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6 IN THE CIRCUIT COURT OF THE STATE OF OREGON
7 FOR THE COUNTY OF CLACKAMAS

8 TIMOTHY ROTE,

9 Plaintiff,

10 vs.

11
12 MAX ZWEIZIG, JOEL CHRISTIANSEN,
13 LINDA MARSHALL, SANDRA WARE, AND
14 JOHN DOES (1-5)

15 Defendants

Case No.:

COMPLAINT FOR:

(1) MALICIOUS PROSECUTION OF
CIVIL PROCEEDING;

(2) DEFAMATION; AND

(3) IIED

JURY TRIAL DEMANDED

16
17 Plaintiff Timothy C. Rote (“Rote”) upon personal knowledge, information and belief
18 alleges and claims as follows:

19 **I. PARTIES**

- 20 1. Plaintiff is an individual residing in West Linn, Oregon.
- 21 2. Defendant Linda L. Marshall (Marshall) practices law in Lake Oswego, Oregon.
- 22 3. Defendant Joel Christiansen (Christiansen) practices law in Pendleton, Oregon.
- 23 4. Defendant Max Zweizig (Zweizig) resides in Woodbury, New Jersey.
- 24 5. Defendant Sandra Ware (Ware) practices law in Woodbury, New Jersey.
- 25 6. John Doe 1-5 identities and addresses are undisclosed.

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COMPLAINT FOR:(1) MALICIOUS PROSECUTION OF CIVIL PROCEEDING;(2) DEFAMATION; AND (3)
IIEDJURY TRIAL DEMANDED - 1

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II. FACTS

7. Zweizig by and through counsel Linda Marshall, Joel Christiansen and Sandra Ware filed federal lawsuit 3:14-CV-0406-HZ against plaintiff and judgment debtor Northwest Direct and affiliates, a company owned by plaintiff, alleging fraudulent transfers to avoid paying NDT's judgment to Zweizig .

8. Zweizig used the 3:14-CV-406 case to illegitimately pursue the aforementioned judgment.

9. Zweizig was provided sufficient information and evidence from NDT counsel Jeff Hasson early in the litigation to adequately conclude that NDT had suffered a cyber-attack by Silicon Valley Bank and had ceased operations in 2012, continuing only to pursue its legal claims against Silicon Valley Bank in Colorado.

10. NDT was pursuing \$1.6 Million in damages against Silicon Valley Bank and had NDT prevailed Zweizig would have been paid his judgment.

11. On information and belief Marshall and or other named defendants interfered with the litigation against Silicon Valley Bank by, in part, transmitting Exhibits 1 and 2 to the presiding Judge in that case, Elizabeth Weishaupl.

12. During discovery Defendants were sent a sanctions letter noting that their claims were time barred and completely baseless, and in addition were provided evidence that Rote and affiliates to NDT had contributed a substantial amount of money to pursue damages against Silicon Valley Bank and that no assets were transferred fraudulently to avoid paying the judgment.

13. In the pursuit of judicial favor, defendants went so far as to contact the deputy clerk of Senior Judge Robert Jones and alleged that plaintiff was going to assault the judge at a lifetime achievement award dinner.

14. Defendants Zweizig and Ware used the litigation in the fraudulent transfer case to retaliate against Rote because Rote filed a criminal complaint in New Jersey with evidence
COMPLAINT FOR:(1) MALICIOUS PROSECUTION OF CIVIL PROCEEDING;(2) DEFAMATION; AND (3)
IIEDJURY TRIAL DEMANDED - 2

1 showing Zweizig and Ware downloaded and disseminated child porn using peer to peer
2 software registered in Zweizig's name.

3 15. Defendants Marshall, Christiansen and Ware retaliated and offered free legal
4 services to Zweizig because Rote filed ethics complaints with the Oregon State Bar and New
5 Jersey State Bar, the evidence showing Zweizig had been instructed to destroy evidence of
6 computer fraud and theft of more than 500,000 confidential records.

7 III. FIRST CLAIM FOR RELIEF

8 (Malicious Prosecution against Marshall, Christiansen, Zweizig, Ware & John Does 1-5)

9 16. Plaintiff realleges and incorporates by reference those paragraphs set forth above
10 as if fully set forth herein.

11 17. In spite of having the benefit of evidence at the early stages of the case that
12 showed NDT did not engage in a fraudulent transfer in any form, defendants continued to pursue
13 discovery, take depositions, oppose summary judgment motions claiming evidence and pursued
14 these claims over a four year period.

15 18. Defendant lacked probable cause or belief that Rote and NDT had engaged in
16 fraudulent transfer, knew their claim was time barred and pursued these claims only to harass
17 and interfere with Rote's business interests, to use the action against the corporate defendants, to
18 force defendants to hire counsel and to use that burden to force or induce Rote to pay the
19 judgment personally.

20 19. Defendants' sought \$500,000 in punitive damage claims during the pendency of
21 the fraudulent transfer action, that claim dismissed three times.

22 20. Defendant Marshall confirmed at trial that the action was brought to induce Rote
23 to pay the judgment of NDT.

24 21. Defendants acts were malicious and without merit.

25 22. Rote incurred more than \$100,000 in legal fees and costs defending these false
26 claims.

1 23. The court returned a verdict in favor of Rote and the Northwest companies,
2 concluding that the fraudulent transfer claims were time barred and there was no evidence to
3 support those claims or any other claim.

4 24. As a result of defendants' conduct plaintiff was damaged and is seeking economic
5 compensation.

6 **IV. SECOND CLAIM FOR RELIEF**

7 (Defamation against Marshall, Christiansen, Zweizig, Ware & John Does 1-5)

8 25. Plaintiff realleges and incorporates by reference those paragraphs set forth above
9 as if fully set forth herein.

10 26. Defendants' claims in the 3:14-CV-406 case and the publishing of those
11 statements in and outside of court were untrue, defamatory, intended to subject Plaintiff to
12 ridicule, and diminish the respect and confidence in which Plaintiff is held by members of the
13 community. In addition, these false statements impute Plaintiff in his business trade and
14 profession.

15 27. Defendants knew that the statements were false and acted maliciously, recklessly,
16 or in bad faith and on belief were published widely.

17 28. As a direct and proximate result of Defendants' false and defamatory statements,
18 Plaintiff has suffered and on more than three occasions has been unable to purchase CPA firms
19 that owners of which refused to sale because of the defendants' unsubstantiated claims of Rote
20 being engaged in fraud and/or fraudulent transfers.

21 29. As a direct and proximate result of Defendants' false and defamatory statements,
22 Plaintiff has incurred non-economic and economic damages in an amount to be proven at trial.

23 **V. THIRD CLAIM FOR RELIEF**

24 (IIED against Marshall, Christiansen, Zweizig, Ware & John Does 1-5)

25 30. Plaintiff realleges and incorporates by reference those paragraphs set forth
26 above as if fully set forth herein.

1 31. Defendants' conduct towards Plaintiff was extreme and outrageous.

2 32. Defendants' intentionally caused Plaintiffs emotional distress by: (a) using
3 time-barred litigation to extort payment; (2) as legal counsel offering the equivalent of free
4 legal services to advance the fraud at no cost to Zweizig; (3) pursuing the false claims to
5 interfere with the business interests of the plaintiff; (4) using confidential financial records of
6 NDT and Rote acquired in discovery with threats to be publish to the detriment of Rote; and
7 (5) by publishing exhibits 1 and 2 requesting judicial bias.

8 33. As a direct and proximate result of Defendants' malicious use of civil
9 proceedings and defamatory statements, Plaintiff has suffered extreme emotional distress and
10 has been so burdened by the litany of litigation brought by the defendants that he has been
11 unable to work as a CPA.

12 34. As a direct and proximate result of Defendants' egregious behavior, Plaintiff has
13 incurred non-economic and economic damages in an amount to be proven at trial.

14 **VI. JURY DEMAND**

15 Plaintiff hereby demands a jury.

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2 **VII. PRAYER**

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4 1. For General and Economic damages in an amount not yet ascertained but to be
5 established at trial, but not less than \$300,000;
6 2. For Special damages in an amount not yet ascertained but to be established at trial;
7 3. For Noneconomic Damages to be established at trial;
8 4. For Punitive damages on the causes of action;
9 5. For Costs and attorneys' fees as permitted by law;
10 6. For Prejudgment interest as otherwise authorized by law; and
11 7. For such other and further relief as the Court may deem just and proper.

12
13 DATED: April 2, 2019

14 /s/ Timothy C. Rote
15 Timothy C. Rote
16 *ProSe*
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1 **CERTIFICATE OF SERVICE**

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3 I hereby certify that I served the above on:

4

5 LINDA MARSHALL
6 3 Monroe Parkway # P408
7 Lake Oswego, Oregon 97035

8 JOEL CHRISTIANSEN
9 29 SE Court Ave. #215
10 Pendleton, Oregon 97801

11 MAX ZWEIZIG
12 140 Ford Ave.
13 Woodbury, New Jersey 08096

14 SANDRA WARE
15 140 Ford Ave.
16 Woodbury, New Jersey 08096

17 Via First Class Mail

18 Via Email

19 Via OECF Notification

20 DATED: April 2, 2019

21 /s/ Timothy C. Rote

22 **Timothy C. Rote**

23 *Pro Se*