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County of San Diego

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Clerk of the Superior Court
By E- Filing, Deputy Clerk

7 Attorney for Plaintiffs Zhala Tawfiq,
8 Paris Kargar, and 3 Brothers Taco Shop, Inc. dba Tres Taqueria

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN DIEGO**

11 ZHALA TAWFIQ, et al.

12 Plaintiffs,

13 v.

14 MISS MIDDLE EAST BEAUTY PAGEANT
15 USA, INC., et al.,

16 Defendants.

) Case No.: 37-2017-00019692-CU-FR-CTL

) [IMAGED FILE]

) [Assigned to Hon. Timothy Taylor for all purposes]

) PLAINTIFFS ZHALA TAWFIQ, PARIS
) KARGAR, AND THREE BROTHERS TACO
) SHOP'S CASE MANAGEMENT
) STATEMENT

17 ELIE MALOUF, et al.

18 Cross-complainants,

19 v.

20 RAMI ATTALLAH

21 Defendant.

) Complaint Filed: May 31, 2017

) Trial Date: None Set

) Date: July 6, 2018

) Time: 1:30 PM

) Location: C-72

1 Plaintiffs¹ Zhala Tawfiq, Paris Kargar and Three Brothers Taco Shop, Inc., submit this
2 case management statement to provide an update to the Court in preparation for the Case
3 Management Conference set for July 6, 2018 at 1:30 PM².

4 **I. Overview and Procedural Posture of the Action**

5 Defendants Bessmon and Jessica Kalasho, individually and under the auspices of
6 their fully owned and controlled entities³, have engaged in a well-evidenced pattern and
7 practice of fraud, harassment and defamation including the use of alias social media
8 accounts, fabricated “poll” results and falsified nude images of young women; the plaintiffs
9 are several of the victims of the Kalashos’ intentional and outrageous conduct. (See ROAs
10 60, 61.)

11 The Kalasho Defendants answered the Complaint, as well as, countersued all
12 Plaintiffs alleging numerous causes of action. (See ROAs 20, 22.) Their countersuit,
13 however, was completely resolved via anti-SLAPP practice and demurrer. (See ROAs 85-
14 91.)

15 A few months after filing of the Complaint, Plaintiffs discovered⁴ the identity of the
16 DOE Defendants responsible for the publication of falsified nude images of Ms. Tawfiq and,
17 as a result, Defendants Stephanie and Elie Malouf were named via the Second Amended
18 Complaint. (See ROA 58.) Plaintiffs allege, and it is supported by the record, that the
19 Kalashos and Maloufs were in a conspiracy to publish the falsified nude images of Ms.
20 Tawfiq to deliberately harm her. *Id.* Stephanie Malouf is a known cohort, friend of the
21 Kalashos and former participant in their Beauty Pageant. Elie Malouf is her father and
22 owner of the Charter Communication’s account from which the offending images were
23 uploaded. *Id.* Importantly, the Kalasho Defendants have now admitted that they conspired

24
25
26 ¹ Plaintiff Lina Charry is separately represented and proceeds under wholly different cover.

27 ² The instant Case Management Conference was noticed via mail and electronic service to all Parties by the undersigned
(See ROA 206) as well as by the Court’s clerk. (See ROA 197, 198).

28 ³ Defendant entities Miss Middle East Beauty Pageant, Inc. and Middle Eastern Chamber of Commerce are two entity
defendants which are fully owned and controlled by the Kalashos.

⁴ Via information received pursuant to subpoena to Instagram and Charter Communications. (See ROAs 33, 39)

1 with the Malouf Defendants to publish the falsified nude images. (See ROA 202 Order
2 Deeming Admitted at RFAs 78-79.)

3 The Maloufs answered the Second Amended Complaint but also filed suit (without
4 alleging any factual basis) “for contribution” against Mr. Rami Attallah. (See ROA 146.)
5 This Complaint filed in February 2018 has **never been served**.

6 The Kalashos engaged in motion practice as late of February 2018 (ROA 129) but have
7 since strategically abandoned defense of the case instead focusing on moving their known
8 real property assets behind falsely recorded encumbrances and non-existent trusts with
9 fictitious trustees. Counsel of record for the Kalashos is Mr. Stephen Liosi who represented
10 to the Court that he was entering medical retirement and that Mr. James Finigan would be
11 substituting in as counsel in early 2018. (See ROAs 99, 104, 109, 110, 116.) Despite several
12 attempts at substituting in as counsel for the Kalasho Defendants (See, e.g., ROAs 104, 116,
13 117.), Mr. Finigan never perfected his appearance and has not communicated with the
14 undersigned since his February 7, 2018 unsuccessful *ex parte* attempt to substitute in as
15 counsel. Despite the Kalasho’s knowing and deliberate inaction in this case since February
16 2018, both Messrs. Finigan and Liosi have continued to be properly served as allowed under
17 the California Code of Civil Procedure, and the Kalashos themselves have seen fit to
18 comment to the press about developments in the case during this time period (including a
19 comment in response to damaging admissions made from their counsel of record to the *San*
Diego Union Tribune).

20 In the absence of participation in the discovery process, Plaintiffs have been forced
21 to resort to motion practice for all progress in the matter. (See, e.g., ROAs 68, 154.) This
22 uncertainty resulted in Plaintiffs reluctantly seeking a trial continuance which was granted
23 on May 16, 2018. At that hearing, the instant CMC was set for July 6, 2018, because at the
24 time, Mr. Finigan had calendared a Motion to Substitute as Counsel for the Kalasho
25 defendants on that date. (See ROA 197.) However, on June 29, 2018, the Court on its own
26 motion vacated the hearing date set for Mr. Finigan substitution motion for a lack of
27 required paper, leaving Mr. Liosi as the counsel of record. (See ROA 209.)

28 **A. Summary of Claims as to Plaintiff Zhala Tawfiq**

1 Ms. Tawfiq was a contestant and won the Kalashos' Miss Middle East Beauty Pageant
2 in May 2016. The Monday following the contest, Ms. Tawfiq was not awarded, *inter alia*,
3 her promised \$2,000 cash prize but instead was provided a contract providing forfeiture of
4 her winnings unless she agreed to an employment contract that contemplated yearlong
5 service to the Kalashos including making appearances at political events and allowing the
6 Kalashos access to her social media. (The contract was ruled unenforceable by this Court.
7 See ROAs 86, 91.) As such, the indisputable record is that the Kalashos' failed to provide
8 and, never intended on providing, Ms. Tawfiq the various prizes for winning the Beauty
9 Pageant, the basis of which forms her fraud cause of action.

10 Additionally, amidst the dispute over the obligations that the Kalashos claimed owed
11 to them pursuant to the putative contract, Ms. Tawfiq was "tagged" on an Instagram
12 account that had publicly published "leaked nude images" of her. The images were not
13 authentic but were of her likeness on the bodies of various nude women. These images were
14 published to the public from the home of Elie and Stephanie Malouf in Cerritos, California
15 on April 7, 2016 at 5:30 PM.

16 Among other indications of conspiracy linking the Maloufs and the Kalashos, is the
17 fact that both Ms. Tawfiq and Ms. Malouf claim no pre-filing motive for the conduct at issue.
18 Importantly, Jessica Kalasho and Stephanie Malouf are good friends that spent that April
19 weekend together in Los Angeles, mere miles away from Cerritos. Additionally, Ms. Tawfiq
20 was also wrongfully "stripped" of her title by the Kalashos resulting in additional emotional
21 anguish and embarrassment.

22 **B. Summary of Claims as to Plaintiff Tres Taqueria**

23 In October 2016, the principal of Tres Taqueria, Mr. Duraid Hallack, was asked by a
24 Kalasho campaign worker for permission to post Kalasho campaign signs in his
25 establishment. Mr. Hallack exercised his First Amendment right and refused to place the
26 signs.

27 A few days after his refusal, the Kalashos' through their chamber of commerce,
28 hosted a poll on their Facebook page to identify the best taco shops in El Cajon. (See ROAs
60-61). The Kalashos then represented the poll resulted in Tres Taqueria being named the

1 “worst” taco shop in El Cajon. This poll also garnered numerous comments from other
2 Facebook users, including “Robert Forbes” and “Ben George” who both claimed to have
3 gotten sick from eating at Tres. However, evidence secured from third parties (including
4 Facebook) has indisputably established that the poll results were not the actual results
5 recorded and that Robert Forbes and Ben George were alias accounts owned, operated and
6 access by the Kalashos. The entire defamatory ruse was put in place by Kalasho Defendants
7 to defame Tres Taqueria for its refusal to support Mr. Kalasho’s campaign for El Cajon City
8 Council; conduct antithetical to the notions of American democracy and worthy of
9 exemplary damages as determined by a jury.

10 **C. Summary of Claims as to Plaintiff Paris Kargar**

11 Ms. Kargar another contestant in the Kalashos’ beauty pageant also alleges fraud,
12 negligent and intentional infliction of emotional distress. While much of the evidence in
13 support of her position will come from her own testimony and that of other contestants, the
14 Kalashos’ have admitted some of the conduct at issue in their First Amended Cross-
15 Complaint: “Bessmon Kalasho stated, during a particular pageant rehearsal, ‘Your boobs
16 are moving too much. Do it again.’ Plaintiff Kargar took this comment completely out-of-
17 context and severely overreacted. Defendant Bessmon Kalasho, as did other present pageant
18 staff at the very same time, was merely telling Plaintiff Kargar the correct and classy way to
19 walk down the runway, without bouncing her breasts up and down.” (See ROA 31 at ¶14)

20 The above admitted incident along with many others during the pageant form the
21 basis of the emotional distress claims as to Ms. Kargar.

22 **II. Status of Discovery**

23 Due to the failure of Defendants to cooperate with duly issued discovery, Plaintiffs
24 have had to resort to motion practice for all progress in the matter. As is prudent practice,
25 Plaintiffs preferred to have all relevant documents and written communications from all
26 Defendants prior to deposing them.

27 Plaintiffs have taken one deposition and have two others scheduled for July.
28 Plaintiffs have also consulted with experts and are in discussions with retaining expertise
should it be necessary. The Court’s June 29 Order Deeming Facts Admitted will assist all

1 parties in streamlining further discovery efforts but does not eliminate the need for further
2 discovery. For example. Plaintiffs still must take full discovery of the Malouf Defendants,
3 and also intend to take discovery on the Kalasho's financial condition and *modus operandi*
4 relating to the conduct at issue (a factor contributing to the egregiousness of the Kalasho's
5 conduct - an issue properly considered by a jury in this matter).

6 Discovery with the Malouf defendants has been difficult as scheduling depositions
7 has been impossible due to month-long claimed unavailability from Malouf's counsel.
8 However, it is currently anticipated that the parties will be able to work out a discovery
9 schedule agreeable to the parties.

10 Currently, Plaintiffs do not foresee any additional motion practice beyond what is
11 necessary to obtain compliance with already issued Court orders, deposition appearances
12 and/or any impasses reached with Counsel for the Maloufs.

13 **III. Trial Setting Recommendations**

14 Plaintiffs estimate a trial length of 3-4 days if the matter is to proceed. Plaintiffs
15 request that trial be set for November 2, 2018 or as soon thereafter that the Court can
16 accommodate. Plaintiffs counsel will be securing additional counsel for assistance at trial.

17 Respectfully Submitted,

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19 DATE: July 2, 2018

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