

IN THE COURT OF THE OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR OSCEOLA COUNTY, FLORIDA

KAILYN LOWRY,

Case No. 2021-CA-001817 OC

Plaintiff,

v.

BRIANA SOTO p/k/a BRIANA DE JESUS,

Defendant.

_____ /

DEFENDANT BRIANA SOTO'S ANTI-SLAPP
MOTION FOR SUMMARY JUDGMENT UNDER FLA. STAT. § 768.295

Defendant Briana Soto hereby files her Anti-SLAPP Motion for Summary Judgment Under Fla. Stat. § 768.295. Plaintiff Kailyn Lowry's Complaint should be dismissed with prejudice in its entirety and Soto should be awarded her attorneys' fees, as the Complaint violates Florida's Anti-SLAPP statute.

1.0 INTRODUCTION

Lowry's Complaint is a classic SLAPP suit. It is meritless and directed exclusively at protected speech on a matter of public concern brought for the purpose of harassing and trying to silence a critic, rather than to vindicate any of Lowry's rights.

Lowry has filed suit based on Soto discussing the fact that Lowry was arrested for allegedly physically assaulting the father of two of her children. She verifiably *was arrested for this*, and her arrest garnered media attention. Lowry cannot show falsity, she cannot show actual malice, and she cannot even show that she complied with the pre-suit notice requirements of Fla. Stat. § 770.01. The Court should dismiss Lowry's Complaint with prejudice and award Soto her costs and attorneys' fees under Fla. Stat. § 768.295(4).

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2.0 FACTUAL BACKGROUND

2.1 Allegations in the Complaint

Lowry is “a reality television personality, a New York Times best-selling author, entrepreneur, and social media influencer. As of the date of this Complaint she has approximately 4 million followers on Instagram,” and co-owns and co-hosts two podcasts. (Complaint at ¶ 11.) She stars in the reality television show *Teen Mom 2*. (*Id.* at ¶ 15.) She had two children with Christopher Lopez. (*Id.* at ¶ 1.)

Lowry alleges that, starting on June 8, 2021, Soto made defamatory statements about Lowry on the extremely popular social media website Instagram. (Complaint at ¶ 22.) The allegedly defamatory statements are as follows:

- Soto “claimed that Lowry had committed violent, physical crimes towards Mr. Lopez.” (*Id.* at ¶ 23.)
- Soto “asserted that Lowry was arrested for breaking and entering into the home of Mr. Lopez’s mother.” (*Id.*)
- Soto “stated, ‘Kail doesn’t wanna [sic] film about breaking and entering into Chris Momma house and beating him for cutting his child’s hair.’” (*Id.*)
- After the Instagram post was published, Soto stated during an Instagram Live broadcast¹ that she “‘know[s] the real story, [she] know[s] what happened’ concerning why Lowry was not included in the June 8, 2021 episode of the Series.” (*Id.* at ¶ 38.)
- During the Instagram Live broadcast, Soto “asserted that Lowry was omitted from the episode because she ‘didn’t want to film about the issues that goes [sic] on with her and Chris’ and ‘tryna [sic] clean up the bad girl act.’” (*Id.* at ¶ 39.)
- During the Instagram Live broadcast, Soto stated “that ‘[Lowry] did not want to film about the situation with the domestic violence, about her getting arrested, about her breaking and

¹ It is not identified in the Complaint, but the Instagram Live Broadcast at issue is found at https://www.instagram.com/tv/CP4gVlog8W-/?utm_medium=copy_link. A transcript of the video is attached as **Exhibit 1**.

entering into ... Chris's mom's house. She didn't want to film about her hitting Chris because Chris cut her son's hair." (*Id.* at ¶ 40.)

Lowry also alleges third-party publications wrote about these statements (*id.* at ¶¶ 27-29) and that Soto "perpetuat[ed] the false allegations contained in the Post" by continuing "to interact with her wide audience of followers in a series of comments and reaction," though no such comments or reactions are identified or alleged to be defamatory. (*Id.* at ¶ 26.)

While Lowry quotes a small portion of the June 8 Instagram post and characterizes the statements therein, it is useful to view the entirety of the post for context. It reads:

Like the other women on the show – I had absolutely no idea that someone was going to be cut from the show tonight. However, as a cast member who takes pride in being my authentic self and telling my full, true story – the good, the bad, the ugly, and everything in between – I would be remiss to not address the situation.

Since joining Teen Mom 2 (which, as we all know, is something Someone wasn't exactly thrilled about from the beginning) I have worked hard to show my true authentic self while filming. Personally, I feel like if you are too good to film your real life than [sic] why would you be on a show that is supposed to be about your real life. Like someone is sitting on the show legitimately filming about a wallpaper color choice when she could be filming about a domestic abuse situation with her baby daddy that I was told she was trying to hide. This was back when A child's hair was cut and she was allegedly arrested after allegedly getting into a physical altercation with Her baby daddy.

While I understand all of us want to be shown overcoming our struggles and that we all take pride in our names (and someone takes pride in her brand and her podcasts) at the end of the day she shouldn't try to cover up the real her or things that are going on in her real life. It comes off as exceptionally inauthentic and an insult to her other cast members.

Think about it – if I'm being upfront about something as personal (and humiliating) as an STD from an ex, why should she get away with just talking about burying a dream house and letting her son design a bathroom when real life problems actually are occurring in her home. It just doesn't make any sense and I really would like to see her showing her full, true, authentic life as I'm sure would the viewers. I'm also sure the ratings would reflect it. Regardless, she's made her choice to show what she's shown but I just wanted to speak up to make my point known. Whether she likes it or not, we are cast members at the end of the day and this is how I truly feel. Make sure y'all tune in tonight and yes stellas [sic] face is my actual mood right now.

(June 8, 2021 Instagram post, attached as **Exhibit 2**.)² The use of “allegedly” in discussing Lowry’s arrest for a “physical altercation” is particularly important, as **Lowry was indeed arrested for this alleged conduct.**

Around October 2020, newspapers and entertainment blogs began to publish articles reporting that Lowry had been arrested for an alleged physical altercation with her ex-husband, Chris Lopez, regarding a haircut of their 3 year-old child. (Jade Boren, “Teen Mom 2’s Kaily Lowry Arrested For Allegedly Punching Ex Chris Lopez Over Son Lux’s Haircut,” HOLLYWOOD LIFE (Oct. 29, 2020) (the “Hollywood Life Article”), attached as **Exhibit 3**.)³ The Hollywood Life Article contains a partially redacted copy of an investigative police report regarding this incident, showing the alleged assault was committed on September 4, 2020. (Police report, attached as **Exhibit 4**.) The police report recounts accusations from Lopez that Lowry struck him “several times with a closed fist,” because she did not want their child’s hair cut. (*Id.*) The report also recounts corroborating statements from two witnesses whose identities are redacted, including attempts by one of the witnesses to pull Lowry off Lopez. (*Id.*) The Hollywood Life article goes on to report that Lowry was arrested for “offensive touching” and, while released on her own recognizance, she was ordered not to have any contact with Lopez. (**Exhibit 3**.) Subsequent reporting stated that these charges against Lowry had been dropped around February 2021. (Teresa Roca and Ekin Karasin, “No Jail for Kail Teen Mom Kaily Lowry’s charges dropped after she was arrested for ‘punching’ ex Chris Lopez in nasty brawl,” THE U.S. SUN (Feb. 10, 2021), attached as **Exhibit 5**.)⁴

As for the reference to breaking and entering, which does not appear in the Instagram post but is briefly made in the Instagram Live broadcast, Soto spoke with Lopez prior to publishing her statements, and Lopez told her that Lowry had broken and entered into his mother’s home as part of her assault of Lopez. (Declaration of Briana Soto [“Soto Decl.”], attached as **Exhibit 6**, at ¶ 12.) Soto

² Available at: <https://www.instagram.com/p/CP4TIOssXYb/> (last accessed August 6, 2021).

³ Available at: <https://hollywoodlife.com/2020/10/29/kailyn-lowry-arrested-punched-chris-lopez-haircut-son-lux-report/> (last accessed August 6, 2021).

⁴ Available at: <https://www.the-sun.com/entertainment/2306012/teen-mom-kailyn-lowry-charges-dismissed-punching-chris-lopez/> (last accessed August 9, 2021).

considered Lopez to be a credible source of information, as he was a first-hand witness to these events and his claims appeared sufficiently credible for Lowry to be arrested. (Soto Decl. at ¶ 13.)

Lowry did not provide any form of pre-suit notice to Soto before filing her Complaint. (Soto Decl. at ¶ 16.)

3.0 LEGAL STANDARD

Florida’s Anti-SLAPP statute provides that “[a] person ... in this state may not file or cause to be filed ... any lawsuit ... against another person or entity without merit and primarily because such person or entity has exercised the constitutional right of free speech in connection with a public issue” Fla. Stat. § 768.295(3). A person sued in violation of the statute “has a right to an expeditious resolution of” the claims, allowing them to “move the court for an order dismissing the action” and “file a motion for summary judgment⁵ ... seeking a determination that the claimant’s ... lawsuit has been brought in violation of this section.” Fla. Stat. § 768.295(4). The prevailing party on a motion brought under this statute is entitled to a mandatory award of “reasonable attorney fees and costs incurred in connection with a claim that an action was filed in violation of this section.” *Id.* The term “free speech in connection with public issues” is defined as “any written or oral statement that is protected under applicable law and is made ... in connection with a ... radio broadcast, ... news report, or other similar work.” *Id.* at § 768.295(2)(a).

Soto brings this Motion as a motion for summary judgment. In deciding motions for summary judgment, courts must determine whether there is any “genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fla. R. Civ. P. 1.510(a). Florida recently amended Rule 1.510 to incorporate the federal summary judgment standards laid out in *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), and *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986). *In re Amends. To Fla. Rule of Civ. Pro. 11.510*, 309 So. 3d 192, 196 (Fla. 2020). Accordingly, only disputes over facts that will affect the outcome of the suit will preclude entry of summary judgment, and the disputed evidence must be “such that a reasonable jury

⁵ While the statute uses the term “motion for summary judgment,” it applies to motions to dismiss as well. *See Gundel v. AV Homes, Inc.*, 264 So. 304, 310 (Fla. 2d DCA 2019).

could return a verdict for the nonmoving party.” *Liberty Lobby*, 477 U.S. at 248. Once the moving party has identified parts of the record showing an absence of an issue of material fact, the nonmoving party must “designate specific facts showing that there is a genuine issue for trial.” *Celotex*, 477 U.S. at 324.

An Anti-SLAPP motion is different from a summary judgment motion in how it allocates burdens of proof, however. A SLAPP plaintiff bears the initial burden “to set forth a prima facie case that the Anti-SLAPP statute applies.” *Gundel*, 264 So. 3d at 310. If this burden is met, the burden then shifts to the plaintiff “to demonstrate that the claims are not ‘primarily’ based on First Amendment rights in connection with a public issue and not ‘without merit.’” *Id.* (emphasis added).

4.0 ARGUMENT

4.1 Lowry’s Complaint Was Filed Primarily Because Soto Exercised Her Constitutional Right to Free Speech in Connection with a Public Issue

Lowry asserts a single claim for defamation. This claim is based on statements Soto made on Instagram and during an Instagram Live broadcast. Florida’s Anti-SLAPP statute defines “free speech in connection with public issues” to include “any written or oral statement made in or in connection with a play, movie, television program, radio broadcast, audiovisual work, book, *magazine article*, musical work, *news report*, or *other similar work*.” Fla. Stat. § 768.295(2)(a) (emphasis added).

Soto’s statements on Instagram fall within the statute’s enumerated categories of protected communications. *See, e.g., Gundel*, 264 So. 3d at 307 (involving *inter alia* posts on “Internet blogs”); *Rosenthal v. Council on American-Islamic Relations, Florida, Inc.*, No. CACE-16-021357, 2017 WL 6390102 (Fla. 17th Jud. Cir. Ct. Nov. 8, 2017) (involving Facebook posts); *see also Wong v. Jing*, 189 Cal.App.4th 1354, 1366 (2010) (finding that “Web sites accessible to the public ... are public forums for purposes of the anti-SLAPP statute”) (citations omitted).

Soto has met her burden. While the Anti-SLAPP statute refers to “free speech in connection with a public issue,” the definition of that term only requires that a statement be made in connection with a specified medium or type of work. There is no requirement that the content of the speech at issue be related to an issue of public interest or concern. But even if this requirement did exist, it would be satisfied here. As explained by the U.S. Supreme Court:

Speech deals with matters of public concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public. The arguably inappropriate or controversial character of a statement is irrelevant to the question whether it deals with a matter of public concern.

Snyder v. Phelps, 562 U.S. 443, 453 (2011) (citations omitted) (internal quotation marks omitted) (emphasis supplied). As the Fifteenth Judicial Circuit explained in *Loomer v. New York Magazine, et al.*, No. 50-2019-CA-01523-XXXX-MB, 2021 WL 1748008, *5 (Fla. 15th Cir. Ct. Apr. 29, 2021), “[t]his criterion is interpreted broadly.” Ultimately, whether a statement “involves a matter of public concern” must be “made from a consideration of the statement’s content, form and context as revealed by the whole record.” *Rabren v. Straigis*, 498 So. 2d 1362, 1363 (Fla. 2d DCA 1986). In interpreting California’s Anti-SLAPP statute, courts have found that speech does not need to “meet the lofty standard of pertaining to the heart of self-government” to qualify for Anti-SLAPP protection; “social or even low-brow topics may suffice.” *Hilton v. Hallmark Cards*, 599 F.3d 894, 905 (9th Cir. 2009). The lifestyles and conduct of well-known public figures and celebrities constitute an issue of public interest. *Id.* at 908.

Contrary to Lowry’s characterization of the statements at issue, Soto’s statements contained ruminations on the nature of reality television as a genre and criticized cast members on such shows who present a false impression of authenticity by hiding or ignoring embarrassing and uncomfortable details of their actual lives. Lowry’s arrest for alleged assault of her ex-boyfriend was already a matter of public record, with newspapers and entertainment blogs reporting on it starting in October 2020. (Exhibits 3 & 5.) Whether it is true that Lowry actually broke into a relative’s home and attacked her ex is immaterial to the purpose of the Instagram post; what is important is that Lowry was arrested for this alleged conduct, which unquestionably affected her family life, yet she chose not to share any of this with her audience expecting a candid view into the struggles of her family. Soto’s statements were thus in connection with an issue of public concern given Lowry’s reputation and her status as a cast member on a television show about domestic life. The public concern in these issues is evidenced by the fact that third-party media entities had previously reported on Lowry’s arrest and the status of the criminal case against her.

Soto has thus met her burden of proof under the first prong of the Anti-SLAPP analysis. The burden now shifts to Lowry to show that her defamation claim has merit. She cannot meet this burden.

4.2 Lowry’s Defamation Claim is Meritless

A defamation plaintiff must show (1) the defendant’s publication of an allegedly defamatory statement; (2) falsity; (3) the defendant acted with knowledge or reckless disregard as to the falsity on a matter concerning a public figure; and (4) actual damages. *Internet Solutions Corp. v. Marshall*, 39 So. 3d 1201, 1214 n.8 (Fla. 2010) (citing *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098, 1106 (Fla. 2008)). Lowry cannot satisfy these elements.

4.2.1 Lowry Failed to Provide Pre-Suit Notice Under Fla. Stat. § 770.01

Lowry’s claim fails without even needing to address the merits. Fla. Stat. § 770.01 provides that “[b]efore any civil action is brought for publication or broadcast, in a newspaper, periodical, or other medium, of a libel or slander, the plaintiff shall, at least 5 days before instituting such action, serve notice in writing on the defendant, specifying the article or broadcast and the statements therein which he or she alleges to be false and defamatory.” Though the statute refers to newspapers, it covers all individuals and entities engaged in news reporting activities, including individual bloggers. *See Comins v. VanVoorhis*, 135 So. 3d 545, 560 (Fla. 5th DCA 2014) (holding that “[t]he presuit notice requirement of section 770.01 applies to allegedly defamatory statements made in such a public medium the purpose of which is the free dissemination of news or analytical comment on matters of public concern”).

Lowry did not provide pre-suit notice to Soto, nor does she allege to have done so. Her failure to comply with this requirement “requires dismissal of the complaint for failure to state a cause of action.” *Id.* (citing *Gifford v. Bruckner*, 565 So. 2d 887 (Fla. 2d DCA 1990)). Indeed, no cause of action existed at the time of filing the Complaint due to this defect. *Orlando Sports Stadium, Inc. v. Sentinel Star Co.*, 316 So. 2d 607, 610 (Fla. 4th DCA 1975). This is not a defect that can be cured by amending a complaint, either. *See id.*; *see also Gifford v. Bruckner*, 565 So. 2d 887, 888 n.1 (Fla. 2d DCA 1990); *and see Canonico v. Callaway*, 26 So. 3d 53, 55 (Fla. 2d DCA 2010) (strictly construing § 770.01 to the point that

even four days' presuit notice required dismissal). The Court is bound to dismiss Lowry's suit and award Soto her attorneys' fees.

4.2.2 Soto's Statements are Substantially True or Are Expressions of Opinion

Even if Plaintiff had given the proper presuit notice, the claim fails as a matter of law. The statements are neither false nor defamatory, either directly or by implication.⁶ The burden on a plaintiff is to prove that the statements are false statements of fact – a legal determination. *Town of Sevall's Point v. Rhodes*, 852 So. 2d 949, 951 (Fla. 4th DCA 2003). A statement is substantially true, and thus not defamatory, “if its substance or gist conveys essentially the same meaning that the truth would have conveyed.” *Rapp*, 997 So. 2d at 1107; *Masson v. New Yorker Magazine*, 501 U.S. 496, 517 (1991) (noting that a statement is not defamatory so long as “the substance, the gist, the sting, of the libelous charge can be justified[.]” or “[p]ut another way, the statement is not considered false unless it ‘would have a different effect on the mind of the reader from that which the pleaded truth would have produced’”).

None of the complained-of statements in the June 8 Instagram post are even conceivably false. Soto mentioned that Lowry “could be filming about a domestic abuse situation with [Lowry’s] baby daddy that I was told she was trying to hide. This was back when A child’s hair was cut and she was *allegedly* arrested after *allegedly* getting into a physical altercation with Her baby daddy.” (**Exhibit 2**) (emphasis added.) It is literally true that Lowry was arrested for allegedly physically assaulting Lopez, the father of two of her children. There was media coverage discussing the arrest and the underlying factual basis for the arrest. Lowry cannot dispute that this occurred. There is nothing defamatory about these statements.

Lowry also alleges that Soto’s reference to “breaking and entering” in her June 8 Instagram Live broadcast is defamatory. Though Lowry was not arrested for the actual charge of breaking and entering, there is no material difference between this claim and the unquestionably true fact that Lowry

⁶ Florida recognizes defamation by implication claims, but this claim is only viable where a defendant “(1) juxtaposes a series of facts so as to imply a defamatory connection between them, or (2) creates a defamatory implication by omitting facts, [such that] he may be held responsible for the defamatory implication” *Rapp*, 997 So. at 1106, 1108 n.13 (quoting *W. Page Keeton et al., Prosser & Keeton on the Law of Torts* § 116, at 117 (5th ed. Supp. 1988)). Lowry fails to plead any omission or juxtaposition as to truthfully stated facts that give a false impression.

was arrested for attacking Lopez. The surrounding context of Soto’s broadcast makes it clear that she was asserting the alleged breaking and entering was part of Lowry’s assault of Lopez, rather than some independent incident. For purposes of defamation, there is no difference to the average viewer between Lowry being granted entry to the home of Lopez’s mother before attacking Lopez, or Lowry forcibly entering the home before her assault.⁷ The “gist” or “sting” of Soto’s statements remains the same whether or not there is any mention of breaking and entering. As Soto’s statements are true or substantially true, Lowry’s defamation claim is meritless.

4.2.3 Lowry Cannot Show Actual Malice

The degree of fault a defamation plaintiff must prove depends on whether they are a public figure. Public figures must plead and prove actual malice, which is “knowledge that [the statement] was false or with reckless disregard of whether it was false or not.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 279-80 (1964); *Mile Marker, Inc. v. Petersen Publ’g, Inc.*, 811 So. 2d 841, 845 (Fla. 4th DCA 2002) (stating that “a public figure plaintiff must establish that the disseminator of the information either knew the alleged defamatory statements were false, or published them with a reckless disregard despite awareness of their probable falsity”).

Lowry is a limited-purpose public figure. Florida courts use a two-step analysis to determine whether a plaintiff is such a public figure. “First, the court must determine whether there is a ‘public controversy,’” which depends on “whether a reasonable person would have expected persons beyond the immediate participants in the dispute to feel the impact of its resolution.” *Mile Marker, Inc. v. Petersen Publ’g, L.L.C.*, 811 So. 2d 841, 845 (Fla. 4th DCA 2002). Here, Lowry pleads facts that establish, conclusively, that she is a public figure. She alleges she is “a reality television personality, a New York Times best-selling author, entrepreneur, and social media influencer. As of the date of this Complaint she has approximately 4 million followers on Instagram,” and co-owns and co-hosts two podcasts. (Complaint at ¶ 11.) She stars in the reality television show *Teen Mom 2*. (*Id.* at ¶ 15.) There was also

⁷ Tellingly, Lowry alleges Soto’s statements are defamatory because “[t]he post charges Lowry with an infamous crime” and “[b]reaking and entering,’ charged as a burglary under Florida law, is a felony.” (Complaint at ¶¶ 51-52.) Yet there is no mention of whether domestic assault is similarly an “infamous crime,” as Lowry must admit that she was arrested for this.

media coverage regarding her arrest for attacking the father of her children. (**Exhibits 3 & 5**.) Given her large viewer base and social media presence related directly to her status as a *Teen Mom 2* star, coupled with the media scrutiny she received for her domestic assault arrest, there was an existing public controversy at the time Soto published her statements.

Second, a court “must then determine whether the plaintiff played a sufficiently central role in the instant controversy to be considered a public figure for purposes of that controversy.” *Petersen*, 811 So. 2d at 846. There is no question that Lowry was central to this dispute; she was the primary participant in it and is a star on *Teen Mom 2*, rather than some ancillary cast member. Lowry is thus a limited-purpose public figure.

A public figure plaintiff must provide proof that the defendant had a “high degree of awareness of ... probable falsity” of their statements. *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964). “There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication.” *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). “[The plaintiff] must prove actual malice with clear and convincing evidence.” *Dockery v. Fla. Democratic Party*, 799 So. 2d 291, 294 (Fla. 2d DCA 2001).

Lowry only makes the conclusory allegations that Soto “recklessly disregarded the truth” (Complaint at ¶ 42), “made the Post with actual malice” (*id.* at ¶ 58), and “knew the Post was false and/or acted with reckless disregard of whether it was false or not” (*id.* at ¶ 59). These barebones allegations, unsupported by any facts, would not survive a motion to dismiss, and Lowry cannot provide any evidence to show actual malice. It is unquestionably true that Lowry was arrested for allegedly physically assaulting Lopez. Soto’s statements do not contain affirmative representations that she did, in fact, assault Lopez, but rather refer only to allegations that she did so. It is also apparent from the context of Soto’s statements that Soto was talking about the familial disruption caused by Lowry’s arrest for these alleged actions, not that Lowry actually assaulted Lopez. As for Soto’s reference to Lowry “breaking and entering” into the home of Lopez’s mother (which is where the alleged assault took place), Soto spoke to Lopez, an eyewitness to Lowry’s actions that day. (Soto Decl. at ¶ 12.) Lopez told Soto that Lowry broke into his mother’s house when Lowry attacked her. (*Id.* at

¶ 12.) Soto found Lopez’s representations to be credible and reliable. (*Id.* at ¶ 13.) These facts cannot give rise even to an inference of actual malice, and Lowry’s defamation claim is meritless.

5.0 CONCLUSION

For the foregoing reasons, the Court should dismiss Lowry’s Complaint with prejudice in its entirety and should find that Soto is entitled to recover her attorneys’ fees incurred in defending herself from Lowry’s meritless defamation claim, to be substantiated in a subsequent motion for costs and attorneys’ fees.

Dated: August 9, 2021.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email through the Florida E-Filing Portal to counsel for the Plaintiff, Yadhira Ramirez-Toro, Steven G. Hurley, Hubert G. Menendez, TREMBLY LAW FIRM, 9700 South Dixie Highway, PH 1100, Miami, Florida 33156, yadhira@tremblylaw.com, steven@tremblylaw.com, service@tremblylaw.com, and Nicole Haff, ROMANO LAW PLLC, 55 Broad Street, 18th Floor, New York, NY 10004, nicole@romanolaw.com, on this 9th day of August, 2021.

/s/ Marc J. Randazza
Marc J. Randazza

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Exhibit 1

Transcript of Defendant's Instagram Live Video
With Authenticating Declaration

IN THE COURT OF THE OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR OSCEOLA COUNTY, FLORIDA

KAILYN LOWRY,

Case No. 2021-CA-001817 OC

Plaintiff,

v.

BRIANA SOTO p/k/a BRIANA DE JESUS,

Defendant.

_____ /

DECLARATION OF SUZANNE LEVENSON

I, SUZANNE LEVENSON, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I am employed as a Paralegal for Randazza Legal Group, PLLC. I have first-hand knowledge of the facts set forth herein, and if called as a witness, could and would testify completely thereto.
2. On July 23, I accessed, viewed, and transcribed a video broadcast on Instagram Live, entitled, “teenmom.tea Briana just went live to share her side of things!”, located at https://www.instagram.com/tv/CP4gVlog8W-/?utm_medium=copy_link.
3. A true and correct copy of the transcription as it appeared on Instagram is attached hereto as **Exhibit A**.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 26th day of July, 2021.

/s/ Suzanne S. Levenson
SUZANNE LEVENSON

EXHIBIT A

Briana speaking:

...ten, (indecipherable). Okay, so let's go back to all the drama. I started, I joined Teen Mom 2, I was asked to be a part of Teen Mom 2, I was the fifth girl added to Teen Mom 2 and some people didn't like the fact that I was taking away TV time from others. But that's not the point. Anyways, I messed around with somebody's ex-husband; I get it, you hate me for that. I tried to say sorry, I apologize; we're past that. Me and Kail squashed the beef, like there's no hard feelings about it, we literally let it go. I told her that me and you cannot be friends, but we could, you know, just be cordial. We have to sit on a couch at a reunion, like we can do that. Kail doesn't want to do that, I understand. I messed with her ex-husband, I get it, whatever. Me and Kail were never friends, never been friends, me and Kail have never texted each other, me and Kail never sat down for dinner, me and Kail were never buddy-buddy. It was just, we did one surgery together, and everybody thinks we were best friends, and I fuck with the girl code by messing around with her ex-husband, which I shouldn't have, but we live and we learn and I apologized, and we're past that.

So now, here we go, fast forward to what's going on right now. I heard, I got some information about Kail and why she wasn't on tonight's episode. I got true sources, true facts from the people that were in production, that were part of the team and TV, I know the real story, I know what happened and Kail wasn't on tonight's episode because she no longer wants to film about her true life. She doesn't want to film about the issues that go on with her and Chris, or her and Javi or her and Joe. She's trying to soup up the bad girl act, and portray herself as this woman, which is great, you can do that, kudos to you, so proud of you, so happy for you. But when we are on a television show that documents our day to day life, it's not fair to the crew, to the cast mates who actually pour out their whole life. Right? So, I made one comment. Someone asked me on Instagram, why wasn't Kail on tonight's episode, and all I said was we had so much footage that we filmed, me and Jade, not just me. We had so much footage that we filmed that took over Kail story like, that there was nothing for Kail to film during that time. So what production did was cut her story for tonight's episode and use the Jade and me in Miami and me helping Jade. That's all I said. I don't know where things got tangled in the web, like I don't know why Ashley got into, I don't know why Ashley got aggressive, all I said was, me and Jade had a lot more things to film, Kail did not want to film about the situation with the domestic violence, about her getting arrested, about her breaking and entering into Kail's mom, I mean into Chris's mom's house. She didn't want to film about her hitting Chris, because Chris cut her son's hair. She doesn't want to film about any of that. So it's not my fault that she got cut from the episode. I was just stating facts. Right?

So that's what happened. And then Ashley, poor Ashley, sweet girl. Poor baby. I think she just, I don't know, I honestly don't know what her beef, what her beef is with me. Like I've never, I've never said anything about her, never ever, nothing about her has ever come out of my mouth. Nothing. I don't know why you guys are calling me drama queen when I literally just said one comment, about tonight's episode, but whatever, y'all can hate me all you want. But Ashley got into it because she's with Kail, I'm assuming, for Kail's podcast. But she felt the need to say that I'm fake, or whatever the case is, and I don't think Ashley should have butt into it because it was none of her business, but hey, whatever, that's just what it is and yeah, I don't know what Ashley's beef is with me. If you guys can tell me, I would love to know. She apologized to me a few days, like a few weeks ago, and I wrote her back and I said you know, me and you, we're never going

to be friends, but we could you know, be cordial, and sit on the couch together, like I said with Kail and we both agreed to that, and then now, like, she wants to get all crazy, and defend Kail, which I get, that's her friend, she can defend Kail all she wants, but don't get ghetto with me because I haven't done anything to you. And I never said anything to her or about her. And then, I feel like, it's all okay for others to talk about me, but the moment I want to express my feelings, it's always a problem. If I want to express what's inside my brain, it's always a problem. So yes, I did clap back with some real tea, that is confirmed, from different people, that yes, Ashley uses a fake, a fake house to film, um, but that's another story for another day, and I just don't think it's fair. My whole point in everything is that me and Jade always film everything. We're true to ourselves. We (indecipherable), and it's not fair that other girls get beat around the bush. Also, the production, people in production always, always tell me and Jade that we have to film, that this is our job, this is something we have to do. So that when we get little stories, and we hear about other girls and what they're doing, and they're not doing what they're supposed to do, it just gets a little frustrating, because I worked really hard to be on this TV show. I film everything. It.... It just hurts, it just hurts I guess. So, whatever. That's what it is. I'm not jealous of anybody. I'm going to continue sharing my story with Teen Mom 2 as long as I can. So yeah, that's pretty much it.

I don't know why everybody, I don't know why they're so pressed because I made a comment about tonight's episode, but, yeah. That's it.

"If you don't care about them, why waste your time talking about them?" I don't care about them, but it's about the principle, it's about us all working together to be on a TV show, now when you start fabricating your story, now people aren't going to want to watch because now you're lying and you're not being your true self and then those are bringing ratings down and then sooner or later Teen Mom 2 is gonna be cut. So now you're fucking with my money at the end of the day, and I don't think that's fair either. So, it really isn't a big deal. I think all this is very, very theatri – what's the word? I don't even know what I'm saying. But I just feel like it's becoming, I don't know, it's just unnecessary, I guess. All this drama stuff is unnecessary.

"Didn't you fake a text with your baby daddy?" No, I did not fake a text with my baby daddy. I did not fake anything, actually. And, the reunion was already filmed, guys. Sorry to burst your bubble. The reunion was filmed a few weeks ago. We all went to New York, to film the reunion except Ashley; Ashley had to deal with some family issues at home with her baby daddy, so there's that. But the reunion was already filmed, and I think it's a great reunion because you really see me and Jade sit down and talk about the whole Miami trip and going into detail because I don't think they're really going to show everything from Miami.

Um, what else? I don't know why people care so much. I don't understand. Thanks (responding to comment on Instagram). My fiancé doesn't really care, to be honest. My fiancé does not care.

But yeah, I think that's all I have to say about tonight's episode. I watched it, um, I thought it was a great episode. There was a lot of footage of Jade and I that they filmed, and they didn't even show all of it. Like, there was so much more that I wish that they showed, but it's okay, it is what it is. It happens, but um, I thought tonight's episode was a really good episode. And next week's episode is still going to be good, it's still gonna be me and Jade in Miami and then the episode after that is still going to be Jade and I, so for the next three to four episodes it's literally still going

to be Jade and I in Miami, and then Jade ... it's just going to be a lot. So stay tuned for that, you're – it's, it won't be done with us. And hopefully me and her can go on a girls' trip soon because we definitely need one.

I don't have any issues with Kail, so let's get that straight. I don't have any issues with Kail, I don't hate her, I think she is a beautiful woman, I think she is very successful, and she deserves the world, she deserves happiness. I want all of that for Kail. And same thing for Ashley, I don't hate Ashley, I don't even know Ashley, I don't know anything about her. I never watched her story, I don't know what she brings to the table for this Teen Mom 2 shit, like, I don't know anything so I can't hate her if I don't know her. I never met her, I don't think I ever will meet her, so that's just that. But no, I don't hate anybody. I don't have beef with anybody. And I'm sorry that I had to clap back because I'm tired of people always trying me – trying to tarnish my name when I literally didn't do anything, I'm just existing. And I think somebody was just a little bit mad that they weren't in one episode. And they're not getting paid for that episode.

So, and "now what about Kail breaking into Chris mama house." Honestly, I can't even get into that, I just heard a story, someone told me something about something, and that's why Kail didn't want to film and that's why she won't – that's why she wasn't on tonight's episode. People tell me things, and I just listen. So there's that.

I don't know what Ashley's mad about. I'll never know. Ashley, I don't know. I don't have anything bad to say about her, so I'm not gonna say anything. Um.