

Part 1- Original Complaint Filed

STATE OF INDIANA )  
 )SS:  
COUNTY OF ALLEN )

IN THE ALLEN CIRCUIT COURT

CAUSE NUMBER:

02D09-17-01-CT-000040

MONICA KELSEY and  
SAFE HAVEN BABY BOXES, INC. )

Plaintiffs )

vs. )

MICHAEL MORRISEY, and  
JEAN MORRISEY, )

Defendants )

FILED  
CENTRAL SERVICES DIVISION

2017 JAN 27 PM 3:36

LORETH A. BORGMANN  
CLERK ALLEN CIRCUIT  
AND SUPERIOR COURTS

**COMPLAINT FOR DAMAGES**

COME NOW the Plaintiffs, Monica Kelsey and Safe Haven Baby Boxes, Inc., by undersigned counsel, and for their cause of action against the Defendants, Michael Morrisey and Jean Morrisey, allege and state as follows:

**PARTIES**

1. Plaintiff, Monica Kelsey ("Kelsey") is a resident of Woodburn, Allen County, Indiana.
2. Safe Haven Baby Boxes, Inc. ("Safe Haven") is an Indiana nonprofit corporation that is a tax-exempt organization under IRC 501(c)(3), having its principal place of business located in Woodburn, Allen County, Indiana.
3. Defendants, Michael Morrisey ("Morrisey") and Jean Morrisey, are husband and wife, and residents of Middlesex County Massachusetts.

## JURISDICTION AND VENUE

4. Jurisdiction in Indiana is proper pursuant to Indiana Rule of Trial Procedure 4.4 as, *inter alia*, Morrisey and/or Jean Morrisey have:

a. Engaged in abusing, harassing, or disturbing the peace of Safe Haven and Kelsey within the State of Indiana by an act or omission done in this state, or outside this state if the act or omission is part of a continuing course of conduct having an effect in the State of Indiana;

b. Has caused and continues to cause personal injury in the State of Indiana; and/or

c. Has caused and continues to cause personal injury in the State of Indiana by an act or omission done outside the State of Indiana as they regularly do or solicits business and/or engage in any other persistent course of conduct, and/or derive substantial revenue or benefit from goods, materials, or services used, consumed, or rendered in the State of Indiana.

5. Allen County is the preferred venue as both of Plaintiffs are located in Allen County and the conduct perpetrated and injuries caused by Morrisey and/or Jean Morrisey described herein occurred in Allen County.

## FACTUAL ALLEGATIONS

6. Kelsey is an activist and lecturer in the “pro-life” anti-abortion movement, and is frequently engaged to speak at meetings, conventions, banquets, rallies and similar forums regarding her personal experiences related to the “pro-life” anti-abortion movement.

7. Safe Haven was founded by Kelsey and is President of Safe Haven. As President, she reports to the Board of Directors for Safe Haven. She currently receives no compensation from Safe Haven, but does receive honorarium for certain speaking engagements, largely in her personal capacity as a lecturer in the “pro-life” anti-abortion movement.

8. The primary purpose of Safe Haven is to provide an alternative to newborn infant abandonment by providing devices and locating them with emergency service providers, for the safe relinquishment of infants as a method of placement under Indiana's Safe Haven Law, I.C. 31-34-2.5 *et seq.*

9. The devices provided by Safe Haven as described in Paragraph 6 herein are sometimes colloquially referred to as "baby boxes," "safe haven boxes," or other similar phrases. Safe Haven receives certain grants and fees related to its nonprofit business activities.

10. The activities undertaken by Kelsey and Safe Haven are activities related to their profession, trade, and/or business.

11. Morrissey, with the participation, involvement, consent and/or encouragement of Jean Morrissey, has engaged in a pattern of intimidation, harassment, stalking and/or other abusive behavior against Kelsey and Safe Haven, including the publishing of certain false, malicious, and defamatory statements against Kelsey and Safe Haven that seek to prejudice and injure the profession, trade or business conducted by Kelsey and Safe Haven and to impute criminal conduct to Kelsey and Safe Haven.

12. Such false and malicious statements of harassment, intimidation, and/or actions of stalking against Kelsey and Safe Haven include, but are not limited to, the following:

a. On or about September 1, 2015, Morrissey published via electronic mail, false, malicious, and defamatory statements to Scott Gring of Knights of Columbus – Indiana Council that Kelsey and Safe Haven are engaged in misconduct in their trade, profession or business, stating that "[p]romoters of these "baby boxes" are charlatans. They make incredibly false statements like, 'women don't want to show their faces so we

need these boxes.’ [...] The advocate of the boxes wants her time in front of the cameras and lecterns giving speeches she knows aren’t true.”

b. On or about April 8, 2016, Morrisey published via electronic mail, false, malicious, and defamatory statements to Chase Lowden, an intern with Safe Haven, that Kelsey is engaged in misconduct in her trade, profession or business, stating that “[t]he advocate for these boxes is looking to just be a publicity seeker, and she has never allowed anyone but her to promote the safe haven law. Just that facts show how counterproductive her actions are. She actually mocks and harasses young people.”

c. On or about May 10, 2016, Morrisey published, via electronic mail to Reverend Ted Rothrock and Msgr. Mark Svarczkopf of the Knights of Columbus – Indiana Council, an organization which had provided grant funds to Safe Haven, intended to prejudice and injure the profession, trade or business of Kelsey and Safe Haven and to interfere with Kelsey and Safe Haven’s relationship with Knights of Columbus, false, malicious, and defamatory statements that Kelsey and Safe Haven are engaged in criminal conduct by violating I.C. 35-43-5-22, Indiana’s criminal prohibition against “stolen valor” and committing the crime of theft, stating that “[t]he fraud is that Ms. Kelsey had nothing to do with passing of a single safe haven law [...] She is committing the fraud of stolen valor. Then she seeks to raise funds for her “baby boxes” that the people who passed those laws oppose. We did not work so she could use that hard work to steal money from groups like yours.”

d. On or about April 29, 2016, Morrisey published false and malicious statements intended to prejudice and injure the profession, trade or business of Kelsey

and Safe Haven and impute criminal conduct on Kelsey, stating that “The woman pushing these medieval based devices is at best a charlatan, as [sic] worst a con-artist.”

e. On or about May 23, 2016, Morrisey did intentionally and tortiously interfere with Safe Haven’s business and contractual relations with Knights of Columbus – Indiana Council (“KOC”), by contacting KOC officials numerous times and publishing false, malicious, and defamatory statements to KOC intended to prejudice and injure the profession, trade or business of Kelsey and Safe Haven with the intention of persuading KOC to terminate its relationship with Kelsey and Safe Haven. In so intentionally and tortiously interfering, Morrisey stated to KOC, in relevant part, “[i]s the Indiana Knights of Columbus going to spend a quarter million dollars on a program that leads women to secret back alley deliveries, then to place their newborn babies that may be in great distress into a converted pig feeding trough in an unmanned fire station. These so called “baby boxes” are made as pig feeding bins, with a few electronics attached.”

f. On or about July 1, 2016, Morrisey published to social media platform Facebook false, malicious, and defamatory statements implying that Kelsey and Safe Haven are engaged in criminal conduct, stating that “You’re so illegal that your last resort has been to use smear tactics and lies...”

g. On or about July 1, 2016, Morrisey published via email to Fabcore Industries, LLC, the manufacturer of the devices, false, malicious, and defamatory statements that Kelsey and Safe Haven are engaged in criminal conduct, stating that Kelsey and Safe Haven are “scamming towns with illegal medical devices that you sell them.”

h. On or about July 1, 2016, Morrisey published via social media platform Facebook, false, malicious, and defamatory statements intended to prejudice and injure the profession, trade or business of Kelsey and Safe Haven, stating that “[...] states like Indiana where they are wasting tens of thousands of dollars on a scam, an illegal medical device made by a company that makes pig feeding troughs, and a failure of an awareness campaign where there has not been any decline in the number of horrible newborn abandonment tragedies.”

i. On or about April 23, 2016, Morrisey published via social media platform Facebook, false, malicious, and defamatory statements intended to prejudice and injure the profession, trade or business of Kelsey and Safe Haven stating that “[Kelsey] demanding women to have a very risky back alley unattended newborn delivery so that she can financially profit from the action with the press she will get due to the action of a woman, and baby, put in great medical danger.”

j. On or about December 23, 2016, Morrisey published via social media platform Facebook, false, malicious, and defamatory statements implying that Kelsey and Safe Haven embezzled or otherwise absconded with donation funds to Safe Haven, stating to Colt Fackler that “Hope you didn’t give them any money. It was wasted on pleasure trips across the country recently.” These statements were intended to impute criminal conduct on Kelsey and Safe Haven and to injure and prejudice the profession, trade or business of Kelsey and Safe Haven.

k. On or about December 23, 2016, Morrisey published via social media platform Facebook, false, malicious, and defamatory statements that Kelsey and Safe Haven were engaged in the crimes of “stolen valor” and “criminal fraud,” stating that

“The woman talking NEVER had anything to do with the passage, promulgation or implementation of a single safe haven law. But she illegally claims that “we” have saved over 3,000 babies. That is stolen valor from all the heroes who busted their tails to actually do the work she is claiming to have done. That is criminal fraud, Especially for a 501(c)(3) !!!”

1. On or about December 26, 2016, Morrissey through “Baby Safe Haven New England” issued a press release intended to prejudice and injure the profession, trade or business of Kelsey and Safe Haven stating that “Indiana has been taken over by an overbearing 50 year old “advocate” who hogs every single media spotlight to the insistence that there never be a teen/20s advocate to replace her, and her ill-fated “baby boxes” concept. The losses of life, the ruining of lives, it’s all about marketing, and Indiana is doing it in the worst possible way with the “baby boxes” advocate hoarding the spotlights every single time.” The preceding statement was directed at Kelsey and Safe Haven.

m. On or about January 5, 2017, Morrissey contacted Rose Mimms, Executive Director of Arkansas Right to Life (“ARTL”), an organization in the “pro-life” anti-abortion movement which engaged Kelsey as a speaker for an ARTL event. Morrissey intentionally and tortiously interfered with Kelsey’s engagement with ARTL, writing to Rose Mimms, “Are you still going to have the so-called “baby boxes” “advocate” as a speaker for your event? [...] If this scam speaks in front of your group you will become part of the scam, and you will never be trusted with a single safe haven law awareness action. We will alert the proper Arkansas agencies with all the evidence of your scam, along with the “baby boxes” scam artist who works with you. [...] Please dump this

speaker from your event, or be ready for her continuous lies. Proper Baby Safe Haven groups will do work for Arkansas, and AK Right to Life will have NOTHING to do with it if you attempt to follow this scam artist.”

n. Kelsey and Safe Haven have suffered numerous additional false, malicious, and defamatory statements from Morrisey alleging criminal conduct and intended to prejudice or injure their profession, trade or business.

o. Jean Morrisey was included as a ‘signer’ of one or more defamatory statements against Kelsey and Safe Haven and is believed to have participated in such defamatory statements, and accordingly, is made a party to this action.

13. Kelsey suffers from a result of the aforementioned actions of Morrisey, including but not limited to, professional reputation being sullied and tarnished, feeling and/or experiencing: fear, anxiety, depression, loss of appetite, loss of sleep, loss of confidence in her career, loss of feeling safe in her day to day life, stress, downgraded, humiliated, loss of enjoyment of life and a general malaise.

14. Morrisey’s actions have caused Kelsey to file police reports on a number of occasions, inducing, but necessarily limited to, the following:

d. On March 18, 2016, Kelsey filed a Police Report with the Woodburn Police Department because Morrisey’s actions have caused Kelsey to fear for her and her family’s safety. The Woodburn Police Department found it necessary, due to the actions of Morrisey, to assign Kelsey a security detail in order for Kelsey to safely navigate the public sphere. The Woodburn Police Department further found it necessary to involve the Indiana State Police due to the severity of Morrisey’s actions. Morrisey’s actions have caused Kelsey to live in constant fear.



e. On June 20, 2016, Kelsey again reported Morrisey's actions to the Woodburn Police Department out of fear for her and her family's safety due to the actions of the Morrisey. The Woodburn Police Department found it necessary to turn the case over to the Indiana State Police due to the severity of Morrisey's actions.

f. On July 1, 2016, Kelsey, for a third time, contacted the Woodburn Police Department out of fear for her and her family's safety due to the actions of Morrisey. The Police Report states that on said date, Morrisey contacted the Woodburn Police Department seven to ten (7-10) times and threatened and demanded that Kelsey be arrested for entirely made up, false, and completely unsubstantiated allegations of criminal harassment through an alias. Morrisey then proceeded to, in the words of the Police Officer, "Harass" and "Threaten" the Police Officer. Morrisey then called the communications center ten (10) times continuing to demand Kelsey be arrested. Morrisey then called the Woodburn Fire Department and harassed them about Kelsey. Undeterred, Morrisey then called Kelsey's place of employment and harassed them and told her organization that what Kelsey was doing was illegal. Morrisey then called the Local Sherriff's Office and the Indiana State Police continuing to demand Kelsey be arrested pursuant to entirely made up, false, and completely unsubstantiated claims.

**COUNT I**  
**DEFAMATION PER SE – MONICA KELSEY**

15. Plaintiffs hereby re-allege and incorporate Paragraphs 1 through 14 as if fully set forth herein.

16. Defendants' statements are false and defamatory, and Defendants made the statements enumerated in paragraph 12 with the intent to charge Kelsey with misconduct in her trade, profession, and business and, as such, Defendants' statements are defamatory, *per se*.

17. By publishing the above statements and others, Defendants intended to charge, and did charge, and was understood by the general public who read these statements as charging Kelsey as being engaged in criminal conduct which was and is maliciously false and untrue.

18. Because Defendants spread these false, malicious, and defamatory statements both via electronic email and social media platform, Kelsey has attempted to mitigate the harm caused by seeking to limit social media interactions with Defendants by ‘blocking’ Defendants from their interactions and otherwise avoiding them through usual and customary methods found on social media platforms. Despite such mitigation, Defendants continue to evade such mitigation by opening numerous additional social media accounts and continuing to harass and defame Kelsey.

19. Defendants intentionally made these false, malicious, and defamatory statements and publications for the purpose of harming Kelsey in her trade, business and profession.

20. Goodwill is essential to the non-profit business in which Kelsey is involved, and the integrity and honesty of Kelsey are of utmost importance in her trade, business and profession. Kelsey has built up among those engaged in the “pro-life” anti-abortion movement considerable goodwill. Furthermore, Kelsey possessed a reputation for honesty, fair dealing, and acting with high ethical standards. Such reputation was of great value to Kelsey. Because of Defendants’ false and defamatory statements and publications, Kelsey’s goodwill has been damaged and Kelsey’s reputation has been injured.

21. Because of Defendants’ false, malicious, and defamatory statements and publications, a number of persons have ceased to deal with Kelsey and Kelsey has lost speaking engagements, grant opportunities and business relationships.

22. Defendants' false, malicious, and defamatory statements and publications have caused Kelsey to suffer substantial damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, Monica Kelsey, respectfully requests this Court enter a judgment in her favor and against Defendants, Michael Morrisey and Jean Morrisey, jointly and severally, for her Count of Defamation, for compensatory and consequential damages in an amount to be determined at trial, attorney's fees, punitive damages, and all other just and equitable relief.

**COUNT II**  
**DEFAMATION PER SE – SAFE HAVEN BABY BOXES, INC.**

23. Plaintiffs hereby re-allege and incorporate Paragraphs 1 through 22 as if fully set forth herein.

24. Defendants' statements are false, malicious and defamatory, and Defendants made the statements enumerated in paragraph 12 with the intent to charge Safe Haven with misconduct in its trade, profession, and business and, as such, Defendants' statements are defamatory, *per se*.

25. By publishing the above statements and others, Defendants intended to charge, and did charge, and was understood by the general public who read these statements as charging Safe Haven as being engaged in criminal conduct which was and is maliciously false and untrue.

26. Because Defendants spread these false, malicious, and defamatory statements both via electronic email and social media platform, Safe Haven has attempted to mitigate the harm caused by seeking to limit social media interactions with Defendants by 'blocking' Defendants from their interactions and otherwise avoiding them through usual and customary methods found on social media platforms. Despite such mitigation, Defendants continue to

evade such mitigation by opening numerous additional social media accounts and continuing to harass and defame Safe Haven.

27. Defendants intentionally made these false, malicious, and defamatory statements and publications for the purpose of harming Safe Haven in its trade, business and profession.

28. Goodwill is essential to the non-profit business in which Safe Haven is involved, and the integrity and honesty of Safe have are of utmost importance in its trade, business and profession. Safe Haven has built up among those engaged in the “pro-life” anti-abortion movement considerable goodwill. Furthermore, Safe Haven possessed a reputation for honesty, fair dealing, and acting with high ethical standards. Such reputation was of great value to Safe Haven. Because of Defendants’ false, malicious, and defamatory statements and publications, Safe Haven’s goodwill has been damaged and Safe Haven’s reputation has been injured.

29. Because of Defendants’ false, malicious, and defamatory statements and publications, a number of persons have ceased to deal with Safe Haven, and Safe Haven has lost grant opportunities and business relationships.

30. Defendants’ false, malicious, and defamatory statements and publications have caused Safe Haven to suffer substantial damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, Safe Haven Baby Boxes, Inc., respectfully requests this Court enter a judgment in its favor and against Defendants, Michael Morrisey and Jean Morrisey, jointly and severally, for its Count of Defamation, for compensatory and consequential damages in an amount to be determined at trial, attorney’s fees, punitive damages, and all other just and equitable relief.

**COUNT III**  
**INTENTIONAL INTERFERENCE**  
**WITH CONTRACTUAL RELATIONS – MONICA KELSEY**

31. Plaintiffs hereby re-allege and incorporate Paragraphs 1 through 30 as if fully set forth herein.

32. Kelsey had valid contracts with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.

33. Morrissey and/or Jean Morrissey knew the existence of such contracts.

34. Defendants intentionally and tortiously interfered with and/or otherwise induced a breach of contracts between Kelsey and various speaking engagements, with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio through the course of conduct described in this Complaint.

35. Defendants' actions were not justified in interfering with and/or otherwise inducing breach of the contractual relationship and various speaking engagements with the governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.

36. As a result of Defendants' intentional and tortuous interference with Kelsey's contractual relations and speaking engagements as described herein, Kelsey has suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, Monica Kelsey, respectfully requests this Court enter a judgment in her favor and against Defendants, Michael Morrissey and Jean Morrissey, jointly and severally, for her Count of Tortious Interference with Contractual Relationships, for compensatory and consequential damages in an amount to be determined at trial, attorney's fees, punitive damages, and enter an order enjoining Defendants, Michael Morrissey and Jean

Morrisey, from contacting any person or entity known by them to do business with Plaintiff, Monica Kelsey, and for all other just and proper relief to which she is entitled.

**COUNT IV**  
**INTENTIONAL INTERFERENCE**  
**WITH CONTRACTUAL RELATIONS – SAFE HAVEN BABY BOXES, INC.**

37. Plaintiffs hereby re-allege and incorporate Paragraphs 1 through 36 as if fully set forth herein.

38. Safe Haven had valid contracts with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.

39. Morrisey and/or Jean Morrisey knew the existence of such contracts.

40. Defendants intentionally and tortiously interfered with and/or otherwise induced a breach of contracts between Safe Haven and the governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio by through the course of conduct described in this Complaint.

41. Defendants' actions were not justified in interfering with and/or otherwise inducing breach of the contractual relationship with the governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.

42. As a result of Defendants' intentional and tortuous interference with Safe Haven's contractual relations as described herein, Safe Haven has suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, Safe haven Baby Boxes, Inc., respectfully requests this Court enter a judgment in its favor and against Defendants, Michael Morrisey and Jean Morrisey, jointly and severally, for its Count of Tortious Interference with Contractual Relationships, for compensatory and consequential damages in an amount to be determined at trial, attorney's fees,

punitive damages, and enter an order enjoining Defendants, Michael Morrissey and Jean Morrissey, from contacting any person or entity known by them to do business with Plaintiff, Safe Haven Baby Boxes, Inc., and for all other just and proper relief to which it is entitled.

**COUNT V**  
**TORTIOUS INTERFERENCE**  
**WITH BUSINESS RELATIONSHIPS – MONICA KELSEY**

43. Plaintiffs hereby re-allege and incorporate Paragraphs 1 through 42 as if fully set forth herein.

44. Kelsey had a valid ongoing business relationship with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.

45. Morrissey and Jean Morrissey knew the existence of such valid business relationships.

46. Defendants' intentionally and tortiously interfered with the business relationships and various speaking engagements between Kelsey and the governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio through the course of conduct described in this Complaint, specifically committing the illegal conduct/acts of harassment, intimidation, and/or stalking.

47. Defendants' actions were not justified in interfering with and/or otherwise inducing the termination of the business relationships and various speaking engagements with the governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.

48. As a result of Defendants' intentional and tortious interference with Kelsey's business relations as described herein, Kelsey has suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, Monica Kelsey, respectfully requests this Court enter a judgment in her favor and against Defendants, Michael Morrissey and Jean Morrissey, jointly and severally, for her Count of Tortious Interference with Business Relationships, for damages in an amount to be determined at trial, attorney's fees, punitive damages, and enter an order enjoining Defendants, Michael Morrissey and Jean Morrissey, from contacting any person or entity known by them to do business with Monica Kelsey, and for all other just and proper relief to which they are entitled.

**COUNT VI**  
**TORTIOUS INTERFERENCE**  
**WITH BUSINESS RELATIONSHIPS – SAFE HAVEN**

49. Plaintiffs hereby re-allege and incorporate Paragraphs 1 through 48 as if fully set forth herein.

50. Safe Haven had a valid ongoing business relationship with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.

51. Morrissey and Jean Morrissey knew the existence of such valid business relationships.

52. Defendants intentionally and tortiously interfered with the business relationships between Safe Haven and the governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio through the course of conduct described in this Complaint, specifically committing the illegal conduct/acts of harassment, intimidation, and/or stalking.

53. Defendants' actions were not justified in interfering with and/or otherwise inducing the termination of the business relationships with the governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.



54. As a result of Defendants' intentional and tortious interference with Safe Haven's business relations as described herein, Safe Haven has suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, Safe Haven Baby Boxes, Inc., respectfully requests this Court enter a judgment in its favor and against Defendants, Michael Morrisey and Jean Morrisey, jointly and severally, for its Count of Tortious Interference with Business Relationships, for damages in an amount to be determined at trial, attorney's fees, punitive damages, and enter an order enjoining Defendants, Michael Morrisey and Jean Morrisey, from contacting any person or entity known by them to do business with Safe Haven Baby Boxes, Inc., and for all other just and proper relief to which they are entitled.

**COUNT VII**  
**NEGLIGENT INFLICTION**  
**OF EMOTIONAL DISTRESS**  
**(Kelsey)**

55. Plaintiffs hereby re-allege and incorporate Paragraphs 1 through 54 as if fully set forth herein.

56. As shown by the facts described in the preceding paragraphs of this Complaint, Morrisey's grossly negligent conduct directly impacted Kelsey in the form of significant emotion distress.

57. Morrisey knew or should have known that he had a duty to communicate and operate in the public sphere in a safe, proper, reasonable, and non-harassing or threatening manner.

58. Kelsey, as a consequence of Morrisey's gross negligence, has suffered grievous injury and emotional distress with physical manifestations and significant pain and suffering, including but not limited to feeling and/or experiencing: fear, anxiety, depression, loss of

appetite, loss of sleep, loss of confidence in her career, loss of feeling safe in her day to day life, stress, downgraded, humiliated, loss of enjoyment of life and a general malaise.

59. As a result of Morrisey's conduct as described herein, Kelsey has suffered damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, Monica Kelsey, respectfully request this Court enter a judgment in her favor and against the Defendant, Michael Morrisey, for her Count of Negligent Infliction of Emotional Distress, for damages in an amount to be determined at trial, punitive damages, and all other just and equitable relief.

**COUNT VIII**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(Kelsey)**

60. Plaintiffs hereby re-allege and incorporate Paragraphs 1 through 59 as if fully set forth herein.

61. If Morrisey did not cause negligent infliction of emotional distress, Kelsey contends that Morrisey intentionally inflicted emotional distress on her.

62. As shown by the facts described in the preceding paragraphs of this Complaint, Morrisey intentionally harassed, threatened, lied about, damage the reputation of, and verbally attacked Kelsey. Such conduct is extreme, outrageous, shocking to the conscious, and had a direct impact on Kelsey in the form of significant emotional distress.

63. Kelsey, as a consequence of Morrisey's extreme and outrageous conduct, has suffered grievous injury and emotional distress with physical manifestations and significant pain and suffering, including but not limited to feeling and/or experiencing: fear, anxiety, depression, loss of appetite, loss of sleep, loss of confidence in her career, loss of feeling safe in her day to day life, stress, downgraded, humiliated, loss of enjoyment of life and a general malaise.

WHEREFORE, Plaintiff, Monica Kelsey, respectfully request this Court enter a judgement in her favor and against Defendant, Michael Morrisey, for her Count of Intentional Infliction of Emotional Distress, for damages in an amount to be determined at trial, punitive damages, and all other just and equitable relief.

**COUNT IX**  
**INJUNCTION**  
**(Kelsey)**

64. Plaintiffs hereby restate paragraphs 1 through 63 as if fully set forth herein.

65. By Morrisey and Jean Morrisey's conduct, they have demonstrated a complete disregard for Kelsey's privacy, peace, and enjoyment of life.

66. An injunction is appropriate because Kelsey's remedies in law are inadequate, Kelsey has a reasonable likelihood of success on the merits, the threatened harm to Kelsey outweigh any harm of injunctive relief, and there is no public interest that would be effected by the issuance of an injunction. *Coates v. Heat Wagons, Inc.*, 942 N.E.2d 905, 911-12 (Ind. Ct. App., 2011).

WHEREFORE, Plaintiff, Monica Kelsey, by counsel, respectfully request that the Court grant her Injunction after Notice and opportunity to be heard by Defendants, an Order requiring Defendants, Michael Morrisey and Jean Morrisey, to immediately cease contacting, stalking, harassing, intimidating and/or otherwise terrorizing Kelsey and/or any of her known contractual or business relations and prohibiting Defendants, Michael Morrisey and Jean Morrisey, from directly or indirectly contact, stalk, harass, intimidate and/or otherwise terrorize Kelsey and/or any of her known contractual or business relations until a trial on the merits is conducted, and for all other just and proper relief.

**COUNT IX**  
**INJUNCTION**  
**(Safe Haven)**

67. Plaintiffs hereby restate paragraphs 1 through 66 as if fully set forth herein.

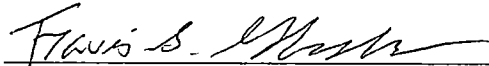
68. By Morrissey and Jean Morrissey's conduct, they have demonstrated a complete disregard for Safe Haven's privacy, peace, and right to conduct business.

69. An injunction is appropriate because Safe Haven's remedies in law are inadequate, Safe Haven has a reasonable likelihood of success on the merits, the threatened harm to Safe Haven outweigh any harm of injunctive relief, and there is no public interest that would be effected by the issuance of an injunction. *Coates v. Heat Wagons, Inc.*, 942 N.E.2d 905, 911-12 (Ind. Ct. App., 2011).

WHEREFORE, Plaintiff, Safe Haven Baby Boxes, Inc., by counsel, respectfully request that the Court grant an Injunction after Notice and opportunity to be heard by Defendants, an Order requiring Defendants, Michael Morrissey and Jean Morrissey, to immediately cease contacting, stalking, harassing, intimidating and/or otherwise terrorizing Safe Haven and/or any of its known contractual or business relations and prohibiting Defendants, Michael Morrissey and Jean Morrissey, from directly or indirectly contact, stalk, harass, intimidate and/or otherwise terrorize Safe Haven and/or any of its known contractual or business relations until a trial on the merits is conducted, and for all other just and proper relief.

Respectfully submitted,

**BEERS MALLERS BACKS & SALIN, LLP**



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3138191

Part 2- Permanent Injunction against Michael Morrisey

STATE OF INDIANA )  
 ) SS  
COUNTY OF ALLEN )

IN THE ALLEN SUPERIOR COURT

CAUSE NO. 02D09-1701-CT-000040

MONICA KELSEY and SAFE )  
HAVEN BABY BOXES, INC. )  
Plaintiff(s), )  
vs. )  
 )  
MICHAEL MORRISEY and )  
JEAN MORRISEY )  
Defendant(s). )

ORDER OF JUDGMENT

The Court having conducted a hearing on the matter of damages and having considered the Court's Orders dated July 5, 2017 and September 20, 2017, the evidence submitted at the hearing on Plaintiff's Motion for Preliminary Judgment and the damages hearing and the arguments of the parties now makes the following findings:

1. Plaintiff, Monica Kelsey (Kelsey), is a resident of Indiana residing in Woodburn, Allen County, Indiana.
2. Kelsey is described in her Complaint as "an activist and lecturer in the 'pro-life' anti-abortion movement, and was requested to speak at meetings, conventions, banquets, rallies and similar forums regarding her personal experiences related to the 'pro-life' anti-abortion movement."
3. Plaintiff, Safe Haven Baby Boxes, Inc. (Safe Haven) is an Indiana nonprofit corporation with its principal place of business being located in Woodburn, Allen County, Indiana.
4. Kelsey founded Safe Haven and is the president of the organization.
5. Kelsey and/or Safe Haven were working with Fabcore Industries, LLC for the product development and manufacture of baby boxes. A baby box is a device designed and constructed to activate an alarm and give notice when an infant is placed inside the box so that the infant can be retrieved from the baby box shortly after having been placed in the baby box. The baby box is intended to be installed at locations such as fire departments or emergency service facilities. The baby box is a form of an incubator because of providing a temperature controlled environment.
6. Safe Haven's funding came from donations and grants as a result of fundraising efforts promoted by Kelsey. Funding also comes from an annual service fee of \$500.00 charged to entities that purchase and install the baby boxes.
7. In 2017 at the time of the filing of this lawsuit there were two baby boxes located in the State of Indiana; Woodburn and Michigan City.
8. In 2015, 2016 and 2017, Kelsey and/or Safe Haven were in discussions with various entities for funding and/or the possible purchase and installation of baby boxes. These entities included the Indiana State Council for the Knights of Columbus; City of Warren, Michigan; City of Hillsdale, Michigan; The Life Center of South Bend, IN; Arkansas Right to Life; and Village of Pioneer, Ohio.
9. Defendants, Michael Morrisey (M.Morrisey) and Jean Morrisey (J. Morrisey) (hereinafter referred to collectively as the "Morriseys") are residents of Massachusetts.

10. The Morriseys strongly disapprove of the use of baby boxes as a method of addressing the issue of abandoned infants.
11. The Morriseys and their organization, Baby Safe Haven, are advocates for "safe haven laws". Safe haven laws allow a parent to anonymously deliver an infant to the personnel at a hospital or other designated safe havens without fear of being prosecuted for abandonment. The Morriseys and Baby Safe Haven promote the education of safe haven laws and the use of signage by entities to identify the entity as a safe haven as the means for addressing the problem of infant abandonment.
12. In November 2015, the Fort Wayne Journal Gazette issued an editorial stating that the Indiana Task Force on Infant Mortality and Child Health had studied baby boxes and recommended against the baby boxes. The editorial also stated that the Indiana Commission on Improving the Status of Children voted against a state wide newborn incubator program and had instead chosen to enhance the existing Safe Haven law. (Deft's Exh. G from Hrg on Pltfs' Mot. for Prelim Inj.).
13. During the first five months of 2016, there was publicity from newspapers and television about the controversy concerning Indiana's Safe Haven legislation and the use of baby boxes. Both Kelsey and M. Morrisey were quoted in editorials printed in the Fort Wayne Journal-Gazette. (Defts' Exhs. K, L, M, N, O, P and Q from Hrg on Pltfs' Mot. for Prelim Inj.).
14. By the end of the 2016 Indiana legislative session, the Safe Haven Law did not include a provision for the use of baby boxes.
15. In the spring of 2016 the Director of the Indiana Department of Child Services notified officials of the Woodburn Fire Department that it was her opinion that the baby box installed at the fire station did not comply with the Safe Haven Law, in particular, Indiana Code 31-34-2.5-1 and Indiana Code 31-9-2-43.5. The Director threatened to take corrective action unless the Woodburn Fire Department responded to the Director's concerns. (Defts' Exh. CC from Hrg on Pltfs' Mot. for Prelim Inj.).
16. In June 2016 and July 2016, media outlets were publicizing the Director of the Indiana Department of Child Services' position that the Indiana Department of Child Services was considering litigation to stop the use of baby boxes. (Defts' Exhs. L and BB from Hrg on Pltfs' Mot. for Prelim Inj.).
17. Prior to May 2016, Safe Haven and/or Kelsey had approached the Indiana State Council of the Knights of Columbus for the funding and promotion of the installation of baby boxes in the State of Indiana.
18. The Knights of Columbus had indicated their desire to promote the use of baby boxes. The Knights of Columbus intended to seek the installation of the baby boxes throughout Indiana. (Pltfs Exh. 8). The Knights of Columbus were contemplating the purchase of 100 baby boxes at the price of \$2,500 per box.
19. Sometime shortly prior to May 10, 2016, the Morriseys contacted the Knights of Columbus in writing expressing their concerns about the use of baby boxes as a means of addressing the issue of abandonment of infants. The writing was critical of Kelsey as to her promotion of the baby boxes as a method of dealing with abandonment. The Morriseys accused Kelsey of wrongfully taking credit for the work of others in reducing the number of abandonments. The Morriseys accused Kelsey of using fear, hate and racism to promote the use of baby boxes. The Morriseys also accused Kelsey of engaging in her promotion of baby boxes for her own personal financial gain. (Pltfs Exh. 1 from hrg. On Motion for Prelim. Inj).

20. On or about May 10, 2016, M. Morrisey had an extensive telephone conversation with Father Ted Rothrock. (Pltfs Exh. 1 from hrg. On Motion for Prelim. Inj).
21. After the Morriseys contacted the Knights of Columbus and Father Rothrock, Father Rothrock expressed that there were questions about the Knights of Columbus's continuing its involvement with Kelsey and/or Safe Haven. (Pltfs Exh. 1 from hrg. On Motion for Prelim. Inj).
22. On July 21, 2016, as a result of M. Morrisey's communications, the Knights of Columbus decided to "cease and desist any sponsoring or donating to the Safe Haven Baby Box program". However, the reason given for ceasing and desisting according to Martin McCoy in his email dated July 21, 2016 was "until all the legalities die down that are currently being voiced over the airways, and the likelihood of a lawsuit pending, the Supreme Office would like for our jurisdiction, as well as our Order to not be so closely affiliated until that much of the argument is quieted down or be resolved".(Pltfs Exh. 10 from hrg. On Motion for Prelim. Inj).
23. As of the date of the hearing on the matter of damages, the Knights of Columbus has not resumed its promotion of the baby boxes.
24. On or about May 9, 2016, M. Morrisey sent a post concerning Fabcore Industries, the manufacturer of the baby boxes. M. Morrisey accused Fabcore Industries of manufacturing "an illegal newborn incubator" and stated that the Federal Food and Drug Administration and the Consumer Product Safety Commission would take action against Fabcore Industries. M. Morrisey further stated that Fabcore Industries was "scammed by this flimflam artist". The post does not identify the "flimflam artist" by name. (Pltfs Exh. 4 from hrg. On Motion for Prelim. Inj).
25. On or about May 13, 2016, M. Morrisey posted a message to Priscilla Pruitt stating "The woman pushing these medieval based devises is at best a charlatan, at worst a con-artist". In his message to Pruitt, Morrisey is critical of the woman advocating the use of baby boxes. M. Morrisey describes the advocacy for baby boxes as deceptive, being hateful and bigoted. The post does not identify "the woman" by name. (Pltfs Exh. 11 from hrg. On Motion for Prelim. Inj).
26. Sometime prior to May 16, 2017, the City of Warren, Michigan indicated an interest in Safe Haven's baby box.
27. On May 16, 2017, the Morriseys sent an email directed to the Mayor and City Council of the City of Warren. The Morriseys pointed out how Indiana governmental authorities had "voted down" the use of the baby boxes and the Morriseys encouraged the mayor and council to contact the Morriseys for information on the Baby Safe Haven programs. The Morrisey's made statements in the email such as "be aware of a scam" and "[T]hey are well aware of this scam artist seeking to implement these illegal devices". (Pltf's Exh. 12 from hrg. On Motion for Prelim. Inj).
28. M. Morrisey admits that he has contacted various entities such as: the Indiana State Council for the Knights of Columbus; City of Warren, Michigan; City of Hillsdale, Michigan; The Life Center of South Bend, IN; Arkansas Right to Life; Village of Pioneer, Ohio and others; and, that the contacts were made for the purpose of discouraging the entities from using baby boxes as a means of addressing the problem of infant abandonment.
29. M. Morrisey testified that he learned of the existence of the entities interested in the use of baby boxes from social media postings authored by Kelsey and/or Safe Haven. The Morriseys then contact these entities with the purpose of dissuading the entities from using baby boxes



as a means of addressing the issue of abandonment of infants. In their contacts with the various entities interested in the baby boxes, the Morriseys state what they perceive as the potential risks of using a baby box and the Morriseys promote their preferred method for addressing the issue of abandonment of infants. To the extent that the Morriseys' contacts to these entities is limited to statements concerning the potential risks of using a baby box and/or the Morriseys' preferred method for addressing the issue of abandonment of infants, such contacts constitute speech protected by the First Amendment to the Constitution of the United States.

30. However, in addition to the Morrisey's advocacy against the use of baby boxes, the Morriseys' communications with entities interested in baby boxes have included verbal attacks upon Kelsey calling her a scam artist and a con-artist. The Morriseys accused Kelsey of being deceptive, committing fraud, being untruthful, accusing her as being motivated by personal gain and seeking unwarranted publicity.
31. On January 27, 2017, Kelsey and Safe Haven filed a Complaint for Damages. The complaint consists of sixty-nine numbered paragraphs of allegations in ten counts. The counts include theories of liability and/or relief as follows:

Count I	Defamation Per Se (On behalf of Kelsey)
Count II	Defamation Per Se (On behalf of Safe Haven)
Count III	Intentional Interference with Contractual Relations (Kelsey)
Count IV	Intentional Interference with Contractual Relations (Safe Haven)
Count V	Tortious Interference with Business Relationships (Kelsey)
Count VI	Tortious Interference with Business Relationships (Safe Haven)
Count VII	Negligent Infliction of Emotional Distress (Kelsey)
Count VII	Intentional Infliction of Emotional Distress (Kelsey)
Count VIII	Injunction (Kelsey)
Count X	Injunction (Safe Haven)
32. On March 24, 2017, Kelsey and Safe Haven filed a Motion to Set Preliminary Injunction Hearing seeking a preliminary injunction against the Morriseys. The hearing was set for April 27, 2017.
33. On April 5, 2017, the Morriseys filed a document titled "Order for Judgement of Court". The document requested the Court dismiss the Complaint without stating the legal grounds for a dismissal; rather, the document was a statement by the Morriseys questioning the accuracy some of the allegations and denying the truthfulness of some of the Plaintiffs' allegations. Morriseys' document makes in clear that the Morriseys disagree with the Plaintiffs' advocacy for the use of "safe haven baby boxes" as a valid means of addressing the handling of abandoned infants.
34. On April 17, 2017, the Morriseys filed a Motion for Telephonic Appearance to participate in the hearing on the Plaintiff's Motion for Preliminary Injunction by telephone. The Court granted the motion in order to accommodate the Morriseys who resided in Massachusetts and were pro se.
35. On April 27, 2017, hearing was commenced on the Plaintiff's Motion for Preliminary Injunction. Kelsey appeared in person and by counsel and Safe Haven appeared by counsel. The Morriseys appeared telephonically, pro se. Due to the unexpected length of the hearing, the hearing was continued and scheduled to resume on May 19, 2017.
36. On May 19, 2017, the hearing resumed on the Plaintiff's Motion for Preliminary Injunction. Kelsey appeared in person and by counsel and Safe Haven appeared by counsel. The

Morriseys appeared telephonically, pro se. The Court took Plaintiff's Motion for Preliminary Injunction under advisement.

37. During the hearings on April 27 and May 19, it was difficult for the Court to discern the Morriseys' position as to the Plaintiffs' legal theories advanced in the Motion for Preliminary Injunction and Plaintiffs' Complaint. The Morriseys frequently voiced their disagreement with the Plaintiffs' advocacy for the use of "safe haven baby boxes" instead of responding to the legal issues raised by Plaintiff's Motion for Preliminary Injunction.
38. On May 19, 2017, the Court ordered the Morriseys to file an answer to Plaintiffs' Complaint on or before June 9, 2017. The Court instructed the Morriseys that "the answer shall set out a succinct written response to each paragraph set out in Plaintiff's Complaint in the manner provided for by Rule 8(B) of the Indiana Rules of Trial Procedure." The Court believed that the exercise of formulating an answer would help the Morriseys to focus on the legal and factual issues raised in the Plaintiffs' Complaint, as well as assisting the Court in being able to identify the issues of fact in the case.
39. On June 6, 2017, Morriseys filed a document titled "Resonse (sic) of Plaintiff, May 26, Proposed Order Judges Order of May 19, 2017". If the document was intended as the Morriseys' answer, the document failed to comply with the Court's May 19 Order in that the response filed to admit, deny or claim a lack of knowledge as to the allegations in paragraphs 1 through 69 of the Plaintiffs' Complaint in the manner contemplated by Trial Rule 8(B) of the Indiana Rules of Trial Procedure.
40. On June 27, 2017, Kelsey and Safe Haven filed a Motion for Default Judgment contending that the Morriseys' Response dated June 6, 2017 was not in compliance with the Court's Order dated May 19, 2017.
41. On July 4, 2017, the Court issued an order scheduling a status conference for July 14, 2017 for the purpose of discussing the Motion for Default Judgment and for scheduling the hearing on the Motion for Default Judgment.<sup>1</sup>
42. On July 5, 2017, the Court issued an Order in part granting and in part denying Kelsey and Safe Haven's Motion for Preliminary Injunction.
43. On July 21, 2017, the Court conducted a status conference. Due to the Court's concern that the Court's May 19 Order lacked specificity in the Court's direction to the Morriseys as to the form that the Morriseys were to follow in preparing their answer to the Complaint, the Court afforded the Morriseys another opportunity to file an answer. The Court ordered the Morriseys to file an answer on or before August 21, 2017 and directed the Morriseys as follows: "the answer shall succinctly respond to each of the numbered paragraphs of the Plaintiffs' Complaint by admitting, denying or by stating that the [Morriseys] lack knowledge or information sufficient to form a belief as to the truth of the averments set out in the numbered paragraphs of Plaintiffs' Complaint. The [Morriseys'] answer shall be signed by each Defendant as required by Indiana Rule of Trial Procedure 11." The Court forwarded a copy of the Complaint to the Morriseys along with the Order.
44. On July 21, 2017, the Court set the Motion for Default Judgment for hearing on September 19, 2017. The hearing was primarily scheduled by the Court in the event that Morriseys failed to comply with the Court's July 21 Order.
45. Based upon the Morriseys' previous involvement in the telephonic proceedings and upon the Morriseys' documentation filed with the Court, the Court was of the opinion that the

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<sup>1</sup> The hearing was subsequently reset for July 21, 2017.

Morriseys appeared to be articulate, intelligent individuals capable of understanding and complying with the Court's Orders dated May 19 and July 21.

46. On August 21, 2017, the Morriseys filed a document titled "Resonse (sic) to Complaint Under Rule 11". The Morriseys' response responds to various portions of Plaintiffs' Complaint, in particular, paragraphs 2, 6, 8, 9 and 11-14; however, the Morriseys' response does not specifically address any of the other numbered paragraphs of Plaintiffs' Complaint. Consequently, the Court determined the Morriseys' response failed to comply with the Court's Order dated July 21, 2017 for a second time.
47. On September 19, 2017, a hearing was conducted on Plaintiffs' Motion for Default Judgment. Plaintiffs appeared by counsel. Morriseys appeared telephonically, pro se.
48. On September 20, 2017, the Court issued an Order finding that the Morriseys' failed to file an answer to Plaintiff's Complaint as ordered by the Court on May 19, 2017 and again on July 21, 2017. Consequently, the Court defaulted the Morriseys.<sup>2</sup>
49. On December 5, 2017, a hearing on the matter of damages was conducted. Plaintiffs appeared by counsel. Morriseys appeared telephonically, pro se.
50. In determining the issue of damages that Plaintiffs are entitled to recover, the Court not only considers the evidence offered at the hearing on December 5, 2017 but also the evidence offered during the hearing on the Plaintiffs' Motion for Preliminary Injunction.

#### Defamation Per Se

51. A statement is defamatory if it tends to harm a person's reputation by lowering the person in the community's estimation or deterring third persons from dealing or associating with the person. *Kelley v. Tanoos*, 865 N.E.2d 593, 596 (Ind. 2007). A communication is defamatory *per se* if it imputes: (1) criminal conduct; (2) loathsome disease; (3) misconduct in a person's trade, profession, office or occupation; or, (4) sexual misconduct. *Id.* In an action for defamation *per se*, a plaintiff is entitled to presumed damages as a natural and probable consequence of the defamation. *Id.* at 597.
52. Kelsey and Safe Haven allege that the Morriseys have made defamatory statements about them and they further allege that that the Morriseys' statements were defamatory *per se*. (Complaint, Counts I and II).
53. The communications made by the Morriseys concerning Kelsey and Safe Haven have occurred primarily because of the Morriseys' strong disagreement with Kelsey and Safe Haven concerning the manner of how to address the problem of creating anonymity for a parent who is considering abandoning an infant.
54. The Morriseys and their organization, Baby Safe Haven, are advocates for "safe haven laws" whereby state legislatures are lobbied to enact a law that allows a parent to anonymously deliver an infant to a hospital or other safe havens without fear of being prosecuted for abandonment. The Morriseys and Baby Safe Haven promote the education of safe haven laws and the use of signage by entities to identify the entity as a safe haven as the means for addressing the problem of infant abandonment.
55. Kelsey and Safe Haven advocate and promote the use of devices referred to as "baby boxes" or "safe haven boxes". The baby boxes are intended to offer anonymity to the parents of infants

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<sup>2</sup> In the Order of September 20, 2017, the Court informed the Defendants that they would no longer be able to participate telephonically in any future hearings. The Court subsequently revised its position and did allow the Defendants to participate telephonically at the December 5, 2017 damages hearing, subject to certain provisions.

who have made the decision to abandon the infant by allowing the parent to anonymously place the infant in a device that has been designed and constructed to activate an alarm and give notice when an infant is placed inside the box so that the infant can be retrieved from the baby box shortly after having been placed in the baby box. The baby box is intended to be installed at locations such as fire departments or emergency service facilities.

56. The Morrisseys strongly disagree with the Plaintiffs' advocacy for the use of "baby boxes" as a means of anonymously delivering an infant to a safe haven. However, in this instance, Morrisseys' advocacy goes beyond educating others to the Morrisseys' approach of offering a safe haven and went beyond offering criticism of Kelsey's position on the appropriate means of offering a safe haven. Morrisseys engaged in personally attacking Kelsey in order to discourage others from giving due consideration to Kelsey's message.
57. The Court acknowledges the Morrisseys' constitutional right to engage in free speech to be able to advocate their position and to be able to be critical of the position advocated by Kelsey and Safe Haven; however, statements that are defamatory *per se* are not protected by the First Amendment to the Constitution of the United States. *Ind. Newspapers Inc. v. Junior Achievement of Central Ind., Inc.*, 963 N.E.2d 534, 549 (Ind. Ct. App. 2012).
58. The Morrisseys' communications to various individuals and/or entities referring to Kelsey as a "flim flam artist", "scam artist" and "con artist" who is engaged in a "fraudulent campaign" and/or "scam" for personal profit constitutes defamation *per se*.<sup>3</sup> (Pltf's Exh. 1; Plt's Exh. 4; Pltf's Exh. 11; Pltf's Exh. 12; Pltf's Exh. 17; Pltf's Exh. 19, each forgoing exhibit was offered at the hearings on the Motion for Preliminary Injunction).
59. Morrisseys' statements that Kelsey was a "flim flam artist", "scam artist" and/or "con artist" and the statement that Kelsey is engaged in a "fraudulent campaign" and/or "scam" is a communication that operates to impute either (1) criminal conduct and/or (2) misconduct in the manner in which Kelsey conducts her trade or occupation.<sup>4</sup>
60. The Morrisseys attacked the character of Kelsey in order to discourage others from giving due consideration to Kelsey's message.
61. The Court must presume damages sustained by Kelsey as a natural and probable consequence of Morrisseys' defamatory statements that Kelsey was a "flim flam artist", "scam artist" and "con artist" who is engaged in a "fraudulent campaign" and/or "scam" for personal profit. These statements operate to harm Kelsey's reputation by lowering her reputation as a fundraiser for her baby box project in the community's estimation. The statements were undoubtedly intended to deter third persons from dealing or associating with Kelsey.
62. The Court finds credible Kelsey's testimony that the Morrisseys' actions, in particular, the persistent personal attacks have caused her stress and anxiety.
63. Kelsey has made a claim for medical expenses in the amount of \$10,137.10. Kelsey fails to offer medical testimony that the emotional distress experienced by Kelsey in 2016 was the causation of the hives and the anaphylactic reaction that was the reason given for the medical expenses.
64. However, the Court has no doubt that the emotional distress experienced as a result of Morrisseys' defamatory statements to various entities such as: the Indiana State Council for

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<sup>3</sup> All of the Morrisseys' defamatory statements in the exhibits offered into evidence were directed to Kelsey. The Court is unable to find where the defamatory statements were directed to Safe Haven. The Morrisseys' statements that the "baby boxes" were illegal, unsafe or not approved by the FDA do not constitute defamation *per se*.

<sup>4</sup> Merriam-Webster On-line Dictionary defines "flim-flam artist" as a criminal who steals money from people by tricking them. "Scam" is defined as a fraudulent or deceptive act or operation.

the Knights of Columbus; The Life Center of South Bend, IN; and the Arkansas Right to Life, exacerbated Kelsey's stress arising from Kelsey's other health problems.

65. It is difficult for the Court to differentiate between the stress and anxiety experienced by Kelsey because of the Morriseys' defamatory statements and the fact that a number of the entities that Kelsey had contacted to install baby boxes withdrew their interest in purchasing the units after being contacted by the Morriseys. The Court is unable to discern if these entities withdrew their plans to purchase and install the baby boxes because of the Morriseys' defamatory statements or because of the policy arguments advanced by the Morriseys' and/or the threats of litigation by the Indiana Department of Children services.<sup>5</sup> Kelsey would not be entitled to recover for the latter reasons.
66. The Court finds that Kelsey is entitled to recover the sum of \$25,000.00 as damages for the injury to Kelsey's reputation and for the emotional distress experienced as a result of the Morriseys' defamatory statements.
67. Kelsey is not entitled to recover attorney fees from the Morriseys.

#### Intentional Interference with Contractual Relations

68. Tortious interference with a contract requires: (1) existence of a valid and enforceable contract; (2) defendant's knowledge of the existence of the contract; (3) defendant's intentional inducement of breach of the contract; (4) the absence of justification; and, (5) damages resulting from defendant's wrongful inducement of the breach. *Trail v. Boys and Girls Clubs*, 845 N.E.2d 130, 138 (Ind. 2006); *V.G. Reed & Sons*, 638 N.E.2d 1228, 1235 (Ind. 1994).
69. Kelsey alleges that she had contracts and speaking engagements with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio. (Complaint, Ct. III, p.13).
70. Safe Haven alleges that contracts existed with governmental units in in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio. (Complaint, Ct. IV, p.14).
71. Kelsey has not offered any evidence as to the existence of contracts with governmental units in Anderson, Indiana or Hillsdale, Michigan, or of the existence of contracts for speaking engagements as alleged. There is ample evidence that Kelsey was promoting the purchase of "baby boxes" but none of the promotions resulted in a contract for the purchase of the baby box.<sup>6</sup>
72. Safe Haven have not offered any evidence as to the existence of contracts for the purchase of the "baby box" with governmental units in Anderson, Indiana or Hillsdale, Michigan as alleged in Counts III and IV.
73. Kelsey and/or Safe Haven offered evidence that the council of Pioneer, Ohio had approved the purchase and installation of a baby box and had made a payment for the baby box and the service fee; however, Teresa Bertke testified that the reason for Pioneer, Ohio not proceeding with the purchase of the baby box was because Ohio state officials directed Pioneer not to purchase and install the baby box and to seek a refund of any payment made to Kelsey or Safe Haven. Bertke testified that the Morriseys had been in contact with the state officials thereby inferring that the Morriseys had impermissibly and/or illegally influenced the state officials to direct Pioneer, Ohio not to purchase the baby box. Morriseys' contacts made to the

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<sup>5</sup> Refer to Finding #22.

<sup>6</sup> Pioneer, Ohio council had approved the purchase and installation of a baby box and had made a payment towards the purchase of a baby box and/or the service fee. Furthermore, the purchase never occurred because Ohio state officials informed Pioneer that the state authorities informed Pioneer that it was not to proceed with the purchase of the baby box.

Ohio state officials do not constitute interference with the contract existing between the Pioneer government officials and Kelsey or Safe Haven.

74. The Court doesn't have evidence as to why the Ohio state officials directed Pioneer not to install the baby box.
75. Neither Kelsey or Safe Haven are entitled to recover damages on their claim that the Morrises committed tortious interference with Kelsey's or Safe Haven's contractual relationships.

#### Interference with Business Relationships

76. Interference with business relationships requires: (1) existence of a valid business relationship; (2) defendant's knowledge of the relationship; (3) intentional interference with the relationship; (4) absence of justification; and, (5) damages resulting from the interference. *Levee v. Beeching*, 729 N.E.2d 215, 222 (Ind. Ct. App. 2000).
77. In Indiana, the claimant must prove that a defendant acted illegally when defendant interfered with the relationship between the claimant and the third party having the business relationship with claimant. *Watson Rural Water Co. v. Indiana Cities Water Corp.*, 540 N.E.2d 131, 139 (Ind. Ct. App. 1989).
78. In Count V, Kelsey alleges that she had business relationships and speaking engagements with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio. Kelsey also alleges that she had speaking engagements. Kelsey alleges that that the conduct of the Morrises through their contact with the aforementioned entities constituted "illegal contact/acts" of intimidation, harassment and/ or stalking. (Complaint, Ct. V, p.15).
79. In Count VI, Safe Haven alleges that it had business relationships with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio. Safe Haven also alleges that that the conduct of the Morrises through their contact with the aforementioned entities constituted "illegal contact/acts" of intimidation, harassment and/ or stalking.
80. There was insufficient evidence of any "business relationship" between Kelsey and /or Safe Haven and the governmental entities in Anderson, Indiana and Hillsdale, Michigan.
81. Kelsey and/or Safe Haven offered evidence that the council of Pioneer, Ohio had approved the purchase and installation of a baby box and had made a payment for the baby box and the service fee; however, Teresa Bertke testified that the reason for Pioneer, Ohio not proceeding with the purchase of the baby box was because Ohio state officials directed Pioneer not to purchase and install the baby box and to seek a refund of any payment made to Kelsey or Safe Haven. Bertke testified that the Morrises had been in contact with the state officials thereby inferring that the Morrises had impermissibly and/or illegally influenced the state officials to direct Pioneer, Ohio not to purchase the baby box. But, even if Bertke's testimony is correct that the Morrises had been in contact with the Ohio state officials, Kelsey and/or Safe Haven have failed to show that the Morrises' conduct in contacting the Ohio state officials constituted an illegal act on the part of the Morrises. (Pltfs' Exh. 4 and 5 from the 12/7/17 Damages Hrg.).
82. As to the business relationship that existed between Kelsey and/or Safe Haven and the council of Pioneer, Ohio, the evidence offered by Kelsey and Safe Haven fails to show that the Morrises' contacts with the Ohio state officials consisted of anything more than the Morrises informing the Ohio officials of the actions taken by Indiana state officials with regards to the baby boxes in November and December 2015, or, convincing Ohio state officials that the Morrises' position on the use of baby boxes was the more prudent and safer approach of

addressing the abandonment of infants. The Court will not speculate on why the Ohio state officials directed the Pioneer council not to purchase the baby box.

83. In November 2015, the Fort Wayne Journal Gazette issued an editorial stating that the Indiana Task Force on Infant Mortality and Child Health had studied baby boxes and recommended against the baby boxes. The editorial also stated that the Indiana Commission on Improving the Status of Children voted against a state wide newborn incubator program and had instead chosen to enhance the existing Safe Haven law. (Deft's Exh. G from Hrg on Pltfs' Mot. for Prelim Inj.).
84. During the first five months of 2016, there was publicity from newspapers and television about the controversy concerning Indiana's Safe Haven legislation and the use of baby boxes. Both Kelsey and M. Morrissey were quoted in editorials printed in the Fort Wayne Journal-Gazette. (Defts' Exhs. K, L, M, N, O, P and Q from Hrg on Pltfs' Mot. for Prelim Inj.).
85. By the end of the 2016 Indiana legislative session, the Safe Haven Law did not include a provision for the use of baby boxes.
86. In the spring of 2016 the Director of the Indiana Department of Child Services notified officials of the Woodburn Fire Department that it was her opinion that the baby box installed at the fire station did not comply with the Safe Haven Law, in particular, Indiana Code 31-34-2.5-1 and Indiana Code 31-9-2-43.5. The Director threatened to take corrective action unless the Woodburn Fire Department responded to the Director's concerns. (Defts' Exh. CC from Hrg on Pltfs' Mot. for Prelim Inj.).
87. In June 2016 and July 2016, media outlets were publicizing the Director of the Indiana Department of Child Services' position that the Indiana Department of Child Services was considering litigation to stop the use of baby boxes. (Defts' Exhs. L and BB from Hrg on Pltfs' Mot. for Prelim Inj.).
88. In light of the public and political discussions questioning the use of baby boxes, Kelsy and Safe Haven have not shown by a greater weight of the evidence that the Morrisseys' actions constituted an illegal action that interfered with business relationships with governmental units in Anderson, Indiana, Hillsdale, Michigan and Pioneer, Ohio.
89. Neither Kelsy nor Safe Haven are entitled to recover damages on their claim that the Morrisseys interfered with interference with a business relationship.

#### Negligent Infliction of Emotional Distress

59. A claim for negligent infliction of emotional distress is not recognized in Indiana as an independent, stand-alone cause of action for damages. *Spangler v. Bechtel*, 958 N.E.2d 458, 466 (Ind. 2011). An action seeking damages for emotional damages caused by the negligence of another are allowed in three situations: (1) where claimant has suffered a direct impact; (2) certain specific instances in which there is no direct physical impact on the claimant<sup>7</sup>; or (3) the claimant observed the death or severe injury of a certain class of individuals related to the claimant. *Id.*
60. Kelsey is not entitled to recover damages for her claim of negligent infliction of emotional distress as an independent, stand-alone theory of recovery.

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<sup>7</sup> None of which are applicable to this case.

61. As contained in previous findings, Kelsey is entitled to recover damages for emotional harm presumed to have been sustained as a consequence of the intentional tort of defamation *per se*. *Rambo v. Cohen*, 587 N.E.2d 140, 146 (Ind. Ct. App. 1992).

#### Intentional Infliction of Emotional Distress

62. Intentional infliction of emotional distress occurs when one who by the exercise of extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another. *Conwell v. Beatty*, 667 N.E.2d 768, 775-76 (Ind. Ct. App. 1996). Conduct is extreme and outrageous only in instances where the conduct has been so outrageous in character and so extreme in degree so as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community. Generally, the case is one in which the recitation of the facts to an average member of the community would arouse resentment against the actor and lead the average member of the community to exclaim, "Outrageous". *Id.* at 777.
63. Morrisseys' statements that Kelsey was a "flim flam artist", "scam artist" and/or "con artist" and that Kelsey was engaged in a "fraudulent campaign" and/or "scam" as a result of her efforts to promote baby boxes does not rise to the level of conduct on the part of the Morrisseys that is so outrageous in character and so extreme in degree so as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.
64. The Morrisseys' contacting various individuals or entities for the purpose of discouraging the use of baby boxes through the use of discussing how safe haven laws operate as a better alternative to the use of baby boxes and/or discussing why the use of baby boxes is not a proper approach to the problem of infant abandonment does not constitute intentional infliction of emotional distress.
65. Kelsey is not entitled to recover damages on her claim of intentional infliction of emotional distress

#### Injunction


65. On July 5, 2017, the Court, in part, granted Kelsey and Safe Haven's Motion for Preliminary Judgment. The Court incorporates by reference the findings contained in the Order dated July 5, 2017.
66. Kelsey has testified that the Morrisseys' personal and vitriolic criticism directed towards her leaves her uncomfortable and concerned for her personal safety. Living in fear is a harm that cannot be adequately compensated through an award of monetary damages.
67. The Court finds that the threatened harm to Kelsey and Safe Haven as evidenced by the tone of the Morrisseys' continuing persistent personal and vitriolic criticisms of Kelsey and/or Safe Haven to be evidence of M. Morrissey's advocacy crossing the line from advocacy to expressing personal animosity toward Kelsey. Such conduct exhibits the Morrissey's intent to continue inflict emotional harm to Kelsey and Safe Haven.
68. Kelsey and Safe Haven are entitled to an order enjoining the Morrisseys (which includes but is not limited to contact by Baby Safe Haven) from contacting or otherwise communicating with Monica Kelsey and representatives of Safe Haven, Inc., directly or indirectly, through any means, including, but not limited to, telephone, social media, email or any other electronic medium.



**WHEREFORE**, the Court enters judgment in favor of the Plaintiff, Monica Kelsey, and against the Defendants, Michael Morrissey and Jean Morrissey, jointly and severally, in the amount of \$25,000.00 and post judgment interest of 8% per annum.

**FURTHER**, the Court **grants** Plaintiffs, Monica Kelsey and Safe Haven Baby Boxes, Inc.'s request for an injunction. The Defendants, Michael Morrissey, Jean Morrissey, or their agents or designees, including representatives of the organization Baby Safe Haven, are ordered not to contact or otherwise communicate with Monica Kelsey and representatives of Safe Haven, Inc., directly or indirectly by any means, including but not limited to telephone, social media, email or any other electronic medium. This does not preclude contact or communications with the attorneys for Monica Kelsey and Safe Haven Baby Boxes, Inc.

**DATED: April 4, 2018**

  
**DAVID J. AVERY, JUDGE**  
**ALLEN SUPERIOR COURT**

Part 3- Final Judgment against Michael Morrisey

STATE OF INDIANA )  
 ) SS  
COUNTY OF ALLEN )

IN THE ALLEN SUPERIOR COURT

CAUSE NO. 02D09-1701-CT-000040

MONICA KELSEY and SAFE )  
HAVEN BABY BOXES, INC. )  
Plaintiff(s), )  
vs. )  
 )  
MICHAEL MORRISEY and )  
JEAN MORRISEY )  
Defendant(s). )

ORDER

The Court, having taken under advisement, Plaintiff, Monica Kelsey’s Motion for Rule to Show Cause, now issues its decision as follows.

The Court finds that:

1. On April 4, 2018, the Court granted Plaintiffs, Monica Kelsey and Safe Haven Baby Boxes, Inc.’s request for an injunction. The Court ordered the Defendant, Michael Morrisey not to contact or otherwise communicate with Monica Kesley and representatives of Safe Haven, Inc., directly or indirectly by any means, including but not limited to telephone, social media, email, or any other electronic medium.
2. On May 16, 2019, Monica Kelsey, pro se, electronically filed a Petition for Indirect Contempt of Court and Order to Show Cause against the Defendant, Michael Morrisey.
3. In her Petition, Monica Kelsey alleged that after the Court issued its Order dated April 4, 2018 the Defendant, Michael Morrisey has violated the terms of the Court’s injunction by contacting Monica Kelsey and members/employees of Safe Haven Baby Boxes, Inc. by means of the social media platforms of Facebook and Twitter in order to attack, stalk and harass the Plaintiff and various Safe Haven Baby Box Inc.’s employees, board members and associates.
4. Indiana Code § 34-47-3-5 requires that a person charged with indirect contempt is entitled to be served with a rule of the Court against which the contempt was alleged to have been committed. This “rule to show cause” must (1) clearly and distinctly set forth the facts that are alleged that constitute the contempt; (2) specify the time and place of the facts with reasonable certainty so as to inform the Defendant of the nature and circumstances of the charge against the Defendant; and (3) specify a time and place in which the Defendant is required to show cause, in the Court, why the Defendant should not be attached and punished for such contempt.
5. Indiana Code § 34-47-3-5(a) provides that the person charged with indirect contempt is to be served with an Order of Rule to Show Cause.
6. On or about June 3, 2019, the Court received correspondence from Jean Morrisey and/or Michael Morrisey<sup>1</sup> stating that “Jean Morrisey is unable to appear before said court due to severe medical conditions”, “[a]s her full-time caretaker Michael Morrisey will not travel to Fort Wayne for any reason, especially to be harassed by said court”, and “[a]t the appointed time of your ‘hearing’ you must call our phone number above, and explain ALL of the actions how this harassment took place on behalf of the court”. The Morrisey correspondence is indicative of the fact that Michael Morrisey was aware of Monica Kelsey’s filing of her Petition

<sup>1</sup> The Morriseys also sent a flash drive containing information; however, the Court is unable to open the contents of the flash drive using the software on the Court’s computer.

for Indirect Contempt of Court and Order to Show Cause; however, there was no certificate of service on Monica Kelsey's Petition for Indirect Contempt and Order to Show Cause nor was there direct proof of service such as a receipt from the United States Postal Service typically received if the documents were sent by certified mail, receipt requested.

7. On June 12, 2019, the Court issued an Order scheduling Monica Kelsey's Petition for Indirect Contempt and Order to Show Cause for hearing on July 19, 2019.
8. The Clerk of the Court mailed by regular mail a copy of the Court's June 12, 2019 Order setting Monica Kelsey's Petition for Indirect Contempt and Order to Show Cause for hearing. The mailing was never returned by the United States Postal Service to the Court as undeliverable; consequently, the Court presumes that Michael Morrissey and/or Jean Morrissey received the notice of hearing, however there is no direct proof of service.
9. On July 19, 2019, Monica Kelsey appeared for the hearing on her Petition for Indirect Contempt of Court and Order to Show Cause. Monica Kelsey acknowledged that she had not obtained personal service on Michael Morrissey of the notice of hearing. The Court took the Plaintiff, Monica Kelsey's Petition for Indirect Contempt of Court and Order to Show Cause under advisement.
10. On August 19, 2019 the Court issued an Order withholding a decision on Monica Kelsey's Petition for Indirect Contempt and Order to Show Cause because of the lack of proof of service of the Petition on Michael Morrissey. However, the Court ordered that Monica Kelsey could request that her Petition be reset for another hearing thereby affording her the opportunity to obtain service on Michael Morrissey.
11. On August 23, 2019<sup>2</sup>, the Plaintiff, Monica Kelsey, filed her Motion to Reconsider/Alternative Motion to Reset Plaintiff's Motion for Rule to Show Cause for a Hearing.
12. On September 11, 2019, the Court issued an Order setting the hearing on Plaintiff's Motion for Rule to Show Cause for October 11, 2019.
13. On September 24, 2019, the Court received a mailing from the Defendant, Michael Morrissey, containing a majority, if not all, the mailings from the Court sent to Defendant, Michael Morrissey, including the Order of September 11, 2019 setting the hearing on Plaintiff's Motion for Rule to Show Cause for October 11, 2019.
14. On October 4, 2019, Defendant, Michael Morrissey, telephoned the Court and informed the law clerk that he would not be attending the hearing set for October 11, 2019.
15. On October 7, 2019, Plaintiff, Monica Kelsey, filed Proof of Service on Defendant, Michael Morrissey indicating that a process server had personally served Michael Morrissey with notice of the hearing on Plaintiff's Motion for Rule to Show Cause on September 23, 2019.
16. On October 11, 2019, a hearing was conducted on Plaintiff's Motion for Rule to Show Cause.
17. At the hearing on July 19, 2019, Monica Kelsey and Kevin Albin, the Communications Director of Safe Haven Baby Boxes, Inc., testified and offered evidence that the Defendant, Michael Morrissey has violated the Court's Order issued on April 4, 2018, in that in February 2019 the Defendant, Michael Morrissey posted comments on Kevin Albin and/or Safe Haven Baby Boxes Inc.'s Facebook page.

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<sup>2</sup> The CCS incorrectly shows the date of filing as August 27, 2019; however, the said document has been file-stamped with the date of August 23, 2019 as per the PDF scanned into Odyssey.

18. At the hearing on July 19, 2019 and again on October 11, 2019, Monica Kelsey offered into evidence copies of various screen shots of Michael Morrissey's posts on Kevin Albin's Safe Haven Baby Boxes Inc.'s Facebook page. These screen shots show that in February and through May, 2019, Michael Morrissey posted comments on the said Facebook page of Kevin Albin and/or Safe Haven Baby Boxes Inc., which is a violation of the Court's April 4, 2018 Order enjoining Michael Morrissey from contacting or otherwise communicating with Monica Kelsey and representatives of Safe Haven, Inc., directly or indirectly by any means, including but not limited to telephone, social media, email, or any other electronic medium.
19. At the hearing on July 19, 2019 and again on October 11, 2019, Monica Kelsey offered into evidence copies of various screen shots of Michael Morrissey's posting on Kevin Albin, Walter Peycha and/or Safe Haven Baby Boxes Inc.'s Twitter accounts in April 2019 which is a violation of the Court's April 4, 2018 Order enjoining Michael Morrissey from contacting or otherwise communicating with Monica Kelsey and representatives of Safe Haven, Inc., directly or indirectly by any means, including but not limited to telephone, social media, email, or any other electronic medium.
20. In this case, the evidence offered by Monica Kelsey supports a finding that Defendant, Michael Morrissey has violated this Court's injunction issued in its Order dated April 4, 2018 by posting on Kevin Albin and/or Safe Haven Baby Boxes Inc.'s Facebook page and Twitter account.
21. On October 11, 2019, Plaintiff, Monica Kelsey, testified that the Defendant, Michael Morrissey, continues to access the Facebook account of the representatives of Safe Haven Baby Boxes Inc. since the July 19, 2019 hearing.
22. Based upon the testimony and the documents offered as evidence during the hearings conducted on July 19, 2019 and October 11, 2019, the Court finds that Defendant, Michael Morrissey has knowingly violated the Court's Order dated April 4, 2018.
23. The Court finds that Defendant, Michael Morrissey's is in contempt of the Court's Order dated April 4, 2019.
24. The Court finds that since Defendant, Michael Morrissey is a resident of the State of Massachusetts, the only sanction that may possibly motivate Michael Morrissey to comply with the Court's Order of April 4, 2018 is a monetary judgment which may be enforced against him in the State of Massachusetts; accordingly, the Court enters a judgment in favor of Plaintiff, Monica Kelsey, and against the Defendant, Michael Morrissey in the sum of \$15,000.00.

WHEREFORE, the Court finds Defendant, Michael Morrissey to be in contempt of this Court's Order dated April 4, 2018 and as a sanction for his contemptuous behavior, the Court enters judgment in favor of the Plaintiff, Monica Kelsey, and against the Defendant, Michael Morrissey in the sum of \$15,000.00.

**DATED: November 18, 2019**

  
**DAVID J. AVERY, JUDGE**  
**ALLEN SUPERIOR COURT**