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5
6 IN THE CIRCUIT COURT OF THE STATE OF OREGON
7 FOR THE COUNTY OF CLACKAMAS

8 TIMOTHY ROTE,

9 Plaintiff,

10 vs.

11 MAX ZWEIZIG AND JOHN DOES (1-5),

12
13 Defendants
14

Case No.:

COMPLAINT FOR:

WRONGFUL INITIATION OF CIVIL
PROCEEDINGS.

PRAYER OF \$49,000

JURY TRIAL DEMANDED

15
16 Plaintiff Timothy C. Rote (“Rote”) upon personal knowledge, information and belief
17 alleges and claims as follows:

18 **I. PARTIES**

- 19 1. Plaintiff is an individual residing in West Linn, Oregon.
20 2. Defendant Max Zweizig (Zweizig) resides in Woodbury, New Jersey.
21 3. John Doe 1-5 identities and addresses are undisclosed.

22 **II. FACTS**

23 4. In 2005 Zweizig former employer discovered that Zweizig downloaded and
24 disseminated child porn from his home in New Jersey as far back as May 2002 through his last
25 day of employment with employer Northwest Direct. Zweizig’s last day of employment was
26 November 15, 2003. On November 12, 2003 Zweizig reformatted that 120 gig hard drive and a

1 few days later returned that hard drive to him. In 2005, police officer Steve Williams issued a
2 report finding Zweizig's child porn stash and software used by him to allow interested parties
3 to upload their child porn and download Zweizig's stash of child porn. In a 2010 arbitration,
4 forensic experts Justin McAnn and one other forensic expert, as well as Steve Williams,
5 testified that Zweizig downloaded and disseminated child porn from his hard drive in 2002
6 through November 2003. McAnn was Zweizig's hired forensic expert.

7 5. Zweizig admitted during a 2005 mediation to separating that 120 gig hard drive
8 into 4 sections. On hard drive D, Zweizig maintained child porn, porn, and music and videos
9 downloaded and uploaded in violation of copyright laws. Reality TV Star Josh Duggar was
10 recently sentenced to prison for 12.5 years for doing exactly the same thing as Zweizig.
11 Duggar's use of his computer was precisely the same as Zweizig's.

12 6. In January 2018 Zweizig lied to the jury about downloading and disseminating
13 child porn in 2002 through 2003. His attorney, Joel Christiansen suborned that perjury to help
14 Zweizig secure a \$1 Million judgment. Christiansen's portion is 50% of the judgment.

15 7. Zweizig by and through counsel Williams Kastner filed Clackamas County case
16 19cv01547 against plaintiff and non-debtors Tanya Rote and Northwest Holding LLC, alleging
17 fraudulent transfers to avoid paying a judgment secured by Zweizig in January 2018.

18 8. Zweizig by and through counsel also filed objections and put up road blocks to
19 plaintiff selling his West Linn home through-out the year 2021

20 9. Zweizig used the aforementioned civil proceedings to illegitimately pursue the
21 aforementioned judgment.

22 10. Zweizig was provided sufficient information and evidence early in the
23 19cv01547 litigation to adequately conclude that plaintiff transferred no property to avoid his
24 judgment, but Zweizig continued to pursue his claims out of malice towards plaintiff Rote.

25 11. Zweizig was offered property known as the Klamath Falls land in 2019 to stop
26 Zweizig's malicious attacks on Rote's spouse Tanya Rote.

1 12. At the time the Klamath Land was offered to Zweizig the property had an
2 approximate fair market value of \$750,000. Zweizig's judgment at that time was \$500,000 (but
3 under appeal). Zweizig refused to accept that property, choosing instead to attack a Sunriver
4 property owned by Plaintiff's spouse Tanya Rote.

5 13. After more than two years of discovery, the Rote's prevailed on Summary
6 Judgment against Zweizig's claims. Judgment in Rote's favor was signed on April 7, 2021.

7 14. Zweizig appealed. The Oregon Court of Appeals affirmed the summary
8 judgment decision of the Clackamas County Court on February 16, 2022.

9 15. Zweizig filed a petition for reconsideration. The Oregon Court of Appeals
10 denied the Motion for reconsideration on March 21, 2022.

11 16. Plaintiff suffered damages as a result of Zweizig's malicious initiation and
12 prosecution of case 19cv01547.

13 17. In March 2019 and in case 19cv01547, the Rote's filed counterclaims for
14 Zweizig's unlawful use of the case to file a *lis pendens* against Tanya Rote's attempt to sale the
15 Sunriver property (one of the subject properties of the 19cv01547 lawsuit).

16 18. The *lis pendens* was filed by Zweizig a few days before the closing on the sale
17 of the Sunriver property. The sale failed as a result of the filing of the *lis pendens* in case
18 19cv01547.

19 19. The Rote's counterclaims in 19cv01547 were summarily dismissed by anti-
20 SLAPP Motion filed by Zweizig. Zweizig was awarded legal fees for his successful dismissal
21 of the counterclaims.

22 20. Zweizig's anti-SLAPP Motion specifically alleged that the proper form of
23 action for and if he failed in his 19cv01547 action was to file a wrongful use of a civil
24 proceeding lawsuit. Plaintiff is doing so now.

25 21. Over the next two years plaintiff suffered damages from the prosecution of the
26 lawsuit. Plaintiff suffered economic and noneconomic damages from the malicious and

1 wrongful use of the 19cv01547 lawsuit. Plaintiff was forced to stand by and watch Zweizig
2 attack plaintiff's spouse out of pure malice for Rote publishing criminal reports of Zweizig's
3 child porn distribution activity.

4 22. In March 2021 and after discovery the Court found that Zweizig provided no
5 evidence to support his claims.

6 23. Zweizig could have taken the Klamath Land and all of the damages to Plaintiff
7 arising from or related to case 19cv01547 would have been avoided. Out of malice he chose
8 not to.

9 24. Zweizig also prosecuted a fraudulent transfer claim against Plaintiff from 2014-
10 2018 on a judgment owed by his former employer, a company previously owned by Plaintiff
11 Rote. Plaintiff Rote also prevailed in that action, the Federal Court finding Zweizig's claims
12 meritless and unsubstantiated. Zweizig's malice and unconstrained actions have enjoyed the
13 support of dozens of attorneys working on a contingency relationship with Zweizig. See
14 Federal Case 3:14-cv-0407.

15 25. From January 2021 through August 2021, Plaintiff Rote had his Big Fir Rd.
16 home in West Linn for sale. An offer was received and accepted in March 2021 for
17 approximately \$1,600,000. The price was sufficient to satisfy the First and Second lien holders.
18 The price was not sufficient to satisfy the third lien holder (Wells Fargo), by more than
19 \$300,000. In spite of the Deschutes County Court granting Rote a release of Zweizig's 4th
20 position lien, Zweizig successfully interfered with the sale by refusing to release a lien filed in
21 Clackamas County just before the sale of the home. During this same period of time Zweizig
22 initiated with Clackamas County Sheriff the sale of the Big Fir home in spite of the home being
23 under contract. Zweizig successfully scared those buyers away and he did so without any
24 expectation of satisfying any part of his lien.

25 26. In August 2021, Zweizig also attempted to interfere with the second sale of the
26 Big Fir home. He also initiated a Clackamas County Sheriff sale of the home. The home sold

1 before the Sheriff sale was completed. Zweizig had no objectively or subjectively reasonable
2 expectation of receiving any proceeds of the sale. He used his opposition to the sale and
3 initiated Sheriff sales to attempt to extort a settlement in which Plaintiff Rote was not a debtor.
4 Anthony Albertazzi represented Zweizig in those wrongful use of civil proceedings.

5 27. In February 2022, Anthony Albertazzi acting as counsel for Max Zweizig
6 petitioned to have the corporate stock of the company owning the Klamath Land sold at
7 auction by Deschutes County Sheriff. On information and belief Albertazzi and Zweizig
8 conspired to list an incorrect name of the company owning the Klamath Land for the sole
9 purpose of eliminating any competition to their very low bid. They identified an Oregon
10 Company that did not exist and claimed Timothy Rote owned that stock. The value of the
11 company stock and value of the Klamath Land in February 2022 was \$1,250,000, easily
12 satisfying Zweizig's judgment. Deschutes County Sheriff conveyed that they were helpless to
13 change the name of the actual owner of the stock.

14 28. A federal and state civil racketeering lawsuit is being prepared against Zweizig,
15 attorney Anthony Albertazzi and others. It will be filed by the middle of June. In addition to
16 racketeering, Zweizig's actions in intentionally mislabeling the name of the entity owning the
17 land constituted Fraud Upon the Court

18 29. In March 2022 Albertazzi and Zweizig petitioned the Clackamas Court to
19 release the proceeds of a supersedeas bond on the legal fee awarded to Zweizig in the anti-
20 SLAPP Motion to Strike granted by Judge Ann Lininger in 2020. The fee petition filed by
21 Zweizig's attorney at that time (Ward Greene of firm Williams Kastner) showed 37 entries that
22 were unrelated to the anti-SLAPP action. Nonetheless Zweizig prevailed on Appeal and was
23 awarded additional legal fees. In essence Zweizig was awarded legal fees for defeating a
24 counterclaim, which his anti-SLAPP Motion maintained should be brought in this action--
25 namely an action for wrongful use of a civil proceeding.

1 30. In May 2022, Plaintiff pointed out to the Clackamas Court that Zweizig's
2 Motion package attached a limited judgment from case 19cv14552, not 19cv01547. Zweizig
3 and his attorney filed declarations attesting to the accuracy of the Motion and Exhibits. The
4 Court denied Zweizig's Motion. The Motion constituted Fraud Upon the Court, Zweizig
5 intentionally filing a knowingly fraudulent Motion for liquidation of a Bond securing the legal
6 fee judgment in case 19cv01547.

7 31. In Zweizig's December 20, 2021 deposition in case 19cv01547, Zweizig
8 admitted that he lied to the jury in federal case 3:15-cv-2401, the case in which he secured his
9 judgment. In that same deposition Zweizig admitted that his former attorney Ward Greene no
10 longer wanted to be associated with Zweizig and the raping of children. The legal fees awarded
11 to Zweizig were generated by Williams Kastner. On information and belief Kastner walked
12 away from the fee award when they resigned from representing Zweizig.

13 32. On information and belief, Kastner advised Zweizig to stop prosecuting the
14 19cv01547 claim as there was no evidence to support his claim. Kastner resigned in July 2020.

15 33. In 2019, child predator Carol Bernick, then CEO of the Oregon State Bar
16 Professional Liability Fund ("PLF"), acting on behalf of the PLF hired child predator Nena
17 Cook to represent child predator Max Zweizig in case 19cv14552. Zweizig admitted in his
18 deposition of December 2020 that he did not solicit representation by the PLF or Nena Cook
19 and intimated it would violate his contract with the PLF to answer any questions about his
20 agreement with the PLF. He refused to explain why the PLF represented him for free.

21 34. After Carol Bernick resigned as CEO of the PLF, in 2019, Nena Cook was hired
22 by the PLF to be CEO. Cook resigned in December 2020.

23 35. The PLF is a tax exempt captive insurance company organized under the
24 Oregon Judicial Department. Use of the state's resources to promote and protect distributors of
25 child porn is a violation of the PLF's charter, is in fact a crime and will likely result in the PLF
26

1 shutting down. A civil racketeering lawsuit is being prepared against the PLF and others for
2 filing in mid-June.

3 36. The PLF hired John Barhoum to represent Zweizig on appeal in case
4 19cv14552. The appeal of 19cv14552 was resolved in favor of Zweizig and others, presumably
5 because Zweizig prevailed through Summary judgment in federal case 3:14-cv-0406. As noted,
6 the trial court nonetheless found at trial Zweizig's claims to be meritless.

7 **III. FIRST CLAIM FOR RELIEF**

8 (Wrongful Initiation of Civil Proceeding against Zweizig & John Does 1-5)

9 37. Plaintiff re-alleges and incorporates by reference those paragraphs set forth above
10 as if fully set forth herein.

11 38. Plaintiff alleges that Zweizig initiated and prosecuted multiple civil proceedings
12 against Plaintiff Rote.

13 39. Plaintiff alleges that the civil proceedings identified as well as others were
14 terminated in plaintiff's favor.

15 40. Plaintiff alleges there was an absence of probable cause for Zweizig to prosecute
16 the actions.

17 41. Plaintiff alleges Zweizig pursued the civil proceedings out of malice.

18 42. Plaintiff alleges that he was damaged by Zweizig's wrongful use of the identified
19 civil proceedings.

20 43. As a result of Zweizig's conduct, plaintiff was damaged and is seeking economic
21 and noneconomic damages.

1
2 **IV. PRAYER**

- 3
4 1. For Past and Future General and Economic damages in an amount to be established at
5 trial, but not less than \$49,000;
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: June 1, 2022

14 /s/ Timothy C. Rote
15 Timothy C. Rote
16 Timothy.rote@gmail.com
17 Plaintiff *ProSe*

1 **CERTIFICATE OF SERVICE**

2

3 I hereby certify that I served the above on:

4

5 MAX ZWEIZIG
6 140 Ford Ave.
7 Woodbury, New Jersey 08096
8 peerlessmusician@gmail.com
9 SERVICE NOT YET PERFECTED

10 Albertazzi Law
11 Attn: Anthony Albertazzi
12 296 SW Columbia, Suite B
13 Bend, OR 97702
14 541.317.0231
15 Counsel for Zweizig
16 a.albertazzi@albertazzi.com

17

18 Via First Class Mail

19

20 Via Email

21

22 Via OECF Notification

23

24 DATED: June 1, 2022

25

26 /s/ Timothy C. Rote

Timothy C. Rote

Pro Se