UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(Miami Division)

Case No. 25-cv-23202-JB

ZOHRA KHORASHI,

Plaintiff,

v.

GADI BEER AND BETH GELLMAN BEER,

Defendants.
_____/

DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR SANCTIONS

Defendants, Gadi Beer and Beth Gellman Beer ("Defendants"), and their attorneys Kenneth G. Turkel and Jaclyn S. Clark, oppose Plaintiff Zohra Khorashi's Motion for Sanctions and to Disqualify Defendants' Counsel for Extrajudicial Conduct [DE 32] (the "Motion") through the undersigned attorneys who specially appear, consistent with LR 11.1(d)(1), for the limited purpose of independent defense of the Motion and to vindicate Defendants' right to seek sanctions for the Motion itself.

INTRODUCTION

On October 7, 2023, Hamas forces invaded Israel and killed, kidnapped, and raped civilians. In the wake of this aggression and criminal action, some people rooted for Hamas. In America, one is free to say the perpetrators of the Rwandan genocide were the good guys, that Stalin was a hero, and that Pol Pot had the right idea. So they certainly have the *right* to side with Hamas. But just as they have a right to side with Hamas, others have a right to be outraged and disgusted by those who would side with the perpetrators of such atrocities.

We have not chosen to permit offensive speech because we simply value offense. We permit it because we value wide open and robust debate. This philosophical pillar holding up the First Amendment protects not just those who would rise in favor of rape and murder, but also those who oppose such an opinion. Opposing such an opinion includes shining a light upon those who espouse those views so that we can all see the speaker and judge them.

That speaker has no right to smash a light that shines on them because they prefer to hide in the shadows. The plaintiff wishes to shroud herself in darkness while espousing hate speech. Justice Holmes wrote, "time has upset many fighting faiths[.]"[1] The prevailing "fighting faith" is that those who rape and murder civilians are the bad guys. Perhaps people like the plaintiff will unseat this fighting faith. However, to try and defend their faith, literally and Constitutionally, the defendants have the right to point at the plaintiff and say "look what she said" and "we disagree."

This lawsuit is ignoble at its core. It seeks to stifle speech. It is thus not a shock that a would-be censor has now filed a motion seeking to censor. Its intent aside, Plaintiff's Motion is fatally flawed both factually and legally.

The motion is based on demonstrably false assertions about what this Court ruled, what defense counsel said publicly, and what governing law permits. Even worse, every case that Plaintiff cites to support the request for sanctions for anything more substantial than an uncontested legal standard is either nonexistent or cites to hallucinated quotes. If we view this with charity, it means that the brief was AI generated and Plaintiff's counsel did not check the cites. The only other explanation is that they knowingly committed fraud upon the court about these cases.

The Motion asks this Court to impose the most severe professional penalties available—sanctions, disqualification, and a prior restraint—based not on evidence of prejudice,

[1] *Abrams v. United States,* 250 U.S. 616, 630 (1919)(Holmes, J., dissenting).

misrepresentation, or ethical misconduct—but on Plaintiff's counsel's own purported recollection and editorial gloss, despite the existence of a verbatim transcript of the November 19 hearing. The Motion should be denied.[2]

ARGUMENT

I. PLAINTIFF MISCHARACTERIZES THE COURT'S RULING AND THE DEFENDANTS' FIRST AMENDMENT AND ANTI-SLAPP ARGUMENTS.

Plaintiff asserts that this Court "rejected" Defendants' First Amendment and Anti-SLAPP arguments and advised Defendants not to raise them again. (DE 32 at 2). The transcript[3] says otherwise. The Court actually stated: "I don't really need to hear much argument on that because, quite frankly, I don't think your motion really seriously or significantly makes that argument, and so I don't intend to rely on that argument for my ruling." (Hr'g Tr. 8:21-25).

Far from barring Defendants from raising those arguments again, the Court observed that it had not been presented with adequate briefing on those issues at that stage. Defendants' Motion to Dismiss [DE 17] advanced three independent grounds for dismissal. The Court elected to rule on two, namely deficiencies in causation and the inability to premise tortious interference liability on the dissemination of truthful, publicly available information,[4] and the Court expressly declined to reach the First Amendment and Anti-SLAPP grounds. (Hr'g Tr. 4:14-29; 17:9-18; 8:21-25).

The Court made ***no ruling on the merits*** of Defendants' First Amendment or Anti-SLAPP arguments. Its decision not to reach those grounds reflects restraint, not rejection. And the Court's reference to insufficient briefing implies that more comprehensive briefing on those issues could

[2] The Court should take action to discipline the attorneys who signed the Motion for violating their duties of candor, for engaging in conduct involving dishonesty, fraud, deceit, and misrepresentation, for engaging in conduct that is prejudicial to the administration of justice, and for unreasonably and vexatiously multiplying the proceedings

[3] A copy of the transcript of the November 19, 2025, Motion to Dismiss Hearing is attached hereto as **Exhibit 1**.

[4] Of course, the First Amendment would not abide any tort liability for such.

warrant consideration in the future. Nevertheless, the Court grounded its ruling on the principle that tort liability cannot attach to truthful, publicly available speech. (Hr'g Tr. 18:2-13). Dismissals on that basis operate to prevent unconstitutional burdens on speech. *See Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 495 (1975); *Florida Star v. B.J.F.*, 491 U.S. 524, 541 (1989). Nothing in the transcript resembles an instruction barring Defendants from raising First Amendment or Anti-SLAPP arguments in a subsequent motion. Plaintiff's assertion of this is a breach of candor, is deceitful, and is prejudicial to the administration of justice.

II. DEFENDANTS' COUNSEL DID NOT MISCHARACTERIZE THE COURT'S RULING IN THE PRESS RELEASE.

Plaintiff contends that Defendants' counsel mischaracterized the ruling by describing it as reflecting First Amendment principles. That contention fails. Defendants were explicit about the actual basis of dismissal. The press release states that the Court: (1) recognized the Complaint was "fatally flawed on causation," and (2) made clear that "sharing truthful, publicly available information cannot give rise to a tortious interference claim under Florida law." Those statements track the Court's analysis. (Hr'g Tr. 17:20-18:24).

Defendants' counsel's further statement that such a ruling reflects core free-speech principles was truthful commentary, not a purported quotation of the Court. Courts have long recognized that prohibiting tort liability for truthful, publicly available speech enforces First Amendment protections, even when articulated through common-law doctrine. *See e.g., Cox*, 420 U.S. at 495; *Florida Star*, 491 U.S. at 541. Characterizing the ruling as a win for free speech is therefore neither false nor misleading.

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III. FACTUAL STATEMENTS REGARDING CAIR ARE NEITHER UNETHICAL NOR DEFAMATORY.

Plaintiff argues that Defendants' counsel acted unethically by referencing governmental designations concerning CAIR. That argument fails as a matter of law. Truth is an absolute defense and the local rule permits quoting public records. *See* LR 77.2(g). The press release referenced governmental actions taken by the State of Texas. Coincidentally, subsequent to the release's publication, the State of Florida issued a similar designation relating to CAIR.[5] The release does not accuse Plaintiff or her individual attorneys of criminal conduct or violence. Publicly identifying matters of public record relating to an opposing advocacy organization is not prohibited by any rule of professional conduct. *See Standing Comm. on Discipline v. Yagman*, 55 F.3d 1430, 1440-41, 1445 (9th Cir. 1995) (holding that Attorneys may harshly criticize institutions and actors—even courts—so long as the statements are factually grounded or opinion-based); *The Fla. Bar v. Ray*, 797 So. 2d 556, 560 (Fla. 2001) (declining to limit "an attorney's legitimate criticism of judicial officers," so long as such criticism is not made "with reckless disregard as to their truth or falsity"). Moreover, expressions of opinion based on disclosed or publicly available facts are non-actionable. *See e.g., Lipsig v. Ramlawi*, 760 So. 2d 170, 184 (Fla. 3d DCA 2000); *Razner v. Wellington Reg'l Med. Ctr., Inc.*, 837 So. 2d 437, 442 (Fla. 4th DCA 2002). This is especially true where, as here, the opposing party's institutional affiliations are directly relevant to a public advocacy campaign.

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[5] *See* State of Florida, Gov. Exec. Order. 25-244 (Recognizing that CAIR was an unindicted co-conspirator "in the largest terrorism-financing case in American history" and designating CAIR as a "terrorist organization."

IV. PLAINTIFF FAILS TO SHOW ANY LIKELIHOOD OF PREJUDICE.

Local Rule 77.2 does not impose a gag order. It prohibits only statements that present a **reasonable** likelihood of **materially** prejudicing proceedings. Plaintiff offers no evidence—let alone clear and convincing evidence—of such prejudice. Attorney speech is protected absent a showing of substantial likelihood of material prejudice. *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1075 (1991). Courts reject sanctions based on speculative or hypothetical harm. *See e.g., Seattle Times Co. v. Rhinehar*t, 467 U.S. 20, 32 (1984) (recognizing continuing speech protections in civil litigation); *United States v. Brown*, 218 F. 3d 415, 425 (5th Cir. 2000) (restrictions on attorney speech require balancing First Amendment interests and concrete risks to proceedings).

This case was dismissed at the pleading stage. Although the dismissal was without prejudice, Defendants have—and continue to—consistently maintain that Plaintiff's claims are baseless and will not proceed to trial. In the off-chance the matter proceeds to trial, such trial is a long time from now and the press release could not impact the venire.

V. THE PRESS RELEASE ADDRESSED MATTERS OF PUBLIC CONCERN.

Speech concerning antisemitism, litigation tactics, and the use of civil suits to suppress public expression lies at the core of First Amendment protection. *See NAACP v. Button*, 371 U.S. 415, 429-30 (1963) (litigation-related advocacy is protected political expression); *Snyder v. Phelps*, 562 U.S. 443, 451-52 (2011) (speech on matters of public concern is entitled to special protection). Such speech cannot be penalized.

The Lawfare Project is a non-profit legal advocacy organization whose mission includes defending members of the Jewish community against litigation arising from speech opposing antisemitism. At the time the press release was published, Defendants' counsel was aware of two other lawsuits filed by CAIR against members of the Jewish community for speech advocating

against antisemitism. Since the publication of the press release, Defendants' counsel has learned of two additional such lawsuits. That contextual knowledge informed the opinion expressed in the press release and underscores that the commentary addressed an ongoing, real-world pattern of litigation implicating public concern.

VI. STATEMENTS ON MOTIVE AND "LAWFARE" ARE PROTECTED OPINION.

Characterizing a lawsuit as abusive, retaliatory, or as an effort to weaponize tort law is classic opinion, not fact. *See Milkovich v. Lorain Journal Co*., 497 U.S. 1, 20 (1990). Courts evaluate such statements in context, including the audience, tone, and the fact that they are made by partisan participants in litigation. *See e.g., Ranbaxy Labs. Inc. v. First Databank, Inc*., No. 3:13–CV–859–J–32MCR, 2015 WL 3618429, at *3 (M.D. Fla. June 9, 2015); *Info. Control Corp. v. Genesis One Comput. Corp*., 611 F.2d 781, 784 (9th Cir.1980) (coining phrase "predicable opinion" to describe a statement unlikely to be understood by audience as a statement of fact because of the litigation position of the maker of the statement). Disagreement with that assessment does not transform opinion into sanctionable conduct.

VII. NO BASIS EXISTS FOR SANCTIONS OR DISQUALIFICATION.

Sanctions and disqualification are extraordinary remedies reserved for conduct that abuses the judicial process and causes actual prejudice. *Chambers v. NASCO, Inc*., 501 U.S. 32, 44-45 (1991). Plaintiff identifies no misrepresentations of the Court's ruling, no unethical falsehood, no jury taint, and no violation of professional rules. The Motion reflects disagreement with Defendants' viewpoint—not sanctionable conduct.

VIII. PLAINTIFF'S MOTION IS ITSELF SANCTIONABLE.

In a bit of unexpected irony, by filing the Motion, Plaintiff and her counsel engaged in sanctionable conduct. The Motion's legal argument is based primarily on fictitious cases or

quotations that are either hallucinations of generative artificial intelligence or deliberate attempts to mislead the Court. Either way, such conduct is sanctionable.

Mere weeks ago, this Court dealt with the circumstances under which sanctions may be imposed for using AI to produce inaccurate or fictitious case citations in a legal brief. *See Dubinin v. Papazian*, No. 25-CV-23877-RAR, 2025 U.S. Dist. LEXIS 229362 (S.D. Fla. Nov. 21, 2025). It noted that sanctions may be appropriate under Fed. R. Civ. P. 11, the Court's inherent authority, violation of S.D. Fla. L.R. 6(b)(2)(A), and 28 U.S.C. § 1927. *Id*. at *5-6. It noted that "Courts in this District have found that sanctions are appropriate where counsel repeatedly used artificial intelligence to cite hallucinated cases and quotations." *Id*. at *7 (citing *ByoPlanet Int'l, LLC v. Johansson*, 792 F. Supp. 3d 1341, 2025 U.S. Dist. LEXIS 144449, *27 (S.D. Fla. July 15, 2025) (finding that use of AI "led to repeated bad-faith misrepresentations to the Court" which justified "monetary sanctions, referral to the Florida bar, and required notification to other courts and litigants") and *Versant*, 2025 U.S. Dist. LEXIS 98418 at *14 (finding violation of Fed. R. Civ. P. 11 by "submitting a fake hallucinated case citation which allegedly supported a principle of law for which they were advocating").

The *Papazian* Court found that sanctions were appropriate against the attorney who signed a response to a motion to dismiss containing hallucinated cases and quotations because it was the signing counsel's "duty to ensure that all legal contentions are supported by existing law." *Papazian*, 2025 U.S. Dist. LEXIS 229362 at *7. The Court imposed sanctions despite the attorney claiming she was "suffering from medical issues which may have contributed to her lack of oversight and overreliance on artificial intelligence." *Id*. at *8. There is no indication that Plaintiff's counsel have such an excuse here, but even if they did, it would not help them. As a sanction for this misconduct, the Court struck the plaintiff's complaint, required the signing

attorney to pay the defendant's attorneys' fees, and referred the attorney to this Court's Grievance Committee. *Id*. at *9-10.

The following citations in Plaintiff's Motion are either hallucinated or are deliberate attempts to mislead the Court:

On page 5 of the Motion, Plaintiff quotes the following language from *Florida Bar v. Norkin*, 132 So. 3d 77 (Fla. 2013): "An attorney who impugns the integrity of the judiciary, misstates the substance of a court order, or otherwise demeans the just system engages in conduct prejudicial to the administration of justice." He purports to quote further language from the case on pages 11-12: "[m]isrepresenting the substance of a court's ruling is a serious ethical breach that demeans the justice system and warrants significant discipline." None of this language appears in *Norkin*, however, and its *actual* language does not help Plaintiff. This is a case that dealt with finding that an attorney violated Florida Rule of Professional Conduct 4-8.4(d) for "incessantly disparaging and humiliating" another attorney by sending letters, emails, and public insults disparaging and humiliating the attorney, as well as shouting at the attorney in chambers and courthouse hallways while others were present. *Id*. at 86. The conduct at issue in *Norkin* is categorically different than what Plaintiff alleges in the Frivolous Motion, and the actual holding of *Norkin* does nothing to help Plaintiff.

On page 10 of the Frivolous Motion, Plaintiff cites *Florida Bar v. Wasserman*, 675 So. 2d 103 (Fla. 1996), claiming that the Florida Supreme Court disciplined an attorney's statements that "were likely to prejudice ongoing litigation and undermine the fairness of courtroom proceedings." Again, this language does not exist in *Wasserman*. That case dealt with an attorney who was disciplined for the following conduct:

> On August 23, 1993, Wasserman attended a hearing before Judge Bonnie Newton and lost his temper after a ruling by Judge Newton. He stood and shouted his

> criticism, he waved his arms, he challenged Judge Newton to hold him in contempt and displayed his arms as if to be handcuffed, he stated his "contempt" for the court, he banged on the table and generated such a display of anger that the bailiff who was present felt it necessary to call in a backup bailiff. Immediately thereafter, outside the hearing room, in the presence of both parties and opposing counsel, Wasserman stated that he would advise his client to disobey the court's ruling.
> …
> On April 14, 1994, after getting an unfavorable response to a question asked over the telephone of Judge John Lenderman through his judicial assistant, Wasserman said to the assistant, Cynthia Decker, "You little motherf-----; you and that judge, that motherf----- son of a b----." Ms. Decker was so upset by the incident that she had to leave the office early that day.

Wasserman, 675 So. 2d at 104. As with *Norkin*, it is astonishing bad faith to imply that the press release mentioned in the Frivolous Motion is remotely comparable to the conduct at issue in *Wasserman*.

Next up is *Florida Bar v. Ray*, 797 So. 2d 556 (Fla. 2001), which Plaintiff cites on page 10 of the Frivolous Motion, claiming that the court said "[s]tatements by an attorney that diminish the public's confidence in the integrity and neutrality of our judicial system constitute conduct prejudicial to the administration of justice." Once again, this quoted language appears nowhere in the case. Instead, the court noted that ethics rules "are designed to preserve the public confidence in the fairness and impartiality of our system of justice," such that courts may use standards other than defamation to impose discipline based on statements by attorneys. *Id*. at 558-59. There is no mention of conduct prejudicial to the administration of justice at all.

Then, and most egregiously, Plaintiff quotes at page 11 from *Florida Bar v. Schwartz*, 605 So. 2d 465 (Fla. 1992), claiming the Florida Supreme Court sanctioned a lawyer for comments that carried "ethnic and religiously charged overtones," and that such statements violated Rule 4-8.4(d) because they "create prejudice and hostility inconsistent with the standards of our profession." This entire case appears to be hallucinated. The citation provided resolves to *Dowling v. State*, 605 So. 2d 465 (Fla. Oct. 8, 1992), which has nothing to do with attorney discipline. There

are two *Florida Bar v. Schwartz* cases that address Rule 4-8.4(d), but neither one contains any of the quoted language, nor do they address anything related to ethnicity or religion. *See Fla. Bar v. Schwartz,* 334 So 3d 298 (Fla. 2022); *Fla. Bar v. Schwartz*, 382 So 3d 600 (Fla. 2024).

Finally, at page 11, Plaintiff cites *Florida Bar v. Martocci*, 791 So. 2d 1074, 2001 Fla. LEXIS 843 (Fla. Apr. 26, 2001), claiming that the court imposed sanctions on an attorney whose comments "created an atmosphere of hostility, intimidation, and disrespect that had no place in our justice system." This case exists, but the quoted language does not. The court disciplined an attorney for "making 'disrespectful and abusive comments [that] cross the line from that of zealous advocacy to unethical misconduct."' *Id*. at *10. The conduct that the court found worthy of discipline was:

> [I]n December 1996, Martocci called Ms. Berger a "nut case." After a deposition on May 5, 1998, Martocci referred to Ms. Berger as a "crazy" and a "nut case." During another deposition on May 5, 1998, Martocci made demeaning facial gestures and stuck out his tongue at Ms. Berger and Ms. Figueroa. After a hearing on June 24, 1998, upon exiting an elevator, Martocci told Ms. Figueroa that she was a "stupid idiot" and that she should "go back to Puerto Rico." In another incident, on June 19, 1998, during an intermission of a deposition, Ms. Figueroa telephoned the office of Judge Edward J. Richardson and reached Pamela Walker, a judicial assistant. After Ms. Figueroa spoke to Ms. Walker, Martocci took the telephone and yelled the word "bitch." Martocci admitted that because the phone was dead when he received it from Ms. Figueroa, he said "son of a bitch" as a frustrated response to missing the opportunity to speak to Ms. Walker. Martocci claims that he did not say these words to anyone in particular. The referee also found that throughout the Berger proceedings Martocci repeatedly told Ms. Figueroa that she did not know the law or the rules of procedure and that she needed to go back to school.
>
> …
>
> [D]uring a recess to a hearing in the Berger proceedings, when Mr. Paton entered the courtroom, Martocci said "here comes the father of the nut case." Mr. Paton responded by approaching respondent and saying, "If you have something to say to me, say it to my face, not in front of everyone here in the courtroom." Thereafter, in open court and for all to see, Martocci closely approached Mr. Paton and threatened to beat him. Upon Ms. Figueroa's attempt to intervene, Martocci told her to "go back to Puerto Rico." This confrontation only ended when a bailiff entered the courtroom.

Id. at *2-4. Predictably, Plaintiff makes no attempt to explain how this conduct is comparable to the press release mentioned in the Frivolous Motion.

The Court may have noticed a pattern in the above cases: they represent *the entirety of Plaintiff's legal argument* that Defendants' alleged conduct was sanctionable.[6] Every other case citation is provided only for basic, uncontroversial propositions of law such as that courts have inherent authority to impose sanctions, that courts need to exercise restraint in imposing sanctions, that an attorney's First Amendment rights are not unlimited, and that case-ending sanctions should rarely be imposed. Every single authority cited to explain specifically how Defendants' alleged conduct is sanctionable is either hallucinated or egregiously misrepresented. Maybe this was due to reckless use of artificial intelligence, without realizing that it is prone to hallucinations. If that is the case, Plaintiff's counsel violated Florida Rule of Professional Conduct 4-1.1, as the comment to this rule states that a lawyer should stay current on updates in the law, "including an understanding of the benefits and risks associated with the use of technology, including generative artificial intelligence . . . ." *See Papazian*, 2025 U.S. Dist. LEXIS 229362, *6 (finding sanctions for violation of Rule 4-1.1 appropriate based on use of AI-generated citations). If the hallucinated cases and quotations were deliberate, then Plaintiff's counsel violated Rules 4-3.3(a) and 4-8.4(c) and (d), which require candor to the tribunal and forbid misrepresentations and conduct prejudicial to the administration of justice. *See In re Neusom*, No. 2:23-cv-00503-JLB-NPM, 2024 U.S. Dist. LEXIS 47595, *11 (M.D. Fla. Jan. 12, 2024) (finding probable cause to conclude attorney violated Rules 4-3.3 and 4-8.4 for misrepresenting cited cases and fabricating authority).

[6] These misrepresentations regarding cited authority are in addition to Plaintiff's flagrant mischaracterizations of Defendants' counsel's press release, but the Court can see for itself that such characterizations are not consistent with the press release.

Ultimately, the explanation for how this happened does not matter. Either way, Plaintiff's counsel signed a motion containing gross misrepresentations as to the authority cited, and those misrepresentations would have been obvious to any reasonably competent attorney performing even a cursory review of the Frivolous Motion before filing it.

IX. CONCLUSION.

For the foregoing reasons, Defendants respectfully request that Plaintiff's Motion for Sanctions and to Disqualify Counsel be denied in its entirety.

Dated: December 12, 2025.

Respectfully Submitted,

/s/ Marc J. Randazza

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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2025, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to all counsel of record.

/s/ Marc J. Randazza
MARC J. RANDAZZA

Exhibit 1

Hearing Transcript
November 19, 2025

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 25-CV-23202-JB

ZOHRA KHORASHI,

Plaintiff,

vs.

GADI BEER, et al.,

Defendants.

Miami, Florida

November 19, 2025

2:30 p.m. - 2:56 p.m.

Volume 1

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ZOOM MOTION TO DISMISS
BEFORE THE HONORABLE JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE

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(Call to order of the Court at 2:30 p.m.)

02:30PM THE COURTROOM DEPUTY: Calling Case No. 25-CV-23202-Becerra, Khorashi vs. Beer, et al.

02:30PM Counsel, please state your appearances for the record, starting with the plaintiff.

02:30PM MR. SHARP: Good afternoon, Your Honor. Christopher Sharp for the plaintiff. I am lead counsel. And with me today are my cocounsel Omar Saleh and Ahmed Khan from the Council on American Islamic Relations.

02:30PM MR. SALEH: Good afternoon, Your Honor.

02:30PM MR. KHAN: Good afternoon, Your Honor.

02:30PM MR. TURKEL: Judge, how are you? Ken Turkel, Turkel Cuva Barrios Guerra. And with me is Jaclyn Clark, of the Lawfare Project as cocounsel. I think I'm designated lead, but don't hold me to it. That can be objectively verified.

02:31PM MS. CLARK: You are.

02:31PM MR. TURKEL: Yeah, okay.

02:31PM THE COURT: And you represent for the record, sir?

02:31PM MR. TURKEL: The defendant, Your Honor.

02:31PM THE COURT: All right. So before the hearing started, I heard commentary from counsel that they were surprised having a hearing in federal court. I have oral argument on all my motions to dismiss and all motions for summary judgment. Pretty much any motion that's not routine and/or is opposed gets a hearing in front of me.

So what you don't get is a Zoom hearing. Typically it's an in-person hearing. We're only doing this by Zoom today because I have a criminal matter where depositions, interestingly enough, had to be taken, and the parties are using my courtroom to do so.

And so if we are, for whatever reason, are back on another motion in this case or you have any other matter before me, expect to come to court.

All right. I'm here on the defendant's motion to dismiss. Let's proceed to argument, please.

MS. CLARK: Thank you, Your Honor.

We appreciate the opportunity to present oral argument on defendant's motion. Our position here is straightforward.

Even taking every allegation in plaintiff's complaint as true, she has not pled a viable cause of action under Florida law. Our position rests on three independent grounds; each of which is fatal to plaintiff's claim.

One, the only alleged conduct by defendants is the publication of truthful publicly available information which cannot, as a matter of law, constitute unjustified interference.

Two, the complaint itself affirmatively negates causation and shows that plaintiff's former employer terminated her based on its own independent judgment about her social media posts, not anything defendants did.

And three, the complaint targets protected speech on a matter of public concern; and therefore triggers Florida's

Anti-SLAPP protections and the First Amendment.

Turning to our first point, Your Honor, I want to first begin with outlining what this case is and what it is not.

This is not a case about false or defamatory statements. It is not a case about confidential data or insider information or coercive contact with an employer. None of that is alleged.

What is alleged is simply that defendants posted a hyperlink, nothing more, to plaintiff's already public law firm profile. That is the only alleged conduct by defendants that plaintiff's entire tortious interference claim rests on; a comment on a trending Instagram post about plaintiff's controversial social media content, linking to plaintiff's law firm profile.

Florida law is absolutely clear that you cannot base a tortious interference claim on the dissemination of truthful publicly available information like defendants are alleged to have done here. This is binding legal precedent.

The Eleventh Circuit's decision -- the Eleventh Circuit's 1994 decision in Worldwide Primates vs. McGreal is especially instructive here. In that case the defendant actually contacted a party to the business relationship directly. They sent letters criticizing the plaintiff, attached damaging government reports, and plainly hoped that the parties to the business relationship who was receiving the letters would sever ties with the plaintiff as a result.

Yet the court still held that there was no interference

as a matter of law because the defendant conveyed only truthful publicly available information.

In doing so, the court emphasized that providing truthful information, even if unsolicited, even if critical, even if intended to influence a third-party's decision, is categorically justified and cannot constitute tortious interference as a matter of law.

If the far more direct conduct in Worldwide Primates is legally insufficient, then plaintiff's theory here necessarily fails. Notably, in Worldwide Primates the court also found that the record supported the imposition of Rule 11 sanctions against plaintiff for advancing a plainly frivolous claim.

Here the allegations of the complaint make clear on her social media account plaintiff used her real name. She used her law firm headshot. She identified herself as a lawyer. She regularly posted controversial contact by a hot button geopolitical conflict, and she acknowledges that anyone could identify her workplace with minimal effort.

So even taking all allegations in the complaint as true, the information the defendants allegedly disclosed was nothing more than a link to what plaintiff herself had already chosen to make publicly available.

Florida courts are clear; such conduct cannot give rise to a tortious interference claim as a matter of law. Not only do the cases cited by plaintiff in her response not hold otherwise,

but they also actually undermine her theory.

Plaintiff relies heavily on Salit, but Salit involved knowingly false statements made within a corporate structure as part of an alleged scheme to oust someone from a position. That case emphasizes falsity, not truth.

She cites Ethyl, claiming it supports her claims. But Ethyl actually reversed a judgment because causation was too speculative. That case helps defendants, not plaintiff.

She cites Drewes, but that was a case about fiduciary duties and exploitation of insider access, including the targeting of vulnerable clients. It is not even remotely similar to the fact of this case.

Each case that plaintiff relies on involves something that defendants did not do. Misrepresentations, falsity, coercion, insider information, here there is none of that. The complaint should be dismissed for this reason alone.

Turning to my second point, Your Honor, even if plaintiff could somehow convert truthful public speech into unjustified interference, which she can't, her complaint independently fails on the element of causation. Here plaintiff's own allegations negate causation as a matter of law.

She admits Chartwell already knew about her social media posts. She admits that Chartwell terminated her because, quote, "her social media activities did not align with the firm's values and beliefs," end quote.

She admits Chartwell received a flood of communications after stopantisemitism.org posted about her; not after anything defendants did. She does not allege that defendants contacted her employer. She does not allege that defendants asked anyone to call the employer. She does not allege the defendants made a statement about her to her employer. And she has not alleged that her employer saw defendants' posts, let alone relied on them. This is fatal and warrants dismissal.

Chartwell's independent judgment is front and center in the complaint. Even taking all of plaintiff's allegations as true, defendants are not the reason the plaintiff was fired. Plaintiff was fired because of her own posts on social media and because of Chartwell's independent decision that those posts didn't align with the firm's values. Dismissal is warranted for this reason as well.

Your Honor, this leads me to my third point. The lawsuit in this case targets protected speech on a matter of public concern, and that means that it is barred both by the First Amendment and by Florida's Anti-SLAPP statute.

THE COURT: I don't really need to hear much argument on that because, quite frankly, I don't think your motion really seriously or significantly makes that argument, and so I don't intend to rely on that argument for my ruling.

Let me ask you just one thing about causation. The complaint alleged that the law firm didn't know about the posts,

and they found out about the posts through your client's behavior.

Wouldn't that be a different argument with respect to causation?

MS. CLARK: No, Your Honor, because the law firm would still be making an independent decision as to whether or not they wanted to terminate the plaintiff.

In Worldwide Primates there was direct contact with the party to the business relationship, and the court held that even with direct contact, even if you're contacting the party to the dismissed relationship with the intent to sever that relationship, it is still not enough, unless you prove that the relationship was actually severed because of your conduct.

And here, no matter if they found out about the posts from the defendants -- which they didn't, and the complaint admits that -- the law firm alone has the authority to terminate plaintiff. Defendants have no sort of authority to make that decision for them.

THE COURT: Let me hear the response.

MR. SHARP: Thank you, Judge.

And in this case the main elements that are contested on the claim are elements three and four, but I want to talk about briefly about elements one and two because it really puts this case in context.

The first and second elements are the existence of employment relationship and the defendants' awareness of that.

Now, in defense counsel's argument she focused on the events on February 18, 2024, when my client's publicly accessible information was posted on the Jew Hate DB website. Let's talk about prior to that because these people knew each other before.

Mr. Gadi Beer was the CFO of the Chartwell Law Firm until early 2023 when he left, so he knew very well that my client worked there. He probably had information about her salary, I don't know. But he was the CFO. He knew who she was.

Beth Gellman Beer had started posting on my client's social media, we allege this in the complaint, in October 2023. As soon as my client began posting her concerns about people getting killed in Gaza, Beth Gellman Beer popped up under an assumed name, Beth Margo. At this time Ms. Gellman Beer is an attorney in the Department of Education civil rights division with the Biden administration.

For two or three months she posted the most vile comments on my client's social media. We have summarized them in the complaint. But she said things like my client's not fit to be a mother, she shouldn't be an attorney, all sorts of stuff. My client tried to engage with her and defuse it; it didn't work out. She eventually blocked her from her site.

After Ms. Gellman Beer was blocked from the site is when the doxxing -- or when the Jew Hate DB website comes into play. And so here you have a website. And if you go to the website -- we have alleged this in the complaint -- this is not a place to

have a reasoned discourse about current events. It's a hate site. You go there and you put somebody's name in, they post them up. If they don't know the name: Hey, does anybody know this person because we want to harm them? The sole purpose for the existence of this website is to harm people who these people decide must be anti-semites. So they act as judge, jury, and executioner on these websites. Again, with no possible proper purpose here.

So on this website my client's posts appear. They're doctored a little bit to make some kind of a point that she must be an anti-semite, which she's not obviously. And within the same day it's posted, Ms. Gellman Beer and her husband both pop up in the comment session. Did they just happen to be wandering the Internet that day and go in there? I doubt it, but they appear.

And just as anticipated, when her picture and her -- or when her post is put on that website, people start asking because that's the purpose of the website: Where does she work? We're going to go get her fired because you've a rogues' gallery here of people you have had fired, this is what we want to do. Where does she work? And Ms. Gellman Beer and her husband happen to just be there and provide the link to the website.

Now, granted it may have been publicly available, but none of the other people on that website went out and found it. They did it and they knew it. They knew she worked there.

My client does not post any information about her -- where she works on her private website. She says she's a lawyer.

She does not say where she works. Uses the same picture that's in her law firm profile. But again, nobody would have known where she worked except the Beers because they knew it. So they --

THE COURT: Well, I'll just take a short issue with that.

If you're a lawyer, it is pretty easy. You go to the Florida Bar website, and you know exactly where she works. Forget about Googling.

MR. SHARP: Oh, sure, absolutely.

But the reason why this is tortious interference is because the defendants appear on a website that's designed to harm people, get them fired. A mob has formed saying: We want to go get this person. Where does she work? They give the address.

And again, it could have been somebody else. Maybe those people would have found her on their own, but they didn't. The Beers provided it to them.

And then Beth Beer -- Beth Gellman Beer chimed into the comment: Oh, they think that law firm's Jewish clients would want to know that this kind of person works there. Again, encouraging what they knew was very likely to happen on this website because that's what it exists for. So in some sense, Judge --

THE COURT: But the problem is that the activity or the action doesn't take place by that website; it takes place by the law firm.

The law firm gets this information and could certainly have concluded that it's speech that is in line with their values

or speech that they otherwise have no issue with or speech that they allow or anything else.

I mean, at the end of the day, her damage comes from the firm's decision to fire her over speech.

MR. SHARP: Well, and Your Honor, if I could speak to that point.

The complaint does not allege that she was fired solely for the content of her social media posts. And in fact, to correct Your Honor, the firm was already aware of all of her social media posts.

THE COURT: Right. So that's really the issue on the causation --

MR. TURKEL: But they were aware.

THE COURT: Excuse me, sir.

So they were aware of it. And so this conduct that the defendants were involved in might have -- accepting all those allegations as true, how can it be -- how can it cause, right, the interference with the law firm, when the law firm not only knew of the comments?

Actually, what you allege is that the law firm ended up acting upon totally different comments that the Beers have nothing to do with.

MR. SHARP: There, Judge, that's not entirely correct. And I apologize if that's the impression you got from the complaint.

But I think what we alleged -- and we got this from the law firm's EEOC statements, they said that she was fired for the fact that the controversy that was caused by the second doxxing (unintelligible) anti-semitism website.

And in fact to answer Your Honor's question, they had met with my client before and told her: We're monitoring your social media. We're looking at everything. And they didn't ask her to take anything down. They kind of in hindsight: Oh, we have a problem with some of these posts.

But the reason they fired her is because they said this public doxxing that was precipitated by the Beers giving contact information caused such a controversy. They had phone calls. They claimed their employees were threatened by people from the Internet.

So it wasn't the social media posts; it was the controversy that resulted from the way the social media posts were manipulated, taken out of context, and presented through two different hate sites; well-known hate sites where people are doxxed and people's careers are ruined. So it's --

THE COURT: Are the Beers involved in the two different sites? Because I thought that the Twitter site had nothing to do with them.

MR. SHARP: No, they are -- they are actually related sites, and I think we have alleged this, Judge.

If you go to the StopAntisemitism website --

THE COURT: No, no, I don't need to go to any website.

(Crosstalk.)

MR. SHARP: We've alleged this in the lawsuit, Judge.

THE COURT: Show me.

MR. SHARP: On the front page of the Jew Hate DB website it says: We are a project of StopAntisemitism. They are absolutely related. They're related websites. And it is not uncommon for someone to be doxxed on the Jew Hate DB website, which is a smaller audience, and then later on the larger exposure on the StopAntisemitism.

So this is something that was foreseeable; and that if the Beers are posting on a well-known website that doxxes people, this is what they intended. It's sort of a two-part process, but that's the way these two websites work hand in hand. And so again, putting the name out on the Jew Hate DB directly leads to the second doxxing. Nobody else put the name out.

And then the second doxxing, again, it's not the social media posts, it's the controversy created by them, and that was started by the Beers. I mean the Beers gave the mob with the pitchforks the address to go to to harass that employer and try to talk them into getting rid of her. And we know how that works. I mean we've seen this on social media. Everyone says terrible things, the employer feels the pressure, negative publicity.

But that was why she was fired, and that wasn't an independent decision of the law firm.

02:49PM THE COURT: So she's fired because the law firm made the
02:49PM determination that someone with this kind of social media platform
02:49PM or statements created a situation that was bad for business. I'm
02:50PM not saying that was a good decision by the law firm or the right
02:50PM decision by the law firm. That's not before me.
02:50PM I'm still having difficulty as you have pled this
02:50PM complaint linking up the activity of the Beers with her actual
02:50PM damages, which was her eventual termination, which was a decision
02:50PM that the law firm made based in its best interests.
02:50PM MR. SHARP: And I think we've alleged, Judge, but for the
02:50PM doxxing, they wouldn't have terminated her because, again, all of
02:50PM her social media posts had been reviewed by the law firm.
02:50PM And I can plead more facts here if that's what we need to
02:50PM do to connect it and make it clearer that the law firm had every
02:50PM opportunity to fire her for the content of her social media posts
02:50PM for months, and they didn't. They met with her --
02:50PM THE COURT: What your complaint says is that her social
02:50PM media content, which precipitated the doxxing, did not align with
02:51PM the firm's values. That's how you pled it.
02:51PM MR. SHARP: And that's quoting from the EEOC position
02:51PM statement, and I have an "and" there; "and" the way it fell into
02:51PM the law firm's lap for the docket. So, Your Honor, I can
02:51PM certainly replead it and make it more clear, but the position
02:51PM statement of the EEOC was clear that it was the doxxing that
02:51PM precipitated it.

Again, all the social media posts were known to the firm. They had spoken to her about them. They didn't ask her to take down a single post. And then the doxxing happens, and all the posts that they had told her were okay suddenly are a problem because employees are getting threatened. They claim that people felt unsafe working around her now. They worked around her for months; same posts.

So again, if the pleading is not clear on that, I can certainly address it because --

THE COURT: I am going to dismiss the complaint without prejudice. I do think you have to clarify that because I'm just looking at paragraphs in the complaint, and that's not what the complaint says.

I understand that that's your argument today, and I understand that's the reading that you have. Obviously, you know the facts. But I'm looking at the four corners of the complaint, which is all I can look at. I can't go to those websites.

MR. SHARP: Sure, Judge.

THE COURT: I can't do that.

So I think that there are a couple of deficiencies that have to be addressed. And so one of the deficiencies that have to be addressed -- and again, this is part of the argument that they raise -- that the truthful information can't constitute tortious interference.

You respond that it can if it's done with malice or a

02:52PM legitimate purpose. I just note for the record that the cases you
02:52PM cite don't hold that. And so I don't know if this is just an
02:52PM issue that tortious interference perhaps is not the cause of
02:52PM action that fits the facts you're alleging. But on that, I think
02:52PM if you look at Westlake Financial or Worldwide Primates, which
02:53PM were cited by the defense, I think there is an issue there.
02:53PM I think the causation is also a significant issue because
02:53PM at the end of the day, it is the firm that takes that position,
02:53PM that fires them for speech that, by the way, wasn't personal. So
02:53PM it's not, for example, you have a doxxing case where somebody's
02:53PM address, right, which is not otherwise publicly available is
02:53PM provided or some statement that somebody made in a private
02:53PM setting, right, a recording, something like that, and it's put out
02:53PM there that's not public information.
02:53PM This has public information. This is public. It was
02:53PM clearly public. I mean you have conceded that the law firm even
02:53PM knew of it. And so I think you're going to have to amend this
02:53PM complaint. Either amend the tortious interference allegations --
02:54PM I don't know how you're going to amend it. You may decide to do
02:54PM something else with it, I don't know. I can't tell you how to
02:54PM amend it necessarily or whether or not you want to do something
02:54PM different with it.
02:54PM But I can tell you as pled, it is insufficient and I am
02:54PM granting the motion without prejudice --
02:54PM MR. SHARP: Your Honor --

02:54PM THE COURT: Excuse me, sir. You can't speak over me. I can't get a record that way; especially on Zoom.

02:54PM So I'm granting the motion without prejudice so that you can amend the complaint. How many days do you need to amend, sir?

02:54PM MR. SHARP: With the holidays coming up, Judge, I would ask for 20.

02:54PM THE COURT: I have no problem with at that. We'll give you 20 days to amend the complaint.

02:54PM MR. SHARP: And, Judge, if I could just ask a quick question.

02:54PM I know we have essentially alleged in here that it's but-for causation. We didn't obviously -- obviously, there can be more than one but-for cause of an event. Based on what the law firm said, and I will represent this is what they said, it was because of the controversy resulting from. So even if it was in part because of the posts, if they say that the straw that broke the camel's back here was the fact there was a public doxxing and we got all this fallout at the law firm --

02:55PM THE COURT: Maybe that's what you should allege next time because sometimes when you know a case well, I think you should look specifically at how this was pled and replead it and then we'll see after you replead it whether there is another motion or not.

02:55PM If there is another motion, just to let you all know, like I said, it will be in person. I don't want anybody to get

confused and say: Oh, we thought this would be by Zoom. This is just a unique issue that I have with my courtroom today. So if there should be another motion, I will have oral argument on it. If there is not another motion and there is an answer and the case proceeds, I'll have argument on anything that's dispositive of the case.

MR. SHARP: Thank you, Judge.

THE COURT: All right. Thank you very much, and have a great Thanksgiving.

MR. TURKEL: Thank you.

MS. CLARK: Thank you.

MR. TURKEL: You too, Your Honor.

(Proceedings recessed at 2:56 p.m.)

C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of the proceedings in the above-entitled matter.

This hearing occurred via Zoom and is therefore subject to the technological limitations of reporting remotely.

DATE: 11/26/25

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