

While the following document is filed in a case relating to an injunction for protection, Respondent (from this point on Plaintiff) maintains that because of Petitioner (from this point on Defendant) requesting monetary relief, the case in question amounts to a money suit and give Plaintiff cause to file a counter-claim.

1. Battery:

- A. Defendant committed acts intending to cause harmful or offensive contact with plaintiff or causing plaintiff to be in imminent apprehension of such a contact; and
1. As the Brevard County Sheriff's Office incident report establishes on the night of 5/11/2018, Plaintiff was in literal physical possession of "the baby" (the parties youngest child Rowen). See 05-2018-DR-030459-XXXX-XX, doc #46. As the petition for injunction filed by the Defendant establishes, Plaintiff "...would not let go of the baby." See 05-2018-DR-030459-XXXX-XX, doc #4, page #17. As the injunction transcript establishes, Defendant "...did not want to pull on the baby, so i let go." See 05-2018-DR-030459-XXXX-XX, doc #45, page #34.

Plaintiff was holding the parties daughter ("the baby") and defendant Paige Locke tried to take the child from Plaintiff's arms.

- B. Defendant made an offensive contact with plaintiff.
1. In Florida, the tort of battery "consists of the infliction of a harmful or offensive contact upon another with the intent to cause such contact or the apprehension that such contact is imminent." *Quilling v. Price*, 894 So.2d 1061, 1063 (Fla. 5th DCA 2005). "Under Section 784.03, Florida Statutes, 'there need not be an actual touching of the victim's person in order for a battery to occur, but only a touching of something intimately connected with the victim's body.'" *Clark v. State*, 746 So. 2d 1237, 1240 (Fla. 1st DCA 1999).

2. Violations of Florida's Security of Communications Act:

"On Thursday, May 31st, 2018, Mrs. Paige Locke went to the victim's residence, Mr. Michael Locke, who was her estranged husband, to pick up their son. During the incident, there was a confrontation between the two of them which was investigated by the Sheriff's Office. The incident was recorded by Mrs. Locke using her cellular phone, which was done without Mr. Locke's knowledge or consent." See 05-2018-DR-030459-XXXX-XX, doc #47, Brevard County Sheriff's Office Probable Cause Affidavit.

Additionally, as the Defendant's states "I was recording everything until that point on my phone." See 05-2018-DR-030459-XXXX-XX, doc #4, page #14.

Section 934.(1)(a) provides:

Interception and disclosure of wire, oral, or electronic communications prohibited.

(1) Except as otherwise specifically provided in this chapter, any person who:

(a) Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral or electronic communication;

* * *

shall be punished as provided in subsection (4) [imposing criminal liability].

Section 934.10 , Florida Statutes provides:

Civil remedies.

(1) Any person whose wire, oral, or electronic communication is intercepted, disclosed, or used in violation of ss. 934.03- 934.09 shall have a civil cause of action against any person or entity who intercepts, discloses, or uses, or procures any other person or entity to intercept, disclose, or use, such communications and shall be entitled to recover . . .

(b) Actual damages, but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

(c) Punitive damages...

(3) A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

A. The petition for injunction in question remains public record and contains a disclosure of the illegal recording in question, thus violations of this statute remain ongoing. "I was recording everything until that point on my phone..." See 05-2018-DR-030459-XXXX-XX, doc #4, page #14.

3. Invasion of Privacy Based on Intrusion Upon Seclusion:

Intrusion involves physically or electronically intruding into one's private quarters. *Allstate Ins. Co. v. Ginsberg*, 863 So.2d 156, 162 (Fla. 2003) Unlike other privacy torts, an action for intrusion does not require publication; instead, the intrusion focuses on "the right of a private person to be free from public gaze." *Id.* An intrusion claim has three elements. First, there must be a private quarter. Second, there must be some physical or electronic intrusion into that private quarter. Third, the intrusion must be highly offensive to a reasonable person. *Oppenheim v. I.C. Sys., Inc.*, 695 F. Supp. 2d. 1303, 1308 (M.D.

Fla. 2010); *Ward v. Casual Rest. Concepts Inc.*, No. 8:10-CV-2640-EAK-TGW, 2012 WL 695846, at *9 (M.D. Fla. Mar. 1, 2012) (sufficiently alleged intrusion with going into cell phone).

4. Intentional Infliction of Emotional Distress:
 - A. Defendant's conduct was intentional or reckless;
 - B. Defendant's conduct was outrageous;
 - C. Defendant's conduct caused emotional distress; and
 - D. Plaintiff suffered severe emotional distress.

Legal malice, which is also referred to as technical malice or malice in law, "requires proof of an intentional act performed without justification or excuse." *Reed v. State*, 837 So.2d 366, 368-69 (Fla. 2002). "Legal malice may be inferred from one's acts," and — unlike actual malice — "does not require proof of evil intent or motive." *Id.* at 369

"I also reported this (the content of the petition for injunction) to BCSO." See 05-2018-DR-030459-XXXX-XX, doc #4, page #19.

"And in trying to look at it in the light most favorable... The Court is going to dismiss the petition. That's going to be the ruling of the court." See 05-2018-DR-030459-XXXX-XX, doc #45, page #76-77.

5. Tortious Interference With the Parent-Child Relationship:
 - A. An intentional effort by the defendant to detract the child from the parent's custody or service;
 - B. The effort was willful; and
 - C. The defendant knowingly invaded the child's parent's rights.

The Florida Supreme Court recognized a cause of action for Tortious Interference with the Parent/Child Relationship pursuant to a certified question from the Eleventh Circuit. See *Stone v. Wall*, 734 So. 2d 1038, 1042-1043 (Fla. 1999). The Florida Supreme Court's decision was expressly limited to answering the narrow question posed by the Eleventh Circuit, which asked whether Florida recognized the cause of action. Thus, the above-listed elements are modeled on those adopted by other jurisdictions and noted by the Florida Supreme Court. See, e.g., *Anonymous v. Anonymous*, 672 So.2d 787, 790 (Ala.1995) (quoting 67A C.J.S. Parent & Child S 131 (1978)).

"The Court finds the testimony of Jaymie Gaucher, Director of Center for Child Development (hereinafter "Center"), indicated that the Mother was responsible for the refusal of the Center to release Wilder to his Father during the Father's timesharing. The Mother directed the Center not to release Wilder to his Father. As a result of her direction, the police were called...Ms. Gaucher testified Wilder was happy to see his father, had no fear of him and wanted to leave with his Father at the time of the incident. According to Ms. Gaucher, based on her observations, the Father has always had positive

behavior with Wilder. The Court found it concerning that Ms. Gaucher took the Mother and the minor child into her office with her, rather than being with both parents or remaining in a neutral area until everything was resolved. The Court finds it most important from Ms. Gaucher's testimony that Wilder wanted to go with his Father on the day the Father showed up to pick him up. The Mother was responsible for the Police becoming involved at the child's school based on her instructions to the Center not to release the minor child to the Father..." See 05-2016-DR-054881-XXXX-XX, doc #443, page #3.

I hereby certify under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on 5/10/2022.

/S/ Michael Locke

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