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Superior Court of California,
County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By M. Estorga, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

IDEAL LIVING, LLC, a Delaware limited liability company, PETER SPIEGEL, an individual, and KATHLEEN WILLIAMS, an individual,

Plaintiffs,

v.

DAVID NAJAR, an individual, and DOES 1 through 10, inclusive,

Defendant.

CASE NO. 23VECV04262

[Assigned to Hon. Valerie Salkin, Dept. U]

MOTION IN LIMINE #1 BY DEFENDANT

DEFENDANT DAVID NAJAR'S MOTION IN LIMINE TO EXCLUDE ANY REFERENCE TO A 2001 LAWSUIT IN WHICH HE WAS NAMED AS A DEFENDANT, OR THE ALLEGATIONS THEREIN;

DECLARATION OF BENJAMIN TAYLOR

FSC:
Hearing: April 11, 2025
Time: 9:00 a.m.

Action filed: September 26, 2023
Trial date: April 21, 2025

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on April 11, 2025, at 9:00 a.m., at the Final Status Conference, Defendant David Najar will move this Court for an order precluding all parties, counsel, witnesses and/or experts, from referencing in any way the 2001 lawsuit *Graham v. Sisters of Providence in California, et al.* in which Defendant was named as a Defendant.

Defendant submits that the evidence sought to be excluded is irrelevant to any issue in this case. Moreover, given the extent of the passage of 25 years since the allegations that form the basis of that lawsuit, which Defendant denies and was never found liable for in any event, the prejudicial effect of reference to the existence of or the allegations contained in that lawsuit would far outweigh any probative value.

This Motion is based upon this Notice of Motion, the Memorandum of Points and Authorities served and filed herewith, the below Declaration of Benjamin Taylor, and any such other evidence or authority presented to the Court at the time of the hearing of this matter.

DATED: March 19, 2025

THE LAW OFFICES OF BENJAMIN TAYLOR
A Professional Corporation

By:_____
BENJAMIN TAYLOR
Attorneys for Defendant
DAVID NAJAR

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This case arises out of an employment relationship between Myra Nishizaki and Ideal Living, LLC. David Najar, whom Plaintiff accuses of sending anonymous emails and extortionate threats (all of which he denies), is a best friend and very supportive of Ms. Nishizaki but disputes that he did the things he is accused of doing. During discovery in this case, Plaintiff's counsel has raised the existence of a 2001 lawsuit called *Graham v. Sisters of Providence in California*, et al., in which Mr. Najar was named as a Defendant and accused by a former student of causing emotional distress, assault and related claims. Mr. Najar denied those allegations, and was never found liable. Indeed, he does not recall even having been served with that lawsuit. In short, it has no bearing on the claims or defenses at issue in this case. Given the inflammatory nature of the allegations in that case, as well as the passage of 25 years, it would be highly prejudicial to Defendant if Plaintiff were allowed to mention or discuss the existence of, or the allegations contained in, that lawsuit. Therefore, Defendant requests that the Court exclude it from the trial in this case.

II. LEGAL STANDARD

A party may exclude or limit the production of evidence through a Motion *in Limine*. (Cal. Evid. Code. §350, 352.) A Motion *in limine* is essential in order to prevent the presentation of inadmissible evidence or testimony which may prejudice the jury. *Hyatt v. Sierra Boat Co.,* 79 Cal.App.3d. 325, 337 (1978). Such evidence includes any prior conduct of the party that is not directly related to the matter at hand, at the risk of a jury "'prejudging' a person or cause on the basis of extraneous factors." *People v. Harris*, 60 Cal.App.4th 727, 737 (1998).

III. EVIDENCE OF AN UNRELATED 2001 LAWSUIT IS NOT RELEVANT AND WOULD BE HIGHLY PREJUDICIAL TO DEFENDANT.

Under Evidence Code §350 and §352, only relevant evidence is admissible, and the court has discretion to exclude evidence when its probative value is substantially outweighed by the likelihood of the evidence creating a danger of undue prejudice. Plaintiff's claims in this case relate to events that are alleged to have occurred during a discrete period in 2023, specifically, related to an allegedly extortionate threat and the sending of anonymous emails. The issues Plaintiff may seek to admit into

evidence related to the existence of allegations asserted by a former student in a 2001 lawsuit, which was never even served on Mr. Najar and in which he was never found liable, have no relevance or bearing on the claims in this case. Defendant believes that Plaintiffs seek to introduce this evidence, and that any effort to do would be solely to inflame and to prejudice the jury against him. Such evidence is not relevant under Evid. Code §350 and should be excluded under Evid. Code §352, as its admission would unduly prejudice the jury.

IV. CONCLUSION

For the foregoing reasons, Defendant respectfully request that any reference, to mention or evidence of the 2001 lawsuit *Graham v. Sisters of Providence in California, et al.* be barred.

DATED: March 19, 2025

THE LAW OFFICES OF BENJAMIN TAYLOR
A Professional Corporation

By:_____
BENJAMIN TAYLOR
Attorneys for Defendant
DAVID NAJAR

DECLARATION OF BENJAMIN TAYLOR

I, Benjamin Taylor, declare as follows:

1. I am over the age of 18 years, and I make this declaration of my own personal knowledge. If called upon to testify, I could and would testify competently to the facts contained herein.

2. I am an attorney at law, duly licensed to practice before the Courts of the State of California, and I am counsel of record for Defendant David Najar in this proceeding.

3. On March 17, 2025, I engaged in a telephonic meet and confer conversation with Plaintiff's counsel, Nicholas Soltman, Esq., regarding the parties' respective proposed motions *in limine*.

4. I advised Mr. Soltman that Defendant intended to move the Court for an order excluding reference to the 2001 lawsuit called *Graham v. Sisters of Providence in California, et al.*, or to the allegations contained therein.

5. Mr. Soltman indicated that he would discuss this intended motion *in limine* with his clients. As of the end of the day today, I have not heard further from Mr. Soltman as to whether his clients would stipulate to the requested relief, thereby necessitating the filing of this Motion.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed this 19th day of March 2025 at Los Angeles, California.

Benjamin Taylor

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

At the time of service, I was over 18 years of age and not a party to this action. My business address is 2121 Avenue of the Stars, Suite 2600, Los Angeles, CA 90067. On March 19, 2025, I served ☐ the original ☒ a true copy of the within document(s) described as

DEFENDANT DAVID NAJAR'S MOTION IN LIMINE TO EXCLUDE ANY REFERENCE TO A 2001 LAWSUIT IN WHICH HE WAS NAMED AS A DEFENDANT, OR THE ALLEGATIONS THEREIN;

DECLARATION OF BENJAMIN TAYLOR

on all interested parties in this action, as follows:

Nicholas Soltman, Esq.
Kinsella Holley Iser Kump Steinsapir, LLP
11766 Wilshire Blvd., Suite 750
Los Angeles, CA 90025

nsoltman@khiks.com

Attorneys for Plaintiffs Ideal Living, LLC, Peter Spiegel, and Kathleen Williams

☒ **BY E-MAIL**: I sent the above document(s) via electronic mail to the recipients listed above at the e-mail addresses listed above, and I did not receive any notification that the e-mail was not received.

☒ **(State)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **March 19, 2025** at Los Angeles, California.

Benjamin Taylor
Type or Print Name

Signature