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DISTRICT COURT

CLARK COUNTY, NEVADA

STEFAN WILHELMY, an individual; and **PEARADISE, LLC,** a Nevada limited liability company,

Plaintiffs,

vs.

KIMBERLY HAUETER and **JOHN DOE HAUETER,** wife and husband; **ALEJANDRA JAVIER** and **JOHN DOE JAVIER,** wife and husband; **SAVANNAH BROWN** and **JOHN DOE BROWN**, wife and husband; **MONICA SANDU** and **JOHN DOE SANDU,** wife and husband; **SADIE PAISLEY DOE** and **JOHN DOE PAISLEY,** wife and husband; **DOE DEFENDANTS I-X,** inclusive; and **ROE DEFENDANTS I-X,** inclusive.

Defendants.

Case No. A-21-837173-C

Dept. No. 2

DEFENDANTS' ANTI-SLAPP SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660

[HEARING REQUESTED]

Defendants Kimberly Haueter, Alejandra Javier, Savannah Brown, and Monica Sandu (collectively, "Defendants") hereby file this Anti-SLAPP Motion under NRS 41.660.

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MEMORANDUM OF POINTS AND AUTHORITIES

1.0 INTRODUCTION

Plaintiffs Stefan Wilhelmy and Pearadise, LLC's lawsuit against Defendants is a SLAPP suit.[1] There is no legal basis for this lawsuit, which has been filed in order to try to intimidate victims of Wilhelmy's acts of sexual assault. This Honorable Court should not abide such intimidation, should dismiss the claims, and grant the defendants' their attorneys' fees and costs.

Wilhelmy runs an online platform by the name of "BBW Pearadise" or "Pearadise" that he calls a "safe space" for the big, beautiful, women ("BBW") community. The platform is primarily on Discord, with Wilhelmy running an accompanying TikTok account to promote the space. Although he calls it a "safe space," it is, in reality, a place for Wilhelmy to seek out vulnerable women that he can then exploit. Under the guise of supportiveness, Wilhelmy uses Pearadise as his own personal date-harvesting platform. (*See* Declaration of Savannah Brown ["Brown Decl."], attached as **Exhibit A**, at ¶ 13.)

Wilhelmy had some of these women come to his home– but when they arrived, the "safe space" façade began to rot and crumble away, as he immediately engaged in boundary-crossing behavior, sexual assault, and sexual coercion. After a short time, Defendants Brown and Javier began to feel like sex captives, rather than "safe" guests. He sexually assaulted two of them, and when they told their stories on their own respective TikTok platforms, he filed this lawsuit to both retaliate against them and to stop them from warning other women.

Ms. Brown and Ms. Javier were direct victims of Wilhelmy's sexual misconduct. Ms. Haueter and Ms. Sandu merely amplified their stories in order to spread awareness of Wilhelmy's lecherous and assaultive conduct. Wilhelmy claims a number of their statements are false and defamatory, but the statements are either true or protected expressions of opinion based on disclosed facts.

[1] "SLAPP" is an acronym for Strategic Lawsuits Against Public Participation. These are suits filed not for the purpose of ultimately prevailing, but rather to silence and intimidate critics by burdening them with the costs of litigation.

Wilhelmy does not deny the offensive touching. However, Wilhelmy trots out some time-worn and exhausted sexist tropes in order to justify his treatment of these victims. For example, he attempts to use the old "she was asking for it" justification by claiming that there were sexually charged text messages between the parties. (*See* Complaint at ¶19-21.) But, even if there were, a sexually charged text message is not the same as consent to sexual contact. Meanwhile, Defendant Brown's text message made it clear that she was not consenting to anything before the fact. "I don't want there to be any expectations." (*See* Complaint at Exhibit A.) Wilhelmy confirmed "never any expectations here." *Id*. Meanwhile, Wilhelmy certainly conducted himself as if there were not only "expectations," but as if he had a consent-free and boundary-free license to use these women as his own personal gratification harem. Meanwhile, Wilhelmy has the audacity to refer to interpret these messages to say that the women "impliedly consented" to his actions. (*See* Complaint at ¶ 24.) He now claims that apparently this consent was not only to such actions, but that both Defendant Javier *and* Brown were both "implying" an apparent *menage a trois*.

After the Defendants left Wilhelmy's home, they began to discuss the details of the visit, publicly. After all, Wilhelmy was still the man in charge of Pearadise, and the Defendants felt that other members of the community should be warned that "safe space" was an exaggeration. They discussed their experience of being sexually assaulted, which brings us to Wilhelmy's new trope – one that is most creative when it comes to theories of defamation liability. Wilhelmy claims that to call an action "sexual assault" requires penetration. (*See* Complaint at ¶ 47.)

Wilhelmy fondled them, slapped them on their buttocks, took unconsented-to nude photographs, and treated them like livestock. And now, Wilhelmy's breathtakingly shocking legal theory boils down to "***I can do whatever I want to these women, and it doesn't become sexual assault until unless I penetrate them. Since I didn't, their statements are false statements of fact, so they should pay me $1,000,000 and not tell anyone else about what I did to them***."

The only true question here is which is a more audacious lack of respect for boundaries? How he treated them at his house, or how he is treating them now?

Plaintiffs filed their meritless complaint in an effort to chill Defendants' protected speech. Their claims should be dismissed and they should be required to pay all of Defendants' attorneys' fees and costs incurred in defending themselves.

2.0 FACTUAL BACKGROUND

Wilhelmy is the founder of Pearadise and the Pearadise Discord community. (*See* Complaint at ¶ 16.) Plaintiffs are active on the TikTok platform and have amassed a following of more than 210,000 people in a short amount of time. (Pearadise TikTok Homepage, attached as **Exhibit B**). The Pearadise Discord channel was created just over one year ago, and Wilhelmy claims that he created it to satisfy his "passion for speaking up against bullying and discrimination against big girls to the next level." (Pearadise Homepage, attached as **Exhibit C**). This "white knighting" is most certainly a ruse and disingenuous – albeit an ingenious way to create a honeypot to attract women who feel bullied and discriminated against. This is classic predator behavior – seek out the vulnerable, seek out those with self-esteem issues, and then prey on them.

Ms. Brown and Ms. Javier were both active participants in the Pearadise Discord. (*See* Complaint at ¶ 17.) After a few months of online chatting, Ms. Brown and Ms. Javier planned a trip to Las Vegas to meet members of the Pearadise community in person. (*Id*. at ¶ 18.) The two stayed in Wilhelmy's large 5-bedroom house, where he frequently throws parties and makes TikTok content for the Pearadise community. (*Id*. at ¶ 22.)

Wilhelmy contends that Ms. Brown and Ms. Javier implicitly consented to his inappropriate touching because they engaged in flirtatious text messages prior to the visit. (*Id.* at ¶ 24.) Wilhelmy claims that he has reason to believe that the two women were interested in physical contact with him based off those "flirtatious" text messages. (*Id.*) In fact, Ms. Brown sent a text message to Wilhelmy prior to her arrival stating that she did not want Wilhelmy to have any expectations of her visit to the house. (*See* Complaint at Exhibit A.**)** That would include any sexual or physical expectations. Wilhelmy acknowledged the lack of expectations. *Id*. Further, Ms. Javier specifically told Wilhelmy prior to the trip that she was in a monogamous relationship,

and therefore was not interested in any sort of sexual advances. (Declaration of Alejandra Javier ["Javier Decl."], attached as **Exhibit D**, at ¶ 5.)

There were several instances of Wilhelmy touching Ms. Brown. (*See* Brown Decl. at ¶ 6.) For example, Wilhelmy would frequently and repeatedly spank her buttocks when they were walking around, despite her telling him to stop. (*Id*. at ¶ 7.) In his Complaint, Wilhelmy only mentions three such instances which he recorded using home surveillance cameras, but neglects to mention other occurrences of this behavior. (*See* Complaint at ¶¶ 26-29.) Wilhelmy went so far as to call Ms. Brown "immature" for refusing to be naked around him. (*See* Brown Decl. at ¶ 10.) Ms. Javier experienced one instance of this conduct, in which Wilhelmy touched her without her consent. (Javier Decl. at ¶ 6.). There was an occasion where Wilhelmy rubbed her stomach in a sexual manner despite her discomfort with this conduct. (*Id*.) Wilhelmy also took a photograph of the women nude in the pool together without their consent. (Brown Decl. at ¶ 12; Javier Decl. at ¶ 7.)

After the visit, Ms. Brown and Ms. Javier posted published the details of their experiences. Ms. Haueter and Ms. Sandu, other members of the Pearadise Discord, also posted about this conduct on their own respective TikTok accounts. (*See* Complaint at ¶¶ 34-37.) Ms. Haueter, finding Ms. Brown and Ms. Javier credible and relying on their account of events, stated that Pearadise is not a safe space for BBWs and that Wilhelmy sexually assaulted two women. (*Id*. at ¶ 38.) Ms. Sandu has never explicitly named Wilhelmy in her videos but she has made statements that the sexual assault allegations are not defamatory if they are true. (*Id*. at ¶ 43.)

Wilhelmy has even admitted in text messages that he "NEVER TOUCHED ANYONE INAPPROPRIATELY **AFTER** THE CORRECT SIGNAL WAS RECEIVED !!!" (*See* Javier's Text Messages, attached as **Exhibit E**) (emphasis in original.) He has also admitted to being "too touchy feely." (*See* Wilhelmy Instagram Message, attached as **Exhibit F**). Knowing that he did sexually assault Ms. Brown and Ms. Javier according to the common understanding of the term, Wilhelmy premises his claims on the theory that the appropriate definition of sexual assault is that of the Nevada criminal statutes, which require sexual penetration. (*See* Complaint

at ¶ 47.) Apparently, touching unwilling women in a sexual manner is not "legally" sexual assault, and therefore, this vocabulary is verboten in Wilhelmy-world. Rubbish.

This is merely the story of a man who did not respect boundaries and is now angry that he is being called out on a public forum. His claims should be dismissed.

3.0 LEGAL STANDARDS

Under Nevada's Anti-SLAPP statute, NRS 41.635 *et seq*., if a lawsuit is brought against a defendant for exercising their First Amendment rights, the defendants have substantive immunity from suit unless the plaintiffs can meet the statute's burden. Evaluating the Anti-SLAPP motion is a two-step process. The movant bears the burden on the first step, and the non-moving party bears the burden on the second. *See John v. Douglas County Sch. Dist*., 125 Nev. 746, 754 (2009).

First, the defendants must show, by a preponderance of the evidence, that the plaintiffs' claim is "based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern." NRS 41.660(3)(a). One of the statutory categories of protected speech is "[c]ommunication[s] made in direct connection with an issue of public interest in a place open to the public or in a public forum, which is truthful or is made without knowledge of its falsehood," so long as the communications are made in "good faith," meaning they are true or were made without actual knowledge of falsity. NRS 41.637(4).

Second, once the defendants meet their burden on the first prong, the burden then shifts to the plaintiffs, who must make a prima facie evidentiary showing that they have a probability of prevailing on their claims. *See* NRS 41.660(3)(b); *see also John*, 125 Nev. at 754.

Nevada treats an Anti-SLAPP motion a motion for summary judgment. *See Stubbs v. Strickland*, 297 P.3d 326, 329 (Nev. 2013); *see also Coker v. Sassone*, 432 P.3d 746, 748-49 (Nev. 2019). However, it has some additional procedures to avoid the abusive use of discovery, and if the court grants the motion to dismiss, the defendants are entitled to an award of reasonable costs and attorneys' fees, as well as an award of up to $10,000. *See* NRS 41.670(1)(a)-(b).

Nevada courts look to case law applying California's Anti-SLAPP statute, Cal. Code Civ. Proc. § 425.16, which shares many similarities with Nevada's law. *See John*, 125 Nev. at 756

(stating that "we consider California case law because California's anti-SLAPP statute is similar in purpose and language to Nevada's anti-SLAPP statute"); *see also Shapiro v. Welt*, 389 P.3d 262, 268 (Nev. 2017) (same); *Sassone*, 432 P.3d at 749 (finding that "California's and Nevada's statutes share a near-identical structure for anti-SLAPP review … Given the similarity in structure, language, and the legislative mandate to adopt California's standard for the requisite burden of proof, reliance on California case law is warranted"); *and see* NRS 41.665(2) (defining the plaintiff's prima facie evidentiary burden in terms of California law).

4.0 ARGUMENT

4.1 Prong One: This Suit is Based Upon Protected Conduct

As relevant here, the statute protects any "[c]ommunication made in direct connection with an issue of public interest in a place open to the public or in a public forum… which is truthful or is made without knowledge of its falsehood." NRS 41.637(4). A defendant therefore must make three showings to satisfy the first prong: (1) the claims are based upon communications made in direct connection with an issue of public interest; (2) the communications were made in a place open to the public or in a public forum; and (3) the communications are truthful or were made without knowledge of their falsehood. All three requirements are met here.

4.1.1 Definition of Issue of Public Interest

"Issue of public interest" is defined broadly as "any issue in which the public is interested." *Nygard, Inc. v. Unsi-Kerttula*, 159 Cal. App. 4th 1027, 1042 (2008). "The issue need not be 'significant' to be protected by the anti-SLAPP statute – it is enough that it is one in which the public takes an interest." *Id.* "Although matters of public interest include legislative and governmental activities, they may also include activities that involve private persons and entities…" *See Church of Scientology v. Wollersheim*, 42 Cal. App. 4th 628, 650 (1996). An activity does not need to "meet the lofty standard of pertaining to the heart of self-government" to qualify for Anti-SLAPP protection; "social or even low-brow topics may suffice." *Hilton v. Hallmark Cards*, 599 F.3d 894, 905 (9th Cir. 2009).

The lifestyles and conduct of well-known public figures and celebrities constitute an issue of public interest. *See Hilton*, 599 F.3d at 908 (celebrity Paris Hilton acknowledging that her "privileged lifestyle and her catchphrase ('that's hot') are matters of widespread public interest"). "[T]here is a public interest which attaches to people who, by their accomplishments, mode of living, professional standing or calling, create a legitimate and widespread attention to their activities." *Stewart v. Rolling Stone LLC*, 181 Cal. App. 4th 664, 667-68 (1st Dist. 2010). A California court found a suit by a former head football coach was subject to the Anti-SLAPP statute because the plaintiff's "role as head coach of a local university's football team already made him a public figure, and his employment termination was already a topic of widespread public interest." *McGarry v. University of San Diego*, 154 Cal. App. 4th 97, 110 (4th Dist. 2007). Issues that involve even private conduct by public figures may be of public interest. *See Sipple v. Foundation For Nat. Progress*, 71 Cal. App. 4th 226, 238 (2d Dis. 1999) (finding that a lawsuit based on reported allegations against a nationally prominent media strategist for political figures, accusing him of physically and verbally abusing his wife, involved a matter of public interest).

Even low-level or non-news-frenzy sexual misconduct can be an issue of public interest. The court in *Mendoza v. ADP Screening and Selection Services, Inc*., 182 Cal. App. 4th 1644, 1653 (2d Dist. 2010) determined that the public has a "strong interest in the dissemination of information regarding registered sex offenders" in a suit involving background checks for sex offenders. The court in *M.G. v. Time Warner, Inc*., 89 Cal. App. 4th 623, 629 (4th Dist. 2001) found that an article concerning the issue of adult coaches who sexually molest youths playing team sports was of significant public interest. Certainly a case like this, which involves an online content creator who garnered his popularity by creating a "safe space" for women just so that he could lure them to his home and abuse them, is of public interest.

Finally, the merits of a plaintiff's claims, and the legality of the defendant's actions, are not the focus of the first prong analysis and, if relevant, should only be considered during the second prong analysis. *See Coretronic Corp. v. Cozen O'Connor*, 192 Cal. App. 4th 1381, 1388 (2d Dist. 2011); *see also Taus v. Loftus*, 40 Cal. 4th 683, 706-07, 713, 727-29 (2007).

4.1.2 Defendants' Statements Were Made in Direct Connection with an Issue of Public Interest

Defendants' statements relate directly to a significant issue of public interest, namely a pattern of allegations of sexual harassment against a public figure. The Supreme Court of Nevada recently held that allegations that a local business owner that was well known in the thrifting community was a "bully" was an issue of public interest to a substantial number of people that surpasses mere curiosity. *Smith v. Zilverberg*, 481 P.3d 1222, 1227 (Nev. 2021). The court in that case noted that "disclosure of [the plaintiff's] behavior, which occurred in connection with his thrifting business and related activities, informs the public's decision on whether to do business with him." *Id.* at 1227-28. Wilhelmy noted in the Complaint that he has a substantial following of 170,000 followers on TikTok. (*See* Complaint at ¶ 56). Since the Complaint was written, Wilhelmy has grown to over 210,000 followers on the platform. (*See* Pearadise TikTok Screenshot, attached as **Exhibit B**). Most importantly for the context of this case, the "Pearadise Community" is Wilhelmy's personal fiefdom. He created the community. He controls the community. And now, he apparently exploits the community for his own personal sexual gratification. He is most certainly a public figure in the context of this community.

Wilhelmy is at least a limited purpose public figure for purpose of the anti-SLAPP analysis in this case. A limited-purpose public figure is a person who voluntarily injects himself or is thrust into a particular public controversy or public concern, and thereby becomes a public figure for a limited range of issues. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 720 (2002). The test for determining whether someone is a limited public figure includes examining whether a person's role in a matter of public concern is voluntary and prominent. *Id.* Wilhelmy created Pearadise as a "safe-space" for body positivity and inclusivity for all individuals, but specifically for "speaking up against bullying and discrimination against big girls." (*See* Pearadise Website Page, attached as **Exhibit C**). Wilhelmy actively sought to hold himself out as a body positivity influencer for "big girls" and, indeed, welcomed this attention. Wilhelmy has stated that it was his "passion" to create the Discord server where a majority of his community hangs out on a regular basis. (*Id.*).

As the leader of a community he advertises as a "safe space," Wilhelmy's offline behavior is of particularly great concern to the public and particularly to the "big girl" community. Ms. Brown and Ms. Javier have recounted their personal experiences of sexual misconduct with Wilhelmy in their statements. Ms. Haueter and Ms. Sandu have described the stories of various women and their encounters with Wilhelmy. All of the statements were made in order to notify the public of coercive and boundary-breaking behavior by a man purporting to run a "safe space" for all women he knows to feel bullied and discriminated against. In reality, he is really creating a stable of women who fit his physical preferences, who have emotional feelings of vulnerability, that he can sexually abuse at his leisure. Wilhelmy's claims arise from conduct that is protected by the Nevada Anti-SLAPP statute.

4.1.3 Defendants' Statements Were Made in a Public Forum

Defendants published their videos on TikTok. Publicly accessible web sites are public forums for Anti-SLAPP purposes. *See Cole v. Patricia A. Meyer & Associates*, 206 Cal. App. 4th 1095, 1121 (2012). In fact, the U.S. Supreme Court recognized that other social media web sites such as Facebook and Twitter are paradigmatic modern day public forums. *See Packingham v. North Carolina*, 582 U.S. __, 137 S. Ct. 1730, 1735-37 (2017) (noting that "[s]ocial media offers relatively unlimited, low-cost capacity for communication of all kinds" and that "social media users employ these websites to engage in a wide array of protected First Amendment activity on topics as diverse as human thought"). Defendants' statements were made in a place open to the public or a public forum.

4.1.4 Defendants' Statements Were Made in Good Faith

To be protected under the Anti-SLAPP statute, statements must be "truthful or … made without knowledge of [their] falsehood." NRS 41.637. Even if a statement is false, defendants must have made it with *actual knowledge* that it was false; neither negligence nor even reckless disregard for the truth can defeat a defendants' showing under prong one. It is properly described as a standard even higher than that of the Actual Malice standard under *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). The fundamental inquiry is whether Defendants knowingly lied;

"[t]he test is subjective, with the focus on what the defendant *believed* and *intended to convey*, not what a reasonable person would have understood the message to be." *Nevada Indep. Broad. Corp. v. Allen*, 99 Nev. 404, 415 (1983) (emphasis in original). The term "good faith" in the Anti-SLAPP statute does not have any independent significance from its definition in the statute. The Nevada Supreme Court in *Welt* clarified that this simply means "[t]he declarant must be unaware that the communication is false at the time it was made." 389 P.3d at 267. Accordingly, this analysis is completely unrelated to a defendant's motivations in making a statement or whether they should have conducted a more thorough investigation prior to publication.

A statement of opinion cannot be false or defamatory, as there is no such thing as a "false" idea. *See Pegasus*, 118 Nev. at 714; *see also Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 339 (1974). An "evaluative opinion" cannot be false or defamatory, either. *See PETA v. Bobby Berosini, Ltd.*, 111 Nev. 615, 624-25 (1995) (finding that claiming depictions of violence towards animals shown in video amounted to "abuse" was protected as opinion). Such an opinion is one that "convey[s] the publisher's judgment as to the quality of another's behavior, and as such, it is not a statement of fact." *Id.* at 624. To determine whether a statement is one of protected opinion or an actionable factual assertion, the court must ask "whether a reasonable person would be likely to understand the remark as an expression of the source's opinion or as a statement of existing fact." *Pegasus*, 118 Nev. at 715. The Nevada Supreme Court has recognized that a statement of opinion cannot be made with knowing falsity for purposes of the "good faith" inquiry. *Abrams v. Sanson*, 458 P.3d 1062, 1068 (2020).

Ms. Brown and Ms. Sandu both made statements that Mr. Wilhelmy had sexually assaulted them during an April visit to Wilhelmy's Las Vegas home. Despite what Plaintiffs contend, "sexual assault" is a subjective term to the average layperson that can have a vast number of different meanings and cover a broad range of conduct. In the Complaint, Plaintiffs contend that the only possible meaning of sexual assault is that of the Nevada criminal statute, which requires a sexual penetration. (*See* Complaint at ¶ 47). Defendants here use the term "sexual assault" to describe unconsented touchings. For example, Wilhelmy spanked Ms. Brown's buttocks without

consent. (*See* Complaint at ¶ 36). Wilhelmy also caressed Ms. Javier's stomach without her consent. (*See* Complaint at ¶ 26). Plaintiffs allege in their Complaint that Ms. Brown and Ms. Javier actually consented to these touchings because *they did not react to them*. (Complaint at ¶¶ 26 & 28.) Apparently, to sustain Wilhelmy's view of the world, a sexual assault victim who fails to respond is impliedly consenting to more sexual assault. Willhelmy is shockingly wrong; neither Ms. Brown nor Ms. Javier consented. (*See* Brown Decl. at ¶ 11; Javier Decl. at ¶ 6.) Ms. Brown and Ms. Javier did not manifest consent to this conduct merely by refraining from slapping Wilhelmy in the face and shouting "how dare you!" in the middle of his security-monitored home. This kind of attitude towards consent is about 50 years too late to be convincing. Contrary to Wilhelmy's belief, no reaction is a reaction in itself. Especially in instances where an individual may be trying to avoid confrontation or is experiencing shock at the assault that they have just experienced. Considering that Ms. Brown and Ms. Javier made statements that truthfully describe their experiences with Wilhelmy, they published their statements in good faith.

Neither Ms. Haueter nor Ms. Sandu made any statements on TikTok with knowledge of its falsity. Ms. Haueter and Ms. Sandu had no reason to doubt Ms. Brown and Ms. Javier's statements, and actually believed their account of events. (*See* Declaration of Kimberly Haueter ["Haueter Decl."], attached as **Exhibit H**, at ¶¶ 6-7; *see also* Declaration of Monica Sandu ["Sandu Decl."], attached as **Exhibit I**, at ¶¶ 5-6.) Plaintiffs acknowledge that in light of the #MeToo movement, there are concerns that sexual assault claims are taken too lightly. (*See* Complaint at ¶ 56). As staunch opponents of all forms of sexual abuse or misconduct, and knowing of widespread reporting that many instances of sexual misconduct go unreported and unprosecuted, Ms. Haueter and Ms. Sandu had no reason to doubt the allegations of sexual assault that they had heard. (Haueter Decl. at ¶ 6; Sandu Decl. at ¶ 5.) Furthermore, Ms. Haueter is of the opinion that Pearadise is not a safe space and that Wilhelmy is a predator. (Haueter Decl. at ¶¶ 9-10.) Defendants made these statements in good faith.

Defendants thus satisfy their burden under the first prong of the Anti-SLAPP analysis. The burden now shifts to Plaintiffs to show a probability of prevailing on their claims.

4.2 Prong Two: Plaintiffs Cannot Show a Probability of Prevailing on The Claims[2]

NRS 41.660 defines a plaintiff's burden of proof as "the same burden of proof that a plaintiff has been required to meet pursuant to California's anti Strategic Lawsuit Against Public Participation law as of the effective date of this act." NRS 41.665(2). Plaintiff cannot simply make vague accusations or provide a mere scintilla of evidence to defeat Defendants' motion. Rather, to satisfy their evidentiary burden under the second prong of the Anti-SLAPP statute, Plaintiffs must present "substantial evidence that would support a judgment of relief made in the plaintiff's favor." *S. Sutter, LLC v. LJ Sutter Partners, L.P.*, 193 Cal. App. 4th 634, 670 (2011); *see also Mendoza v. Wichmann*, 194 Cal. App. 4th 1430, 1449 (2011) (holding that "substantial evidence" of lack of probable cause was required to withstand Anti-SLAPP motion on malicious prosecution claim.) Plaintiffs cannot make this showing as to their cause of action for defamation**.**

4.2.1 Plaintiffs' Defamation Claim Fails

To establish a cause of action for defamation, a plaintiff must allege: (1) a false and defamatory statement by the defendant concerning the plaintiff; (2) an unprivileged publication to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages. *See Wynn v. Smith*, 117 Nev. 6, 10 (Nev. 2001); *see also Pegasus*, 118 Nev. at 718. A statement is only defamatory if it contains a factual assertion that can be proven false. *See Pope v. Motel 6*, 114 P.3d 277, 282 (Nev. 2005).

4.2.1.1 Defendants' Statements are True or Substantially True

First, it is important to define precisely what statements are allegedly defamatory here. Plaintiffs' Complaint protests the following statements:

a. Ms. Javier stated that Ms. Haueter's false and defamatory statements were true and that Wilhelmy had "no consent over any part of my body (not even my belly fat)."

b. Ms. Javier specifically pointed to a duet-styled TikTok video where Ms. Haueter states "Stefan, you have now sexually assaulted people."

[2] Plaintiffs have also asserted causes of action for preliminary injunction and declaratory relief, these are not true causes of action and will not be discussed here.

c. Ms. Brown posted a series of videos and statements that were allegedly false statements.

1) "Me exposing a predator";
2) "…seeing all my assaulter's fans coming to my page";
3) Video about the alleged sexual assault experience (part 1);
4) Video about the text Ms. Brown sent before the Visit purporting a lack of consent (part 2);
5) Video about three alleged non-consensual touching incidents – Wilhelmy touching her waist when going out to dinner; Wilhelmy massaging her shoulders; Wilhelmy 'slapping' her buttocks on more than one occasion, which Ms. Brown deems sexual assault; and Ms. Brown claims to have said 'stop' on each occasion (part 3)
6) Video about how the next morning after being naked in the pool together, Wilhelmy came into her room and rubbed her stomach after she objected (part 4);
7) Video claiming that Wilhelmy grabbed her by the shoulders non-consensually and looked into her eyes and attempted to open the bedroom door when she was "waxing" (part 5);
8) Ms. Brown claiming that there was another victim who had a boyfriend and stated she would not do anything physical, and despite this, Wilhelmy wanted to 'test the waters' with them both anyway, despite the lack of consent

d. Ms. Haueter published a video alleging that Wilhelmy committed sexual assault against at least two members of the BBW community.

e. Ms. Haueter stated that Plaintiffs do not provide a 'safe' environment for women.

f. Ms. Haueter stated that Wilhelmy is a 'predator.'

g. Ms. Sandu published a video stating that the allegations of sexual assault are not 'allegations' because they are true, and there are text and screen shots in videos to 'prove' it happened.

(Complaint at ¶¶ 34-43).

Much of the above consists of true statements of fact. Statement (a) is true because Wilhelmy did not have consent to touch Ms. Javier and for all intents and purposes she knew Ms. Haueter's statements to be true because she was there when the events occurred. Statement (b), (d), and (g) are true because Wilhelmy has sexually assaulted people in the context of spanking someone's buttocks without their permission to do so. Statement (c) is also true because the string of videos merely recounts Ms. Brown's personal experiences with Wilhelmy. Statements (e) and (f), if not true, are opinions that Ms. Haueter is entitled to have about Wilhelmy's character.

4.2.1.2 Defendants' Statements are True or Protected Expressions of Opinion

As explained in Section 4.1.4, *supra*, minor inaccuracies cannot support a claim for defamation, nor can statements of opinion. The context of a statement is important in determining whether it is a statement of fact, or merely one of opinion or rhetorical hyperbole. *See Balzaga v. Fox News Network, LLC*, 173 Cal. App. 4th 1325, 1339 (2009) (finding that "the fact that a statement '[s]tanding alone' could be construed as false is not sufficient to support a defamation claim"); *see also Lewis v. Time, Inc.*, 710 F.2d 549, 553 (9th Cir. 1983) (stating "even apparent statements of fact may assume the character of statements of opinion, and thus be privileged, when made [under] circumstances in which 'an audience may anticipate efforts by the parties to persuade others to their position by use of epithets, fiery rhetoric or hyperbole'") (quoting *Information Control Group v. Genesis One Computer*, 611 F.2d 781, 784 (9th Cir. 1980)).

Statements of opinion cannot be defamatory as "there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas." *Pegasus*, 118 Nev. at 718 (*quoting Gertz*, 418 U.S. at 339-40). If a publication containing an allegedly defamatory statement is surrounded

by "loose, figurative, or hyperbolic language," then any allegedly defamatory meaning may be negated by the publication's overall tenor. *See Morningstar, Inc. v. Superior Court*, 23 Cal. App. 4th 676, 689 (1994). Contextual factors such as the format, structure, language, and expectations of the target audience regarding the type of information found in that context is "paramount," if not "dispositive" in this inquiry. *Knievel v. ESPN*, 393 F.3d 1068, 1075 (9th Cir. 2005).

The statements at issue here were published on TikTok, a platform where people typically expect non-literal expression. Ms. Brown and Ms. Javier's statements were expressions of opinion based on factual events that they experienced while with Wilhelmy. Ms. Brown and Ms. Javier are of the opinion that they experienced sexual assault while at the hands of a predator. Though their definitions of sexual assault do not conflate with Wilhelmy's definition, that alone does not invalidate their experiences and their opinions on the matter. Likewise, Ms. Haueter and Ms. Sandu's statements were merely their own opinions formed based off accurate descriptions of Wilhelmy's unwanted sexual advances. Certainly it is not unreasonable for women to label a man a predator when he has had multiple allegations of sexual assault and non-consensual touching – especially when it has been revealed that his "safe space" was more of a "corral" to entice in vulnerable women who might tolerate his boundary smashing behavior.

4.2.1.3 Plaintiffs Cannot Establish the Requisite Degree of Fault

4.2.1.3.1 Stefan Wilhelmy and Pearadise are Limited Purpose Public Figures

Wilhelmy and Pearadise are both limited purpose public figures. Whether a person becomes a public figure depends on whether the person's role in a matter of public concern is voluntary and prominent. This is determined by examining the '"nature and extent of an individual's participation in the particular controversy giving rise to the defamation.'" *Bongiovi v. Sullivan*, 122 Nev. 556, 572 (2006). In this case, Plaintiffs have voluntarily injected themselves into the BBW community and creating an alleged "safe space" for BBWs, with hundreds of thousands of followers throughout the nation. They can not create a community, govern that community, and then claim not to be public figures inside that community.

As public figures, Plaintiffs must prove that they can overcome the actual malice standard with clear and convincing evidence. *See Bose Corp. v. Consumers Union*, 466 U.S. 485, 511 (1984); *Underwager v. Channel 9 Australia*, 69 F.3d 361, 365 (9th Cir. 1995). If they cannot do so, the Court must grant the Anti-SLAPP motion. *See Makaeff v. Trump Univ., LLC*, 26 F. Supp. 3d 1002, 1014 (S.D. Cal. 2014) (granting Anti-SLAPP motion based on lack of evidence of actual malice). It is a question of law whether the evidence in the record in a defamation case is sufficient to support a finding of actual malice. *See Underwager*, 69 F.3d at 365.

4.2.1.3.2 The Actual Malice Standard

The term "actual malice" is unfortunate. To the legally uneducated, it implies that the speaker's motivations are at issue. They are not. Actual malice has nothing to do with "malice." In fact, even if a defamation defendant is driven by malice (in the lay sense) or any other negative emotion, that is constitutionally irrelevant. "The actual malice standard is not satisfied merely through a showing of ill will or 'malice' in the ordinary sense of the term. Rather, actual malice is the making of a statement with knowledge that it is false, or with reckless disregard of whether it is true." *Lothschuetz v. Carpenter*, 898 F.2d 1200, 1206 (6th Cir. 1990) (citing *Harte-Hanks Comm'n v. Connaughton*, 491 U.S. 657, 666 (1989)). "The Supreme Court has repeatedly held that in defamation cases, the phrase 'actual malice' 'has nothing to do with bad motive or ill will.'" *D.A.R.E. Am. v. Rolling Stone Magazine*, 101 F. Supp. 2d 1270, 1285-86 (C.D. Cal. 2000) (quoting *Harte-Hanks*, 491 U.S. at 667 n.7); *see also Rosenbloom v. Metromedia, Inc.*, 403 U.S. 29, 52 (1971); *Beckley Newspapers Corp. v. Hanks*, 389 U.S. 81, 88 (1967) (*per curiam*); *Henry v. Collins*, 380 U.S. 356 (1965) (*per curiam*); *and see Welsh v. City and County of San Francisco*, 887 F. Supp. 1293 (N.D. Cal. 1995).

"Knowing falsity" is easy, while "reckless disregard" is a term of art. To establish reckless disregard, a public figure must prove that the publisher "entertained serious doubts as to the truth of his publication." *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968); *see also Bose Corp.*, 466 U.S. at 511. Under Nevada law, reckless disregard only exists when the defendant "acted with a 'high degree of awareness of … [the] probable falsity' of the statement or had serious doubts as to

the publication's truth." *Pegasus*, 118 Nev. at 719. The question is not "whether a reasonably prudent man would have published, or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication." *Reader's Digest Assn. v. Superior Court*, 690 P.2d 610, 617-18 (Cal. 1984); *see also Thompson*, 390 U.S. at 731. Moreover, "[a] publisher does not have to investigate personally, but may rely on the investigation and conclusions of reputable sources." *Reader's Digest*, 690 P.2d at 619.

Finally, a defamation plaintiff must establish actual malice by clear and convincing evidence. *See Bose Corp.*, 466 U.S. at 511. This is a requirement that presents "a heavy burden, far in excess of the preponderance sufficient for most civil litigation." *Hoffman v. Capital Cities/ABC, Inc.*, 255 F.3d 1180, 1186-87 (9th Cir. 2001) (internal quotation marks omitted). "The burden of proof by clear and convincing evidence requires a finding of high probability. The evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every reasonable mind." *Copp v. Paxton*, 52 Cal. Rptr. 2d 831, 846 (Cal. Ct. App. 1996) (internal quotation marks omitted). The same standards apply for a limited-purpose public figure when the statement concerns the public controversy or range of issues for which he is known. *See Makaeff v. Trump Univ., LLC*, 715 F.3d 254 (9th Cir. 2013).

4.2.1.3.3 Plaintiffs Cannot Show Actual Malice

Defendants have not made any statements with knowing falsity or reckless disregard. To establish actual malice, the plaintiff must show that the defendant either knew the statements were false or harbored significant subjective doubt as to the truth of the statements. *See Pegasus*, 118 Nev. at 719. This is a purely subjective standard: there must be sufficient evidence to permit the conclusion that the defendant actually had a "high degree of awareness of … probable falsity." *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964). Ms. Brown and Ms. Javier reported on their personal experiences when dealing with Wilhelmy. They accurately reported on Wilhelmy's conduct during their encounter with him, accurately reported that they did not consent to Wilhelmy touching them, and relayed their subjective opinion that Wilhelmy's unwanted touchings

constituted sexual assault. As they did not have any subjective doubt as to the accuracy of their statements when publishing them, they could not have acted with actual malice. Ms. Haueter and Ms. Sandu merely republished the same allegations so as to amplify the voices of sexual misconduct victims. Ms. Haueter and Ms. Sandu had no reason to doubt the credibility of Ms. Brown and Ms. Javier, especially because there were multiple allegations, and affirmatively believed Ms. Brown and Ms. Javier. There is strength in numbers. No Defendant published with actual malice.

4.2.2 The False Light Claim Fails

In Nevada, a false light claim arises where one "gives publicity to a matter concerning another that places the other before the public in a false light … if … (a) the false light in which the other was placed would be highly offensive to a reasonable person, and … (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed." *Franchise Tax Bd. of Cal. v. Hyatt*, 130 Nev. 662, 685 (2014). "'The false light privacy action differs from a defamation action in that the injury in privacy actions is mental distress from having been exposed to public view, while the injury in defamation actions is damage to reputation.'" *Crabb v. Greenspun Media Grp., LLC*, 130 Nev. 1167 (2014) (quoting *Rinsley v. Brandt*, 700 F.2d 1304, 1307 (10th Cir. 1983)).

Pearadise is a limited liability company. A company cannot suffer mental distress, has no personal right of privacy, and cannot sue for false light. Although this issue has not been addressed in Nevada, in *Franchise Tax Bd. of Cal. v. Hyatt*, the Nevada Supreme Court first recognized the tort of false light, adopting the text of Restatement (Second) of Torts § 652E (1977). The Restatement makes clear that this right does not extend to corporations. *See* Restatement (Second) of Torts § 652I and cmt. c (1977) ("A corporation … has no personal right of privacy. It has therefore no cause of action for any of the four forms of invasion covered by §§ 652B to 652E.") Most courts, when facing this issue, have reached this same conclusion. *See, e.g., Felsher v. University of Evansville*, 755 N.E.2d 589 (Ind., 2001); *Southern Air Transport, Inc. v. American Broadcasting Companies, Inc.*, 670 F. Supp. 38 (D.D.C., 1987); *Fibreboard Corp. v. Hartford*

Accident and Indemnity Co., 16 Cal. App. 4th 492, 20 Cal.Rptr.2d 376 (Cal. App. 1 Dist., 1993); *Seidl v. Greentree Mortg. Co.*, 30 F. Supp. 2d 1292 (D. Colo., 1998); *CNA Financial Corp. v. Local 743 of Intern. Broth. of Teamsters, Chauffeurs, Warehousemen and Helpers of America*, 515 F. Supp. 942 (N.D. Ill., 1981); *and see Oberweis Dairy, Inc. v. Democratic Cong. Campaign Comm., Inc.*, No. 08 C 4345, 2009 U.S. Dist. LEXIS 18514, at *5 (N.D. Ill. Mar. 11, 2009).

Pearadise is a non-human entity and should therefore be treated as a corporation for these purposes. It cannot suffer mental distress or harm to its non-existent right of privacy. Even if it could, Defendants have not made any statements about Pearadise, the entity. Thus, Pearadise's claim for false light fails. Wilhelmy's claim for false light must also fail for the same reasons that his defamation claim fails.

4.2.3 The Intentional Interference with Prospective Economic Advantage Claim Fails

Liability for the tort of intentional interference with prospective economic advantage requires proof of the following elements: (1) a prospective contractual relationship between the plaintiff and a third party; (2) knowledge by the defendant of the prospective relationship; (3) intent to harm the plaintiff by preventing the relationship; (4) the absence of privilege or justification by the defendant; and (5) actual harm to the plaintiff as a result of the defendant's conduct. *Leavitt v. Leisure Sports, Inc.*, 103 Nev. 81, 88, 734 P.2d 1221, 1225 (1987).

In this case, Defendants maintain a privilege or justification in their statements. The statements at issue all derive from truthful reporting about a sexual assault instance. Such statements are protected by the First Amendment, therefore this claim must fail. Furthermore, an intentional interference claim premised on speech is subject to the same defenses and limitations as a defamation claim, and so this claim fails for the same reasons the defamation claim fails. *See Bulen v. Lauer*, No. A-18-784807-C, 2020 Nev. Dist. LEXIS 583, *5 (Aug. 21, 2020).

4.2.4 The Intentional Interference with Contractual Relations Claim Fails

To prevail on a claim for intentional interference with contractual relations in Nevada, "a plaintiff must establish: (1) a valid and existing contract; (2) the defendant's knowledge of the

contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4) actual disruption of the contract; and (5) resulting damage." *J.J. Indus., LLC v. Bennett*, 119 Nev. 269, 274 (2003). Additionally, "the plaintiff must establish that the defendant had a motive to induce breach of the contract with the third party." *Id.* at 1268 (citing *Nat'l Right to Life Political Action Comm. v. Friends of Bryan*, 741 F. Supp. 807, 814 (D. Nev. 1990)). Here, Plaintiffs have not provided any evidence of actual disruption of the television contract. Additionally, tortious interference cannot be based on truthful reporting about a sexual assaulter, therefore the claim for intentional interference with contractual relations claim must fail. Furthermore, an intentional interference claim premised on speech is subject to the same defenses and limitations as a defamation claim, and so this claim fails for the same reasons the defamation claim fails. *See Bulen*, 2020 Nev. Dist. LEXIS 583, *5 (Aug. 21, 2020).

4.2.5 Plaintiffs' Aiding and Abetting and Conspiracy **Claims Fail**

The Nevada Supreme Court has cited to § 876 of the Restatement (Second) of Torts for the proposition that "liability attaches for civil aiding and abetting if the defendant substantially assists or encourages another's conduct in breaching a duty to a third person." *Dow Chem. Co. v. Mahlum*, 114 Nev. 1468, 1490 (1998) (reversed on other grounds). To aid and abet someone would require an underlying tort. *See, e.g.*, *Schulz v. Neovi Data Corp.*, 152 Cal. App. 4th 86, 93 (2007) (holding that a party must have knowledge that a tort is going to be committed and must give substantial assistance or encouragement to its commission). Here, Defendants have only provided truthful statements or opinions which are lawfully protected. Plaintiffs aiding and abetting claims must fail. *See Sisk v. Elevate Indep. Servs.*, No. 16-550284, 2016 Cal. Super. LEXIS 4808, *6 (Cal. Super. Ct. July 15, 2016) (dismissing claims for conspiracy and aiding and abetting where the underlying defamation claim failed).

A civil conspiracy exists where "two or more persons who, by some concerted action, intend to accomplish an unlawful objective for the purpose of harming another, and damage results from the act or acts." *Hilton Hotels v. Butch Lewis Productions*, 109 Nev. 1043, 1048 (1993). To prove a conspiracy, a plaintiff "must provide evidence of an explicit or tacit agreement between

the alleged conspirators." *Guilfoyle v. Olde Monmouth Stock Transfer Co*., 130 Nev. 801, 813 (2014).

A conspiracy must have an *unlawful* objective. Providing truthful information protected under the First Amendment to the general public cannot form the basis of a conspiracy claim. No other analysis or discovery is necessary, and this claim must fail. Because Plaintiffs' other claims fail, the conspiracy claim fails as well. *See Sahara Gaming Corp. v. Culinary Workers Union Local 226*, 115 Nev. 212, 214, 219 (1999) (dismissing conspiracy claim as derivative of unsuccessful defamation claim).

5.0 CONCLUSION

For the foregoing reasons, the Court should dismiss Plaintiffs' claims with prejudice and award Defendants the costs and fees they have incurred in defending themselves from Plaintiffs' meritless suit, as well as award Defendants $10,000 in statutory damages under NRS 41.670(1)(b) (to be sought by separate motion).

Dated: September 10, 2021.

Respectfully Submitted,

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

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Case No. A-21-837173-C

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was electronically filed on this 10th day of September 2021 and served via the Eighth Judicial District Court's Odyssey electronic filing system.

/s/ Marc J. Randazza
Marc J. Randazza

RANDAZZA | LEGAL GROUP

EXHIBIT A

Declaration of Savannah Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

STEFAN WILHELMY, an individual; and **PEARADISE, LLC**, a Nevada limited liability company;

Plaintiff,

vs.

KIMBERLY ANN HAUETER and **JOHN DOE HAUETER,** wife and husband**; ALEJANDRA JAVIER** and **JOHN DOE JAVIER,** wife and husband**; SAVANNAH BROWN** and **JOHN DOE BROWN,** wife and husband**; MONICA SANDU** and **JOHN DOE SANDU;** wife and husband**; SADIE PAISLEY** and **JOHN DOE PAISLEY,** wife and husband**; DOE DEFENDANTS I-X, INCLUSIVE,** and **ROE DEFENDANTS I-X, INCLUSIVE.,**

Defendants.

Case No. A-21-837173-C

Dept. No. 2

DECLARATION OF SAVANNAH BROWN IN SUPPORT OF ANTI-SLAPP SPECIAL MOTION TO DISMISS UNDER NRS 41.660

[HEARING REQUESTED]

I, Savannah Brown, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I have first-hand knowledge of the facts set forth herein, and if called as a witness, could and would testify competently thereto.

2. I am a defendant in this matter. I provide my declaration in support of my Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 (the "Anti-SLAPP Motion").

3. I was a member of the BBWPearadise (now "Pearadise") TikTok and Discord communities.

4. I stayed at Plaintiff Stefan Wilhelmy's home in April of this year.

5. Prior to my stay at Wilhelmy's home, I sent a detailed text message stating that I did not want him to have any expectations of my stay. This text message was not a manifestation of my consent. A true and correct copy of this text message is attached to the Complaint as **Exhibit A**.

6. During my stay, there were multiple instances of Wilhelmy touching me without my consent. I told him multiple times that I was uncomfortable with this conduct and repeatedly told him to stop his inappropriate behavior.

7. During my stay, Wilhelmy spanked my backside several times over the course of my stay without my consent.

8. During my stay, Wilhelmy caressed my stomach without my consent.

9. Wilhelmy never asked for my consent to touch me in any manner.

10. Wilhelmy called me "immature" when I refused to be naked around him.

11. I never consented to Wilhelmy touching me. In fact, I told him multiple times to stop touching me or to stop his behavior.

12. During my stay, Wilhelmy took a photograph of me and several other people nude in his pool without my consent.

13. Although Wilhelmy calls Pearadise a "safe space," he uses the platform to lure women into having sexual relationships with him.

14. I believed that Wilhelmy sexually assaulted me by touching me in a sexual manner without my consent.

15. I believe that Wilhelmy, by engaging in this conduct, is a sexual predator.

16. Wilhelmy has admitted that he was "touchy feely" in an Instagram message to a non-party. I have personal knowledge of this and a true and correct copy of this Instagram message is attached to the Anti-SLAPP Motion as **Exhibit F**.

17. All of my statements complained of in Plaintiffs' Complaint are either true factual statements or expressions of opinion that I genuinely believed.

Executed on 9/10/2021.

DocuSigned by:
27E67D80F1DA418...

Savannah Brown

EXHIBIT B

Pearadise TikTok Homepage

TikTok Search accounts Upload Log in

For You

Following

Log in to follow creators, like videos, and view comments.

Log in

Suggested accounts See all

justarandomdot
justarandomdot

nativesaiyan
nativesaiyan weightloss story

thadlovesyou
#unshadowbanme

coulrophillia2
lulu they/it

l_p_h_f
l_p_h_f

Discover

whatdoesitmean makeupinspo witchtok Then Leave (feat. Queendom Come) - BeatK... Hood Baby - Kbfr Dream Girl - Ir Sais Andrew Matthew Welch find your trees tiktokfashionmonth nflkickoff

pearadise1

Pearadise

Follow

1064 Following **210.5K** Followers **719.2K** Likes

💕 POSITIVE VIBES 24/7 💕
💖💖LOVE YOURSELF💖💖
❤️SUPPORT EACH OTHER❤️

tiktok.mywo.org

Videos Liked

EXHIBIT C

Pearadise Homepage

Pearadise Discord

Our Discord Community!

On July 2nd, 2020 I had the idea to take my passion for speaking up against bullying and discrimination against big girls to the next level and open up a Discord server. We have active video chats, support groups, games, fun and NSFW sections and have been called the friendliest and most fun Discord server on the net!

How can you join:

• Install the free Discord app (available for Windows, Mac, Android and iPhone)

• Sign up for an accound with Discord. Quick and easy with just your email address.

• Upload a profile pic in your Discord app/account.

• In the Discord app, tap "join server", then use invite code **"pearadise"** or tap the button below!

Join Pearadise

EXHIBIT D

Declaration of Alejandra Javier

DISTRICT COURT

CLARK COUNTY, NEVADA

STEFAN WILHELMY, an individual; and **PEARADISE, LLC**, a Nevada limited liability company;

Plaintiff,

vs.

KIMBERLY ANN HAUETER and **JOHN DOE HAUETER,** wife and husband**; ALEJANDRA JAVIER** and **JOHN DOE JAVIER,** wife and husband**; SAVANNAH BROWN** and **JOHN DOE BROWN,** wife and husband**; MONICA SANDU** and **JOHN DOE SANDU;** wife and husband**; SADIE PAISLEY** and **JOHN DOE PAISLEY,** wife and husband**; DOE DEFENDANTS I-X, INCLUSIVE,** and **ROE DEFENDANTS I-X, INCLUSIVE.,**

Defendants.

Case No. A-21-837173-C

Dept. No. 2

DECLARATION OF ALEJANDRA JAVIER IN SUPPORT OF ANTI-SLAPP SPECIAL MOTION TO DISMISS UNDER NRS 41.660

[HEARING REQUESTED]

I, Alejandra Javier, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I have first-hand knowledge of the facts set forth herein, and if called as a witness, could and would testify competently thereto.

2. I am a defendant in this matter. I provide my declaration in support of my Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 (the "Anti-SLAPP Motion").

3. I was a member of the BBWPearadise (now "Pearadise") TikTok and Discord communities.

4. I stayed at Plaintiff Stefan Wilhelmy's home in April of this year.

5. Prior to my stay at Wilhelmy's home, I specifically told him that I was in a monogamous relationship and that I would not be participating in any sexual activities over the course of the trip.

6. During my stay, there were was an instance where Wilhelmy caressed my stomach in a sexual manner despite my discomfort. I did not consent to this touching.

7. During my stay, Wilhelmy took a photograph of me and several other people nude in his pool without my consent.

8. Wilhelmy never asked for my consent during my time at his home.

9. I felt that Wilhelmy sexually assaulted me by touching me in a sexual manner without my consent.

10. Wilhelmy has admitted in text message to me that he never touched anyone inappropriate *after* the correct signal had been received. A true and correct copy of the text message is attached to the Anti-SLAPP Motion as **Exhibit E**.

11. All of my statements complained of in Plaintiffs' Complaint are either true factual statements or expressions of opinion that I genuinely believed.

Executed on 9/10/2021.

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Alejandra Javier

EXHIBIT E

Javier's Text Messages


7:16
22
S
Stefan
Hey Stefan, Kass wants to know if the hot tub can get a little hotter please?
Delivered
Today 7:15 PM
Ok all your little shit talking behind my back in that fucking text group needs to stop and you need to get your asses on a video chat or add me to that server so I finally get a chance to say something too!
I don't play around with the allegations that are being thrown around there. I NEVER TOUCHED ANYONE INAPPROPRIATELY **AFTER** THE CORRECT SIGNAL WAS RECEIVED !!!
iMessage
Pay

EXHIBIT F

Wilhelmy Instagram Message

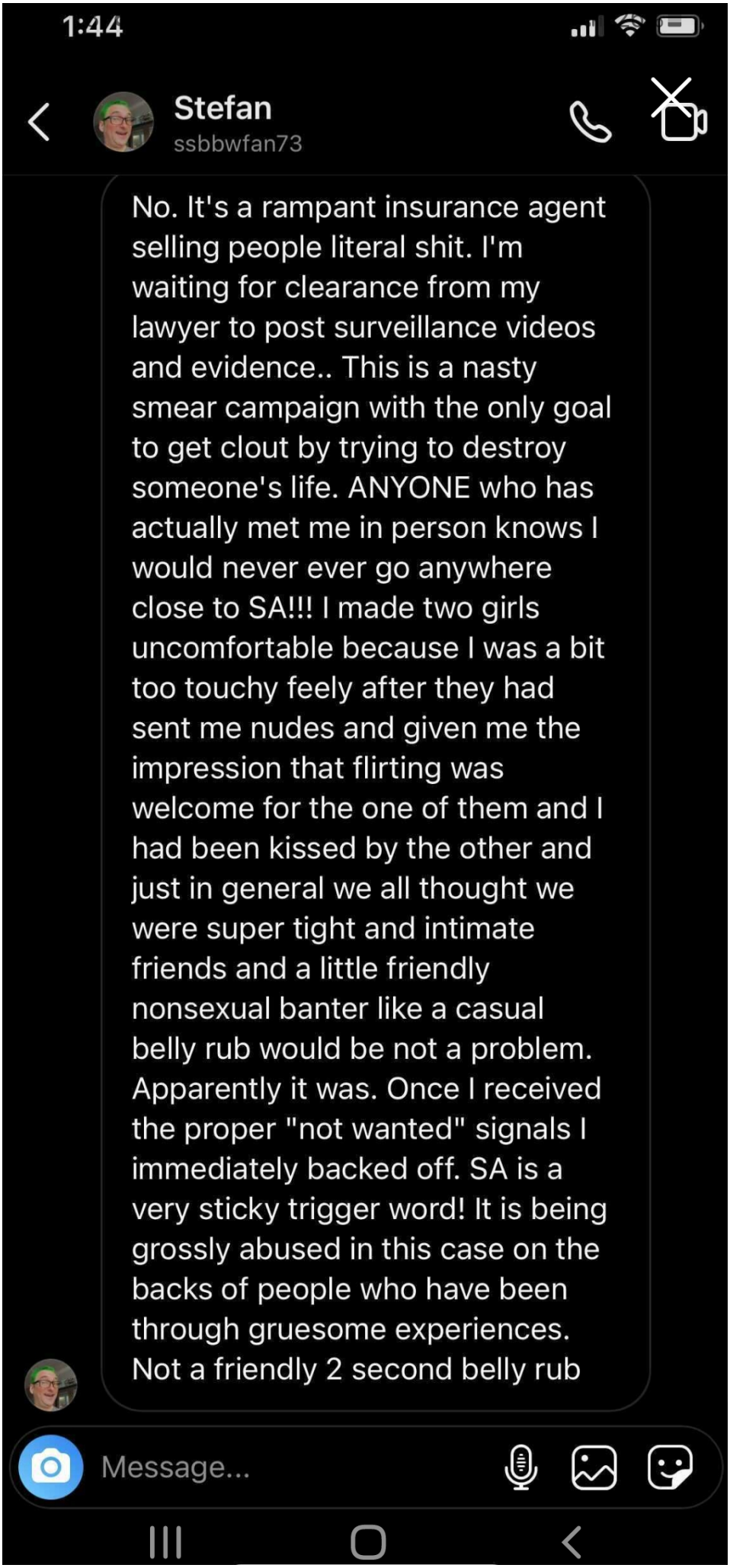
1:44
Stefan
ssbbwfan73
No. It's a rampant insurance agent selling people literal shit. I'm waiting for clearance from my lawyer to post surveillance videos and evidence.. This is a nasty smear campaign with the only goal to get clout by trying to destroy someone's life. ANYONE who has actually met me in person knows I would never ever go anywhere close to SA!!! I made two girls uncomfortable because I was a bit too touchy feely after they had sent me nudes and given me the impression that flirting was welcome for the one of them and I had been kissed by the other and just in general we all thought we were super tight and intimate friends and a little friendly nonsexual banter like a casual belly rub would be not a problem. Apparently it was. Once I received the proper "not wanted" signals I immediately backed off. SA is a very sticky trigger word! It is being grossly abused in this case on the backs of people who have been through gruesome experiences. Not a friendly 2 second belly rub
Message...

EXHIBIT G

Declaration of Kimberly Haueter

DISTRICT COURT

CLARK COUNTY, NEVADA

STEFAN WILHELMY, an individual; and **PEARADISE, LLC**, a Nevada limited liability company; Plaintiff, vs. **KIMBERLY ANN HAUETER** and **JOHN DOE HAUETER,** wife and husband**; ALEJANDRA JAVIER** and **JOHN DOE JAVIER,** wife and husband**; SAVANNAH BROWN** and **JOHN DOE BROWN,** wife and husband**; MONICA SANDU** and **JOHN DOE SANDU;** wife and husband**; SADIE PAISLEY** and **JOHN DOE PAISLEY,** wife and husband**; DOE DEFENDANTS I-X, INCLUSIVE,** and **ROE DEFENDANTS I-X, INCLUSIVE.,** Defendants.	Case No. A-21-837173-C Dept. No. 2 **DECLARATION OF KIMBERLY HAUETER IN SUPPORT OF ANTI-SLAPP SPECIAL MOTION TO DISMISS UNDER NRS 41.660** [HEARING REQUESTED]

I, Kimberly Haueter, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I have first-hand knowledge of the facts set forth herein, and if called as a witness, could and would testify competently thereto.

2. I am a defendant in this matter. I provide my declaration in support of my Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 (the "Anti-SLAPP Motion").

3. I was a member of the BBWPearadise (now "Pearadise") TikTok and Discord communities.

4. Prior to publishing my statements complained of in Plaintiffs' Complaint, I had concerns about the Pearadise community and I felt that it was dangerously fetishizing plus-sized women.

5. Prior to publishing my statements complained of in Plaintiffs' Complaint, I was contacted privately by Savannah Brown and Alejandra Javier where they shared their experiences with Plaintiff Stefan Wilhelmy.

6. I had no reason to doubt Ms. Brown or Ms. Javier's accounts of events during the April visit to Wilhelmy's house.

7. I firmly believed Ms. Brown and Ms. Javier's stories. The details that they provided seemed credible to me.

8. I am an opponent of assault in all forms, but especially sexual assault.

9. I do not believe that Pearadise is a safe space.

10. I believe that Stefan Wilhelmy is a predator.

11. All of my statements complained of in Plaintiffs' Complaint are either true factual statements or expressions of opinion that I genuinely believed.

Executed on 9/10/2021.

DocuSigned by:
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Kimberly Haueter

EXHIBIT H

Declaration of Monica Sandu

DISTRICT COURT

CLARK COUNTY, NEVADA

STEFAN WILHELMY, an individual; and **PEARADISE, LLC**, a Nevada limited liability company; Plaintiff, vs. **KIMBERLY ANN HAUETER** and **JOHN DOE HAUETER,** wife and husband**; ALEJANDRA JAVIER** and **JOHN DOE JAVIER,** wife and husband**; SAVANNAH BROWN** and **JOHN DOE BROWN,** wife and husband**; MONICA SANDU** and **JOHN DOE SANDU;** wife and husband**; SADIE PAISLEY** and **JOHN DOE PAISLEY,** wife and husband**; DOE DEFENDANTS I-X, INCLUSIVE,** and **ROE DEFENDANTS I-X, INCLUSIVE.,** Defendants.	Case No. A-21-837173-C Dept. No. 2 **DECLARATION OF MONICA SANDU IN SUPPORT OF ANTI-SLAPP SPECIAL MOTION TO DISMISS UNDER NRS 41.660** [HEARING REQUESTED]

I, Monica Sandu, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I have first-hand knowledge of the facts set forth herein, and if called as a witness, could and would testify competently thereto.

2. I am a defendant in this matter. I provide my declaration in support of my Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 (the "Anti-SLAPP Motion").

3. I was a member of the BBWPearadise (now "Pearadise") TikTok and Discord communities.

4. Prior to publishing my statements complained of in Plaintiffs' Complaint, I read statements published by Savannah Brown and Alejandra Javier recounting their experience with Plaintiff Stefan Wilhelmy.

5. I had no reason to doubt Ms. Brown or Ms. Javier's accounts of events during the April visit to Stefan Wilhelmy's house.

6. I firmly believed Ms. Brown and Ms. Javier's stories. The details that they provided seemed credible to me.

7. I am an opponent of assault in all forms, but especially sexual assault.

8. All of my statements complained of in Plaintiffs' Complaint are either true factual statements or expressions of opinion that I genuinely believed.

Executed on 9/10/2021.

DocuSigned by:
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Monica Sandu