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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, STATE OF FLORIDA

JOSEPH PETITO and
NICHOLE SCHMIDT,

Plaintiffs,

v.

CASE NO. 2022 CA 1128 SC
DIVISION: H CIRCUIT

CHRISTOPHER LAUNDRIE and
ROBERTA LAUNDRIE,

Defendants.
_____/

DEFENDANTS' MOTION FOR PROTECTIVE ORDER

Defendants Christopher and Roberta Laundrie, by and through undersigned counsel, hereby move for a protective order pursuant to Florida Rule of Civil Procedure Rule 1.280(c) for Plaintiffs' Second Request for Production to Christopher and Roberta Laundrie (DIN 94, 95) which requests a letter written by Roberta Laundrie to Brian Laundrie. In support thereof, Defendants offer the following.

1. "Unquestionably, a trial court possesses broad discretion in overseeing discovery, and protecting the parties that come before it." *Towers v. City of Longwood*, 960 So. 2d 845, 848 (Fla. 5th DCA 2007).

2. Upon proper application for good cause shown the trial court may grant a protective order when justice requires. *Hepco Data, LLC v. Hepco Med., LLC*, 301 So. 3d 406, 410 (Fla. 2d DCA 2020) (citing Fla. R. Civ. P. 1.280(c)). The rule is designed to "protect a party or person from annoyance, embarrassment, oppression, or undue

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burden or expense." *Id.* The burden to show good cause lies upon the party seeking the protective order. *Id.*

3. The Court may order, among other remedies, "that the discovery not be had…that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters." Fla. R. Civ. P. 1.280(c).

4. Defendants seek a protective order from the Court protecting them from producing a letter written by Roberta Laundrie to her son, Brian Laundrie, which is specifically requested by Plaintiffs' Second Request for Production (DIN 94, 95).

5. As the Court is aware, this case arises out of the undeniably sad circumstance where Defendants' son, Brian Laundrie, killed Plaintiffs' daughter, Gabby Petito. After which, Defendants' son took his own life. This has been a truly heartbreaking experience for both families.

6. The public who followed the case and the Plaintiffs are likely curious about the letter because some of the language used makes it seem as though it is somehow related to Ms. Petito's death. However, Roberta Laundrie wrote this letter months before those events transpired. Accompanying this motion is in affidavit of Roberta Laundrie explaining the letter. Roberta Laundrie wrote the letter to Brian during a difficult period in their relationship. As every parent knows, your relationship with your children can have its periods of closeness and periods of distance. Roberta and Brian Laundrie shared a love of stories and the language from the letter comes from stories and phrases that they both would have recognized. The letter was Roberta's attempt to connect with her son and convey the strength of their relationship before he

planned to leave home. Roberta Laundrie never would have fathomed the events that would transpire between Brian and Gabby months later. At the time it was written, the letter was meant as a light-hearted reminder of stories they shared together. In hindsight, the letter may appear unfortunately worded, but that was never its intention.

7. Therein lies the problem with the letter. Its origin has no relation to this case, but its publishing is embarrassing and most prejudicial to Roberta Laundrie. If the letter is produced in discovery, it will undoubtedly be made available to the media at some point. The media is already aware of Roberta Laundrie's letter through Plaintiffs' filing of a letter to counsel in support of their Motion to Compel (DIN 69) and there has already been significant media commentary just about the mere reference of it.

8. Discovery is usually permitted only on matters that are relevant or that are reasonably calculated to lead to the discovery of admissible evidence. *See Univ. of W. Fla. Bd. of Trustees v. Habegger*, 125 So. 3d 323, 325–26 (Fla. 1st DCA 2013) (citing Fla. R. Civ. P. 1.280(b)(1)); *see also Bank of New York Mellon v. Figueroa*, 299 So. 3d 430, 436 (Fla. 3d DCA 2019)(discovery order was overbroad and required production of material not relevant to the lawsuit); *Kobi Karp Architecture & Interior Design, Inc. v. Charms 63 Nobe, LLC*, 166 So. 3d 916, 921 (Fla. 3d DCA 2015)("Even given Florida's liberal discovery rules, we can see no nexus—much less legal relevance—between" contract at issue and defendant's contractual arrangements with other clients.); *Publix Supermarkets, Inc. v. Santos*, 118 So. 3d 317, 319 (Fla. 3d DCA 2013)(trial court erred by allowing plaintiff to procure information that is irrelevant with respect to her burden

of proof under the applicable statute); *Travelers Indem. Co. v. Salido*, 354 So. 2d 963, 964 (Fla. 3d DCA 1978)(discovery cannot be utilized to explore all the minute details of a controversy or delve into immaterial or inconsequential matters); *McCarty v. Schultz' Est.*, 372 So. 2d 210, 211–12 (Fla. 3d DCA 1979)("Under the circumstances, we find that [plaintiff] is not required to produce her tax returns or bank statements in that they are not relevant to the subject matter."); *Hoogland v. Dollar Land Corp., (U.S.)*, 330 So. 2d 509, 509–10 (Fla. 4th DCA 1976) ("[A]ppellant…was entitled to a protective order as to most of the material sought until such time as it may appear that discovery of those documents is relevant or that it may reasonably lead to relevant evidence.").

9. The Plaintiffs' cause of action is one for intentional infliction of emotional distress. The elements are: (1) deliberate or reckless infliction of mental suffering; (2) outrageous conduct; (3) the conduct caused the emotional distress; and (4) the distress was severe. *Liberty Mut. Ins. Co. v. Steadman*, 968 So. 2d 592, 594 (Fla. 2d DCA 2007)(citing *Dependable Life Ins. Co. v. Harris*, 510 So.2d 985, 986 (Fla. 5th DCA 1987)).

10. The letter was not written to the Plaintiffs or published in such a way that they could have seen it during the relevant period of time alleged in the Second Amended Complaint. Therefore, it could not have caused them emotional distress. Records that did not result in specific acts or conduct alleged in the Second Amended Complaint are irrelevant to the cause of action for intentional infliction of emotional distress. Furthermore, as Roberta Laundrie did not intend for anyone other than Brian to view the letter, she could not have deliberately or recklessly intended the Plaintiffs to experience distress by writing it. As such information would not support Plaintiffs'

claim, the only purpose the letter could possibly serve is to embarrass Roberta Laundrie. That is not an appropriate use of discovery.

11. The scope of discovery should be limited to the time period of August 27, 2021, through September 19, 2021, the time period between the death of Ms. Petito and when her body was found as alleged in the Second Amended Complaint, and further limited to information related to the outward actions or comments of the Defendants during that time period. The letter predated that time frame, makes no reference to the Plaintiffs, and the Plaintiffs did not see the letter such that it could cause them distress.

12. The Defendants respectfully request the Court protect Christopher Laundrie and Roberta Laundrie from producing the letter. Such an order would not prevent the Plaintiffs from inquiring as to actions taken by the Defendants and public comments made by them, or on their behalf.

13. Defendants suggest that they produce the letter to the Court for *in camera* review so that Court analyze the letter along with Roberta Laundrie's affidavit.

Certificate of Conference

Undersigned counsel has conferred with Plaintiffs' counsel about the letter and the parties discussed their positions on the letter at the hearing on the Plaintiffs' Motion to Compel. Plaintiffs seek the letter and Defendants oppose its production.

WHEREFORE, for good cause shown, Defendants respectfully request the Court enter an order protecting the Defendants from having to produce the letter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on March 6, 2023, I electronically filed the foregoing through the Florida Courts E-Filing Portal System, thereby serving all registered parties, and served via email upon the following:

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