuit. But the dismissal came too late. By then, the damage was done. Mr. Milosh's reputation, which he built over the past 20 years, was ruined.

2. As a result, Mr. Milosh has suffered, and continues to suffer, millions in ongoing damages. Mr. Milosh is suing Defendants for malicious prosecution to vindicate his reputation and to recover the substantial damages that Defendants' misconduct has caused.

General Allegations

3. In their frivolous lawsuit, Defendants alleged that Mr. Milosh's ex-wife, Alexa Nikolas, a former child actress who is struggling to find work, was "sexually assaulted" by Mr. Milosh. The allegations were, and still are, complete nonsense.

4. In addition to being false, Defendants' claims were also barred by a fully executed stipulated Judgment which was signed by Ms. Nikolas and Mr. Milosh as part of their divorce. Defendants *knew* about the Judgment and its preclusive effects. But that did not stop Defendants from filing the lawsuit, hiding the judgment from the Court, dragging Mr. Milosh's name through the mud, and dismissing the lawsuit only after realizing that Mr. Milosh was not going to give in to their extortion.

5. When Defendants drafted the complaint, they made sure to make the allegations as salacious as possible. They made lurid and unnecessary references to sex acts to add drama and intrigue, including references to consensual sex acts between Ms. Nikolas and Mr. Milosh when they were both married adults. None of the references were necessary for the lawsuit. In the complaint, and in public, Defendants falsely accused Mr. Milosh of "grooming" Ms. Nikolas without any basis or legal

1 justification. As part of their extortion plot Defendants made sure the media put maximum pressure on
2 Mr. Milosh's career.

3 6. Defendants were so focused on sensationalizing the allegations that they made blatant
4 misrepresentations in their complaint. Although the list of lies is long, there are a few glaring examples.

5 7. In one instance, Defendants accused Mr. Milosh of taking nude photos of Ms. Nikolas
6 and showing them at one of his album release events. They alleged that this humiliated Ms. Nikolas and
7 her mother. However, the photos were in no way pornographic. They were artistic and were used as the
8 album's cover. Ms. Nikolas willingly participated in taking the photos as an adult and provided her
9 artistic contributions. She proudly told anyone who would listen how much she loved the photos. The
10 photos were not overtly sexual and they certainly would not suffice as evidence of "sexual assault." In
11 fact, the photos are still currently posted on Ms. Nikolas's Instagram account, accompanied by positive
12 captions.



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21 8. Defendants made other ridiculous accusations. In another example, they claimed that
22 Mr. Milosh recorded Ms. Nikolas moaning during sex and put the audio in one of his songs. The
23 implication is that this was done surreptitiously and against Ms. Nikolas's will for his own sexual
24 gratification. In truth, however, Ms. Nikolas recorded herself voluntarily and it was she who suggested
25 doing so as an artistic endeavor. Ms. Nikolas was a willing creator and was given credit for her
26 contributions. She never voiced any concerns about the recording. Defendants simply created lies
27 around what really happened.

28 9. In yet another example, Defendants alleged that Mr. Milosh commented, "[t]his is very

1 hot, very hot! We have to meet pronto” to “explicit photos” that Ms. Nikolas had supposedly sent him
2 when she was only 17 years old. But Defendants purposefully omitted the photos from the complaint.
3 Defendants omitted the photos because the photos are anything but “explicit.”



14 10. What the photos actually depict is Ms. Nikolas, fully dressed, in public, on the set of
15 a movie, holding a prop flamethrower, and shooting a flame into an empty field. The photos are
16 completely benign and publicly available. Any reasonable person would understand that the comment
17 was intended as a joke regarding Ms. Nikolas holding a flame thrower. Making a joke about a flame
18 thrower is not the same thing as a sexual assault. But instead of focusing on the truth and putting the
19 comments in context, Defendants intentionally hid the photos from the Court and public.

20 11. *What is particularly egregious* is that Defendants hid material information from prior filings
21 from the Court and, thus, the public. As mentioned above, when Ms. Nikolas and Mr. Milosh dissolved
22 their marriage, they signed a Stipulated Judgment and Divorce Decree. In that Judgment, among other
23 things, Ms. Nikolas waived any and all claims against Mr. Milosh, confirming that she was not the
24 victim of any sort of assault or abuse and that she did not have any claims to assert against him.

25 12. Defendants knew about the Judgment before filing the lawsuit. They knew Ms. Nikolas
26 and Mr. Milosh were married. They knew that the marriage ended after a year-long mediation that led
27 to the Judgment. Defendants knew this because they alleged facts in the complaint about the mediation
28 and circumstances leading to the Judgment. But Defendants intentionally omitted any specific reference

1 to the Judgment and they did not attach the Judgment to the complaint.

2 13. Rule 3.1 of the California Rules of Professional Conduct states that a lawyer shall only
3 file “Meritorious Claims and Contentions.”

4
5 “A lawyer shall not: (1) bring or continue an action, conduct a defense,
6 assert a position in litigation, or take an appeal, without probable cause
7 and for the purpose of harassing or maliciously injuring any person; or
8 (2) present a claim or defense in litigation that is not warranted under
9 existing law, unless it can be supported by a good faith argument for an
10 extension, modification, or reversal of the existing law.”

11
12 14. This rule is clearly lost on Defendants. Defendants made no good faith effort to set the
13 Judgment aside before filing the lawsuit. They made no good faith effort to try and modify existing law.
14 Instead, Defendants did the exact opposite. Defendants filed the lawsuit knowing that Ms. Nikolas did
15 not have a legal leg to stand on and actively hid material facts from the Court in violation of their
16 ethical obligations.

17 15. Defendants also knew they had no basis to try and set the Judgment aside. Mr. Milosh
18 never missed a single spousal support payment for three years. Ms. Nikolas frequently asked Mr. Milosh
19 for additional money and sent him emails desperately asking for cash. Mr. Milosh did not turn her away,
20 *even after the spousal payments were over, Mr. Milosh continued to help Ms. Nikolas financially.* Indeed, it was only
21 after Mr. Milosh declined to continue funding Ms. Nikolas’ lifestyle that Defendants put the extortion
22 plot in motion.

23 16. Tellingly, Ms. Nikolas previously described her marriage to Mr. Milosh as a positive
24 experience. In a 2018 article – an article which was available to Defendants before they filed the
25 complaint – Ms. Nikolas described how she first heard Mr. Milosh’s music while taking acid with an ex-
26 boyfriend and immediately knew “whoever this [was] [she] was going to marry him.”¹ She described
27 how *she* reached out to Mr. Milosh as a fan and how he responded. She admits that she and Mr. Milosh

28 ¹ <https://www.verse-mag.com/love-letters/2018/8/8/alexa-nikolas>

1 had a “purely online connection” as “pen pals” and that they discussed “art, film, culture, [and]
2 anything and everything that inspired them.” She explains how the two of them eventually met *when she*
3 *was an adult* and got married thereafter. She explains, without any reservations, that the marriage was
4 something she “willing chose to be a part of.” Defendants tried to re-write this history through lies and
5 omissions.

6 17. Ms. Nikolas also describes how she eventually started living with Mr. Milosh in Los
7 Angeles and how moving to Los Angeles, as a couple, brought them closer together because they “were
8 no longer two separate souls engaging with one another... [that was when they] truly became one.”
9 Defendants took these facts and crafted a lie in the complaint about how Mr. Milosh’s real motive for
10 marrying Ms. Nikolas was to gain US citizenship. Mr. Milosh was and still is a Canadian citizen. He
11 freely traveled between Canada and the United States. Any suggestion that he married Ms. Nikolas as
12 part of an immigration scheme is just more false and defamatory nonsense.

13 18. After being served, Mr. Milosh *repeatedly* asked Defendants to dismiss their lawsuit. He
14 explained how unfairly they were treating him. But Defendants chose to delay. The delay shielded Ms.
15 Nikolas under the perceived litigation privilege, allowing Defendants and Ms. Nikolas to use the bogus
16 allegations in the complaint to garner false support and publicity. Defendants, therefore, enabled Ms.
17 Nikolas to interfere with Mr. Milosh’s career.

18 19. Defendants also made online posts about the lawsuit on their firm’s social media
19 accounts. To add false credibility to the complaint, Defendants created a special website dedicated to
20 Mr. Milosh which contained a copy of the Rolling Stone magazine logo and link to the unverified
21 complaint. This is a violation of Rule 3.6(a) of the Rules of Professional Conduct which states, in
22 relevant parts, that a lawyer participating (or who has participated) in an investigation or litigation is
23 prohibited from making out-of-court statements about the matter that the lawyer knows (or reasonably
24 should know) will be disseminated by means of public communication and will have a substantial
25 likelihood of materially prejudicing an adjudicative proceeding in the matter. Again, Defendants ignored
26 this rule and instead tried to use the media as leverage.

27 20. There was absolutely no legal justification for creating the website or drawing
28 unnecessary public attention to the unverified complaint, yet Defendants did it anyway. The rules

1 governing professional conduct in California expressly prohibit lawyers from encouraging either the
2 commencement or the continuance of an action or proceeding from any corrupt motive of passion or
3 interest. Defendants ignored this rule because they did not want to let the truth get in the way of a
4 marketing opportunity during the peak of the #MeToo movement. But Defendants are not #MeToo
5 advocates, they are #MeToo extortionists, and their action undermine actual victims of sexual assault –
6 what Defendants have done does not help victims of sexual assault, it drowns out their voices in a
7 bunch of attorney-generated noise.

8 21. Left with little choice, Mr. Milosh was forced to spend time and money filing a
9 demurrer to the complaint. He took judicial notice of the Judgment. He served discovery to
10 obtain *any* evidence that Defendants or Ms. Nikolas had to support the allegations in their frivolous
11 complaint. Not surprisingly, no evidence was ever produced – *not a single shred*.

12 22. To the contrary, Defendants obtained extensions to respond to the discovery.
13 Defendants knew they could not oppose the demurrer *from day one*. But they took advantage of Mr.
14 Milosh’s counsel’s professional courtesies to delay as much as possible. Then, shortly before their
15 opposition deadline to the demurrer, they dismissed.

16 23. Defendants’ actions, as alleged above and throughout this complaint, were undertaken
17 with malice and without probable cause. Defendants only filed the lawsuit to try and extort money
18 from Mr. Milosh and to garner attention for their respective firms. Defendants acted like they were
19 trying to help a “victim” – but they were never able to show that Ms. Nikolas was actually a victim.
20 That is because Ms. Nikolas was never a victim. To the extent Ms. Nikolas was ever a victim, she was a
21 victim of Defendants who used her to file the complaint and gain publicity for their own benefit.

22 24. Ultimately, although Ms. Nikolas perhaps does not know better, Defendants are
23 licensed attorneys. As licensed attorneys they are expected to know better and to act with decorum and
24 candor before the Court. Defendants’ conduct, as alleged herein, flies in the fact of those ethical
25 obligations.

26 25. Accordingly, Mr. Milosh is suing Defendants for malicious prosecution and is seeking
27 punitive damages. Defendants’ malicious actions have caused Mr. Milosh well over \$10,000,000 in
28 actual damages. The amount of punitive damages will be established at trial.

Venue and Jurisdiction

26. Venue and jurisdiction are proper in this Court because the conduct which gave rise to this lawsuit occurred in Los Angeles, California and within the jurisdictional limits of this Court. Further, the amount in controversy exceeds \$25,000.

Parties

27. Plaintiff, Michael Milosh, is an individual who resides in Los Angeles, California.

28. Defendant Gibbs Law LLP is a for profit law firm registered to do business in California, with offices at 6701 Center Drive West, Suite 1400, Los Angeles, California 90045.

29. Defendant Karen Barth Menzies, Esq. is an attorney, partner, agent, employee of Gibbs Law LLP.

30. Defendant Greenberg Gross LLP is a for profit law firm registered to do business in California, with offices at 650 Town Center Drive, Suite 1700, Costa Mesa, CA 92626.

31. Defendants Deborah S. Mallgrave, Esq., Brian L. Williams, Esq., and Jemma E. Dunn, Esq. are attorneys, associates, partners, agents, and/or employees of Greenberg Gross LLP.

32. The true names and capacities, whether individual, corporate, associate or otherwise, of the defendants sued here in as “Doe 1 through 100” are unknown to Mr. Milosh. Therefore, they are being sued under such fictitious names. Mr. Milosh will amend this complaint to insert the true names of the “Doe” defendants when such information is known.

33. The Doe defendants, although unidentified by their true names, are responsible for the wrongful acts alleged in this complaint, and are equally, jointly, and severally liable to Mr. Milosh for any damages alleged herein. They have each aided and abetted one another in the wrongful conduct alleged in this complaint.

34. For purposes of simplicity, any reference to “Defendant” or “Defendants” made in this complaint, whether in the paragraphs above or below, shall refer to all the Defendants identified under the “Parties” section of this complaint, including Does 1 through 100.

35. Defendants, were the agents, employees and co-conspirators of one another and engaged in the acts and/or conduct alleged herein within the course and scope of their agency and/or employment with the permission and consent of each other. Mr. Milosh is informed and believes, and

1 on that basis alleges, that all of the acts alleged herein were ratified by Defendants, inclusive, and each
2 of them.

3 **First Cause of Action**

4 **Malicious Prosecution**

5 *(Against all Defendants, inclusive, and each of them.)*

6 36. Mr. Milosh incorporates by reference the allegations in the preceding paragraphs as if
7 set forth in full herein.

8 37. Malicious prosecution is the institution and maintenance of a judicial proceeding against
9 another with malice and without probable cause. The tort of malicious prosecution recognizes the right
10 of an individual to be free from unjustifiable litigation. A malicious prosecution action is designed to
11 compensate the wronged individual for damage to reputation and to reimburse him or her for the costs
12 of defending against unwarranted legal claims.

13 38. While it is generally true that the “litigation privilege” affords litigants protection from
14 their conduct in judicial proceedings, the privilege does not apply to claims for malicious prosecution.
15 Similarly, statements made to the press are not privileged just because other statements were also made
16 in documents filed with a court, in such a circumstance, special emphasis must be laid on the
17 requirement that the statement be made in furtherance of the litigation and to promote the interest of
18 justice, otherwise the privilege would merely provide absolute immunity to a resourceful slanderer.

19 39. In order to establish a cause of action for malicious prosecution, the plaintiff must
20 demonstrate that the prior action: (1) was terminated in his or her favor; (2) was brought without
21 probable cause; and (3) was initiated with malice. The plaintiff must also demonstrate an injury or
22 damages arising as a result of the lawsuit.

23 40. With respect to the first element, courts do not require that the prior action proceed all
24 the way to trial. Rather, a voluntary dismissal may be deemed an abandonment and thus an implicit
25 concession that the action lacks merit, even if the dismissal is “without prejudice.”

26 41. With respect to the second element, lack of probable cause may be established by
27 presenting evidence that the claim in the prior action was not legally tenable when viewed in an
28 objective manner, regardless of whether the defect existed at initiation or in the middle of the case. It is

1 not necessary that the plaintiff prove that the whole proceeding was utterly groundless, since coupling
2 groundless causes with well-founded causes does not make the groundless ones any less injurious. It is
3 incumbent upon the defendant to establish probable cause for each of the count, element, and theory
4 alleged once he or she is faced with a claim for malicious prosecution.

5 42. With respect to the third element, “malice” can be established through evidence of an
6 improper purpose. This can be done by presenting evidence that the prior action was filed to force a
7 settlement, which has no relation to the merits of the underlining claim, or with evidence that an
8 attorney failed to conduct an adequate investigation before filing the lawsuit; both support a finding of
9 malice required for a malicious prosecution claim.

10 43. Additionally, malice can be shown when an attorney improperly leaks unsupported
11 accusations to the media. What the attorney knew, or could have known through the exercise of due
12 diligence, either at the time of filing or at any point throughout the litigation, is directly relevant to a
13 subsequent claim for malicious prosecution.

14 44. Moreover, an attorney’s assertion that he or she did not personally initiate the prior
15 action or that his or her participation was to be limited in time or scope does not eliminate the
16 attorney’s potential liability for malicious prosecution.

17 45. As stated in detail above, here Defendants initiated a lawsuit against Mr. Milosh which
18 was terminated in his favor.

19 46. The lawsuit was brought without probable cause because, among other reasons, there
20 was no legal, factual, or other legitimate basis upon which the claim was based.

21 47. The lawsuit was initiated with malice because Defendants wanted to garner fame and
22 business, rather than for any legitimate reasons. Defendants failed to conduct an adequate investigation
23 prior to filing the lawsuit, or in the alternative, conducted the investigation, but chose to conceal
24 relevant but detrimental facts from the Court. Defendants also made, promulgated, circulated, and
25 dispersed statements about the lawsuit which had no legitimate legal purpose or motive, and for the
26 sole reason of leveraging an unjustified payment from Mr. Milosh.

27 48. As a result of the foregoing, Mr. Milosh has sustained substantial damages, both
28 financial and reputational. Defendants conduct, as alleged herein, was the direct and proximate cause of

1 the damages sustained by Mr. Milosh.

2 49. Plaintiff is informed and believes, and thereupon alleges, that acts and omissions of
3 Defendants, as alleged herein, were also undertaken in bad faith with malicious, oppressive, and
4 fraudulent intent. Defendants' conduct constitutes despicable behavior, entitling Mr. Milosh to punitive
5 or exemplary damages in an amount to be determined at trial.

6 **Prayers for Relief**

7 WHEREFORE Plaintiff, Michael Milosh, prays for judgment against Defendants, inclusive, and
8 each of them, including Does 1 through 100, as follows:

9 A. Past and future general and special damages according to proof, including lost past and
10 future wages and profits, benefits, and opportunities;

11 B. Pre-judgment interest, post-judgment interest, costs of suit;

12 C. All costs and attorneys' fees incurred where authorized by law;

13 D. Declaratory relief that Defendants' conduct as complained of herein was a violation of
14 Plaintiff's rights;

15 E. Punitive damages according to proof; and

16 F. For all other relief that the Court deems just and proper.

17 **Demand for Jury Trial**

18 Plaintiff, Michael Milosh, respectfully demands a trial by jury on all claims as provided by
19 California law.

20
21 Respectfully submitted,

22 **SDA Law Group P.C.**

23
24 Dated: 08/25/2022

25 By:  _____

26 Aren Derbarseghian,
27 Alfred Shaumyan,
28 Amir Abdizadeh,
Attorney for Plaintiff,
Michael Milosh