

FILED

08/17/2023

Amy McGhee  
CLERK

Missoula County District Court  
STATE OF MONTANA

By: Ashley Williams

DV-32-2023-0000868-OC

Marks, Jason

1.00

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*Pro Querente*

MONTANA FOURTH JUDICIAL DISTRICT COURT  
MISSOULA COUNTY

ANGELA MASTROVITO, an  
individual,

Plaintiff,

v.

TRACIE MCMILLAN, an  
individual, and  
WALTER CONGDON, an  
individual,

Defendants.

Dept. # 5

Cause No.: DV-32-2023-0000868, OC

COMPLAINT  
and  
DEMAND FOR JURY TRIAL

Plaintiff, Angela Mastrovito, through counsel, alleges the following for her:

**COMPLAINT**

1. This is a civil action seeking a money judgment and a permanent injunction under causes of action for negligent infliction of emotional distress, intentional infliction of emotional distress, negligence per se, and civil conspiracy.

## **PARTIES**

2. Plaintiff Angela Mastrovito (Plaintiff) resides in Henrico County, Virginia.
3. At the time of the causes of action alleged herein, Defendant Tracie McMillan (McMillan) was a citizen of the state of Montana and a resident of Clinton, Montana.
4. At the time of this incident, Defendant Walter Congdon (Congdon) was a citizen of the state of Montana and a resident of Missoula, Montana.

## **JURISDICTION AND VENUE**

5. This action for damages and other relief arises under the laws of the State of Montana. This Court, as a court of general jurisdiction, has jurisdiction of the subject matter and the parties.
6. Venue is appropriate in this judicial district because both defendants reside here and the events giving rise to the action occurred here.

## **FACTS COMMON TO ALL COUNTS**

7. Plaintiff is the mother of Rebekah Barsotti, who disappeared in Mineral County in July 2021. Upon Rebekah's disappearance, Plaintiff undertook an intensive effort to search for her daughter. Plaintiff engaged private investigators, search and rescue specialists, and cadaver dog handlers. Plaintiff



made public appeals on social media, distributed leaflets, and made personal appeals to law enforcement and the local community trying to find Rebekah.

8. Plaintiff successfully petitioned the district court in Missoula County, Montana, to be appointed Rebekah's guardian for the purpose of trying to find Rebekah. As guardian, Plaintiff spent tens of thousands of dollars of her own and fund-raised monies to come to Montana from her home in Virginia to work on finding her daughter.

9. On May 17, 2022, Rebekah's remains were found 10 months after she was last seen. Since she disappeared, there have been ongoing court proceedings pertaining to Rebekah's estate and an open criminal investigation into the circumstances surrounding Rebekah's disappearance and death.

10. Defendant Congdon is the Deputy County Attorney for Mineral County. Defendant Congdon has handled matters pertaining to the missing person case of Rebekah Barsotti. As Deputy County Attorney, Defendant Congdon interacted with Plaintiff frequently while Rebekah remained missing.

11. Defendant McMillan is Defendant Congdon's ranch manager at Big Sky Natural Beef in Clinton, Montana.

12. Upon information and belief, Defendants have known each other for over 40 years since Defendant Congdon was Defendant McMillan's debate coach at Hellgate High School, and they have a close personal relationship.

13. On July 19, 2022, Defendant Congdon and Plaintiff attended a court hearing regarding Rebekah's disappearance. Defendant Congdon appeared in his capacity as Deputy County Attorney. Defendant Congdon angrily and aggressively confronted Plaintiff outside the courtroom that day, complaining that her efforts on Rebekah's behalf were a "waste of his time" and going to court that day "lost him \$10,000 in hay bailing money." This confrontation occurred after Rebekah's body had been discovered and just days before her remains were to be cremated. Defendant Congdon also stated that "1.5 pounds of pot" was found in Rebekah's vehicle—though the contraband had never been listed on the sheriff's inventory. Defendant Congdon also alluded to THC levels noted in Rebekah's autopsy toxicology reports in a cruel and sarcastic manner.

14. Defendant Congdon's aggressive and angry confrontation left Plaintiff psychologically shocked, emotionally distraught, and thoroughly intimidated.

15. While extreme, Defendant Congdon's behavior that day was consistent with a larger pattern of dismissive and uncooperative conduct toward Plaintiff. For example, in September 2022, Defendant Congdon failed to allow



Plaintiff or her representative to review Rebekah's personal effects before their release to the estate, despite a Court order requiring Mineral County to do so.

16. On October 24, 2022, Plaintiff filed a notice of claim against Rebekah's probate estate in the sum of \$140,688.45 for expenses incurred searching for Rebekah while serving as Rebekah's guardian.

17. On January 25, 2023, Plaintiff filed a complaint with the Montana Bar Association against Defendant Congdon, a Mineral Deputy County Attorney, for activities arising from Defendant Congdon's involvement in her daughter, Rebekah Barsotti's, missing person case.

18. On January 26, 2023, two hours after Plaintiff posted regarding misinformation in Rebekah's case, Plaintiff started receiving electronic messages from an internet account called "Ty Freedom" on the "Find Rebekah Barsotti Facebook Page" and, soon after, messages from an email account named "Mac Montana" on the "Rebekah's Legacy" website and social media page. Plaintiff did not know the source of these messages.

19. Based on their tone and content, Plaintiff found the Ty Freedom and Mac Montana messages inflammatory, harassing, and strategically timed around legal matters involving Rebekah's probate estate. One message stated: "How is your 140k claim against the estate going?" Information about Plaintiff's claim

against the probate estate had never been published, so only parties on the certificate of service, including Defendant Congdon, would have reason to know about Plaintiff's claim.

20. Another message from Ty Freedom discussed allegations about the toxicology reports, which Defendant Congdon had confronted Plaintiff about in July 2022.

21. Another message from Ty Freedom taunted Plaintiff about the contents of the 911 call that reported Rebekah missing, which consisted of statutorily protected confidential criminal justice information and which the probate court had forbidden Plaintiff from discussing publicly. Upon information and belief, the message was an attempt to bait or goad Plaintiff into violating a court order by publishing the content of the 911 call on social media.

22. The Ty Freedom messages were targeted, personal, and, upon information and belief, intended to incite an intensely adverse emotional reaction. For example, the messages made clear that whoever Ty Freedom might be, he or she had insider knowledge of the events surrounding Rebekah's disappearance, which Ty Freedom was withholding.

23. The messages have been ongoing since January 2023 to present.



24. In April 2023, Plaintiff reported the messages to Missoula County Sheriff's Office. A detective investigated and told Plaintiff that the messages sent from unknown accounts were likely linked to Defendant McMillan.

25. On July 31, 2023, Plaintiff received more messages from Ty Freedom of a targeted, personal, and, upon information and belief, intended to incite an intensely negative emotional reaction. For example, the messages made clear that whoever Ty Freedom might be, he or she had insider knowledge of the events surrounding Rebekah's disappearance, which Ty Freedom claimed that Plaintiff "chose to ignore" and that whoever was posting these messages also had close personal knowledge surrounding pending litigation regarding Rebekah's estate.

26. As a result of these harassing messages, Plaintiff has suffered severe emotional distress, including, without limitation, sleepless nights, gripping horror, chronic anxiety, fatigue, appetite fluctuations, and ongoing fear, affecting her ability to concentrate for extended periods of time, preventing her from returning work in medical settings as a registered nurse and thwarting her ability to re-establish her business from her home for Patient Wellness Therapies.

27. Plaintiff is under the care of a mental health professional to address her ongoing grief and anxiety. Plaintiff's mental health counselor opines that the ongoing Ty Freedom messaging hinders Plaintiff's progress in therapy.

## COUNT ONE

### (Negligent Infliction of Emotional Distress)

28. The preceding paragraphs are incorporated by reference here.
29. Upon information and belief, Defendants Congdon and McMillan knew or had reason to know of Plaintiff's particular susceptibility to anxiety relating to the circumstances of her daughter's disappearance and death.
30. A reasonable person would foresee that Plaintiff would be distressed by taunting pseudonymous electronic messages from unknown accounts about her daughter's death and disappearance.
31. Upon information and belief, Defendant McMillan pseudonymously sent Plaintiff the Ty Freedom and Mac Montana messages in a manner designed to hide her identity from Plaintiff.
32. Because of the pseudonymous messages she received from Defendant McMillan, Plaintiff has suffered anxiety, sleepless nights, profound grief, and fear.
33. Defendant McMillan's messages, whether intentionally or through a lack of due care, caused Plaintiff severe emotional distress, fees for counseling services, and other special and general damages, entitling her to a judgment in an amount to be determined by a jury.



## COUNT TWO

### (Intentional Infliction of Emotional Distress)

34. The preceding paragraphs are incorporated by reference here.
35. Upon information and belief, Defendants Congdon and McMillan knew or had reason to know of Plaintiff's particular susceptibility to anxiety relating to the circumstances of her daughter's disappearance and death.
36. Under the circumstances, the messages from Ty Freedom and Mac Montana taunting Plaintiff about her daughter's death constitute extreme and outrageous conduct designed to elicit severe emotional distress in Plaintiff.
37. Plaintiff was particularly concerned to learn from detectives that the messages traced back to Defendant Tracie McMillan, the ranch manager of the Mineral County Deputy Attorney assigned to Rebekah's case. Among other things, the information gave Plaintiff the impression that Rebekah's case was not being handled seriously.
38. Plaintiff's life was severely disrupted because of the messages sent by Ty Freedom and Mac Montana, causing her counselor to comment that the ongoing disruptions hindered her progress in therapy.

39. Upon information and belief, Defendant McMillan intended Plaintiff to be distressed by taunting pseudonymous electronic messages from unknown accounts about her daughter's death and disappearance.

40. Because of the pseudonymous messages she received from Defendant McMillan, Plaintiff has suffered anxiety, sleepless nights, profound grief, and fear.

41. Defendant McMillan's messages, whether intentionally or through a lack of due care, interfered with Plaintiff's mental health treatment and recovery and caused Plaintiff severe emotional distress, fees for counseling services, and other special and general damages, entitling her to a judgment in an amount to be determined by a jury.

### **COUNT THREE**

#### **(Negligence Per Se)**

42. The preceding paragraphs are incorporated by reference here.

43. Upon information and belief, Defendant McMillan used electronic communication to disturb by repeated communications the peace, quiet, or right of privacy of Plaintiff at the place where Defendant McMillan's communications were received in violation of Mont. Code Ann. § 45-8-213(1)(b).

44. The Montana legislature enacted Mont. Code Ann. § 45-8-213(1)(b) to protect a specific class of persons.



45. Plaintiff is a member of the class of persons Montana legislature enacted Mont. Code Ann. § 45-8-213(1)(b) to protect.

46. Plaintiff's injuries are of the sort the statute was enacted to prevent.

47. The Montana legislature intended Mont. Code Ann. § 45-8-213(1)(b) to regulate people who choose to use electronic communication to disturb by repeated communications the peace, quiet, or right of privacy of persons at the place where the communications are received. Defendant McMillan is one of the class of persons the statute is intended to regulate.

48. Defendant McMillan's violation of Mont. Code Ann. § 45-8-213(1)(b) caused Plaintiff to suffer emotional distress including, without limitation, anxiety, sleepless nights, profound grief, and fear.

49. Defendant McMillan's messages interfered with Plaintiff's mental health treatment and recovery and caused Plaintiff severe emotional distress, fees for counseling services, and other special and general damages, entitling her to a judgment in an amount to be determined by a jury.

#### **COUNT FOUR**

#### **(Civil Conspiracy)**

50. The preceding paragraphs are incorporated by reference here.

51. Upon information and belief, Defendants are close associates who have known each other for over forty years, both personally and professionally, through the ranch management of Big Sky Natural Beef. The two regularly share information.

52. Upon information and belief, Defendant Congdon and Defendant McMillan had a meeting of the minds on an object or course of action to harm Plaintiff as set forth herein.

53. Upon information and belief, one or more unlawful overt actions were taken in pursuit of the Defendants' object or course of action.

54. The unlawful overt action in pursuit of Defendants' object or course of action caused Plaintiff to suffer emotional distress including, without limitation, anxiety, sleepless nights, profound grief, and fear, interfered with Plaintiff's mental health treatment and recovery, and caused Plaintiff severe emotional distress, fees for counseling services, and other special and general damages.

55. As a result of the damages caused by the Defendants' civil conspiracy, Plaintiff is entitled to a money judgment against them, jointly and severally, in an amount to be determined by a jury.

### **REQUEST FOR RELIEF**

Accordingly, Plaintiff requests the following relief:



1. A decree enjoining all forms of harassment from both Defendants;
2. A money judgment for special, general, compensatory, and punitive damages on all claims against both Defendants, jointly and severally, in an amount to be determined at trial;
3. For attorney's fees and costs associated with this action as allowed by law; and
4. For such further relief as the Court deems just and proper.

DATED this 17<sup>th</sup> day of August 2023.

Respectfully submitted,  
RHOADES & ERICKSON PLLC



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Quentin M. Rhoades  
*Pro Querente*

**DEMAND FOR JURY TRIAL**

A jury is demanded on all counts so triable.

DATED this 17<sup>th</sup> day of August 2023.

Respectfully submitted,  
RHOADES & ERICKSON PLLC



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Quentin M. Rhoades  
*Pro Querente*



**FILED**

05/06/2024

Amy McGhee  
CLERK

Missoula County District Court  
STATE OF MONTANA

By: Emily Ahern

DV-32-2023-0000868-OC

Vannatta, Shane

20.00

Hon. Shane A. Vannatta  
District Court Judge, Dept. 5  
Missoula County Courthouse  
200 W. Broadway St.  
Missoula, MT 59802  
(406) 258-4765

**MONTANA FOURTH JUDICIAL DISTRICT COURT  
MISSOULA COUNTY**

**ANGELA MASTROVITO, an individual,**

Plaintiff,

v.

**TRACIE MCMILLAN, an individual, and  
WALTER CONGDON, an individual,**

Defendants.

Department 5: Hon. Shane A. Vanatta

Cause No.: DV-32-2023-0000868-OC

**ORDER TO DISMISS WITH  
PREJUDICE**

This matter having been brought before the Court on Plaintiff's Motion to Voluntarily Dismiss with Prejudice, and good cause appearing therefore,

IT IS HEREBY ORDERED this case is DISMISSED WITH PREJUDICE. All parties shall bear their own fees and costs.

ELECTRONICALLY SIGNED AND DATED BELOW.

Electronically Signed By:  
Hon. Judge Shane A. Vannatta  
Mon, May 06 2024 03:28:58 PM