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2 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
3 FOR THE COUNTY OF CLACKAMAS  
4

5 TIMOTHY C. ROTE,

6 Plaintiff,

7 v.

8 ANDREW BRANDSNESS,  
9 CAROL BERNICK,  
10 OREGON STATE BAR (PROFESSIONAL  
11 LIABILITY FUND),  
12 ANTHONY ALBERTAZZI,  
13 NENA COOK  
14 PAM STENDAHL,  
15 MAX ZWEIZIG,

16 Defendants.

Case No.: 18CV45257

PLAINTIFF'S DECLARATION  
SUPPORTING RESPONSE AND  
CROSS-MOTION FOR SUMMARY  
JUDGMENT

17 I, TIMOTHY ROTE, do hereby declare:

18 1. I represent myself in the above-captioned case. I make this declaration on personal  
19 knowledge and am competent to testify to the matters stated herein.

20 2. On December 25, 2015, atheist, cybercriminal, identity thief and child predator Max  
21 Zweizig filed a retaliation lawsuit against me, his former employer Northwest Direct  
22 Teleservices, Inc. ("NDT") and a number of other affiliated corporate entities which I  
23 controlled. That Complaint was served on or around December 30, 2015 and is Federal  
24 case 3:15-cv-2401.

25 3. NDT employed Zweizig from August 2001 through November 15, 2003. Zweizig  
26 was recruited to NDT by the then president of NDT. The call center group, of which  
NDT was member, provided inbound and outbound call center type services, serving the  
insurance and political industries. Zweizig was the senior IT manager and head of his

1 department.

2 4. Within a year of joining NDT, Zweizig and the president of NDT conspired with one  
3 other employee of the consolidated group to set up a competing company and steal the  
4 clients of NDT. All of the conspirators were subject to a noncompetition agreement as  
5 outlined in Zweizig's employment agreement. I found out about the plan in or around  
6 September 2002, flew to our Delaware office, removed the then president of NDT and  
7 took control of the competing company called Superior Results Marketing, of which  
8 Zweizig was a 50% owner. Zweizig was allowed to stay with NDT.

9 5. By May 2003, Zweizig had hatched another plan with the former president of NDT.  
10 During my quarterly visit with him, where we were to go over his programming and  
11 processing procedures, Zweizig fabricated a collapse of his hard drive (a 120 gig hard  
12 drive). That 120 gig hard drive was replaced with a newer 60 gig hard drive and we  
13 postponed our meeting until August 2003.

14 6. In August 2003 Zweizig was expected to attend a corporate meeting in Eugene  
15 Oregon, but he refused to come. He was ordered to attend and he still refused to attend.  
16 On or around that time I was contacted by one of our insurance clients and was told  
17 Zweizig had failed to process and return around 600,000 client records, leading to  
18 demand by that client that the records be returned immediately or our contract would be  
19 terminated.

20 7. I immediately contacted Zweizig. Max Zweizig then attempted to use the demand  
21 from the client to extort a \$60,000 raise and ownership in NDT. I rejected that demand,  
22 contacted law enforcement, hired counsel and under that threat Zweizig in late September  
23 2003 completed the processing of the 600,000 records and returned them to our client.

24 8. On October 2, 2003 Zweizig was provided a notice of termination. We had  
25 determined that by that time Zweizig had removed all copies of programming used by  
26 NDT and its affiliated companies to process and report daily more than 100,000 records.

1 9. On October 25, 2003 Zweizig made a demand, attempting to again extort a raise and  
2 ownership by claiming that we had been overbilling clients and attached a spreadsheet he  
3 had fabricated. The spreadsheet indicated approximately 18 hours of adjustments to  
4 unnamed clients and from that he postured that one or more unidentified clients had been  
5 overbilled \$400 in October 2003. Zweizig had no access to client contracts and was  
6 unaware that we billed at the end of the month and did not bill clients by the hour. The  
7 NDT group billed approximately \$450,000 on October 2003.

8 10. Zweizig refused to turn over the programming and while we worked with him to try  
9 to avoid a shut-down he resisted. Without the programming NDT owned, programming  
10 Zweizig had stolen, we would need to shut down until that programming was recreated.

11 11. On November 14, 2003, Zweizig's computer and other equipment, including the  
12 crashed 120 gig hard drive, were secured from him and removed from the company. He  
13 had refused to turn over the programming and the company shut down for 10 days while  
14 the programming was re-created.

15 12. In March 2004 he filed a lawsuit in New Jersey seeking \$150,000 in damages for  
16 wrongful termination. We did not successfully Compel arbitration until December 2005.

17 13. In September 2015 I started a blog outlining in substantial part my disappointment  
18 with the arbitration process. From 2006 through 2010 we had arbitrated Zweizig claims  
19 of wrongful termination and our claims for damages arising from his cybercriminal  
20 activity and theft of company property resulting in the shutdown.

21 14. In May 2010 and during the first hearing before arbitrator Crow we found out for the  
22 first time that Crow had referred Zweizig to Crow's former Miller-Nash Partner Linda  
23 Marshall. Neither of these two had disclosed that Crow had referred Marshall to Zweizig  
24 (who at that time was looking for another attorney). Soon after we took action to remove  
25 Crow as arbitrator. He withdrew but Linda Marshall pleaded for him to remain. The  
26 Arbitration service of Portland had a hearing and ruled Crow could remain.

1 15. In spite of having three computer forensic experts (one of whom was hired by  
2 Zweizig) confirm that Zweizig was terminated by email on October 2, 2003, more than  
3 three weeks before Zweizig's published his claim of over-billing, Crow retaliated and  
4 found in favor of Zweizig.

5 16. During the course of the arbitration the three computer forensic experts examined the  
6 120 gig hard drive to determine what if any programming was on that hard drive. All  
7 three forensic experts opined that the computer crash of the 120 gig hard drive was  
8 fabricated by Zweizig and that the hard drive was fully functional until he reformatted it  
9 (which Zweizig confirmed in his testimony). All three confirmed that there were more  
10 than 1,900 programming and data files, which had these programs been returned would  
11 have allowed NDT to avoid a shutdown. All three confirmed that Zweizig had created a d  
12 drive on that 120 gig hard drive on which he maintained porn, child porn, and pirated  
13 music and videos, implicating numerous criminal statutes. All three confirmed that there  
14 was a peer to peer program in registered to Zweizig, the structure of which allowed  
15 anyone access to Zweizig d drive from which one could upload or download the contents  
16 of that d drive. All three confirmed that Zweizig had stolen more than 500,000 identity  
17 records from NDT clients.

18 17. I published a series of blog posts critical of Crow and the arbitration process itself,  
19 publishing the forensic reports and transcripts of the hearing implicating Zweizig in his  
20 criminal activity. Had law enforcement taken the 1120 gig hard drive from Zweizig he  
21 would likely be in prison now for his criminal activity; however, since he returned the  
22 120 gig hard drive to NDT, chain of custody was broken and law enforcement refused at  
23 that time to use this 120 gig hard drive evidence alone. Zweizig sued me, NDT and the  
24 affiliated companies for publishing this blog, case 3:15-cv-2401.

25 18. During the course of the litigation to follow I met with Crow numerous times and he  
26 provided me a Declaration admitting that he had been compromised by numerous actors.

1 I will publish that Declaration soon.

2 19. I hired Andrew Brandsness (“Brandsness”) from Klamath Falls to represent me and  
3 the corporate defendants and to provide advice in federal case 3:15-cv-2401 and 3:14-cv-  
4 0406. The 3:14 case was a fraudulent transfer claim brought by Zweizig to collect his  
5 arbitration award of \$75,000. Zweizig in turn owed NDT \$5,000 for arbitration he  
6 fraudulently ordered from the court reporter, putting those costs on NDT’s account  
7 without approval. NDT was no longer in business in 2015 and the corporate defendants  
8 did not have the resources for pronounced litigation.

9 20. I consulted Brandsness on the response to the Complaint and raised my prior success  
10 in compelling arbitration between the same parties and on the same employment  
11 agreement with Zweizig. I provide the employment agreement to Brandsness and advised  
12 Brandsness him we had prevailed in Compelling arbitration in 2006, after litigating in  
13 Federal and State Court from March 2004 through December 2005. I also provided the  
14 arbitrator’s opinion and award.

15 21. In my experience arbitration costs far less in legal fees and in case 3:15-cv-2401 I  
16 expected it would save m and the affiliated group more than \$200,000 in attorney fees.  
17 Part of that savings is me being able to represent the corporate defendants in arbitration,  
18 which I cannot do so in court.

19 22. As a matter of first impression I believed that Zweizig filed the 3:15-cv-2401 lawsuit  
20 as leverage in his fraudulent transfer claim case he also filed in federal court against the  
21 same defendants.

22 23. I modeled my Answer to be similar to the Answer drafted by Brandsness in case  
23 3:15-cv-2401. Brandsness reviewed my Answer and I reviewed the one he prepared for  
24 the corporate defendants. We both filed Answer in late January 2016.

25 24. Although I had wanted to file a Motion to Compel arbitration in case 3:15-cv-2401,  
26 Brandsness advised that we could not file a Motion to Compel arbitration because of the

1 affiliated companies named as defendants in that lawsuit. In February 2016, Brandsness  
2 revised his advice and then claimed that NDT and I could have filed a Motion to Compel  
3 but that the other named defendants could not.

4 25. After some discussion I filed a Motion to Compel arbitration and asked Brandsness to  
5 do the same for the corporate defendants. Soon thereafter Brandsness advised that it was  
6 now too late to file a Motion to Compel arbitration and encouraged me to withdraw my  
7 Motion to Compel. In June 2016 I withdrew my Motion to Compel.

8 26. In August of 2016 we took Zweizig's deposition in case 3:14-cv-0406 and were  
9 relatively occupied by that case throughout August and early September 2016. Later in  
10 September 2016 I continue to evaluate whether a Motion to Compel arbitration could not  
11 be filed with defendants not a signatory to the NDT contract with Zweizig. In late  
12 September I concluded that naming other defendants is a known trick by plaintiff's  
13 counsel to try to avoid arbitration. I contacted Brandsness with my research and ordered  
14 him to file to Compel arbitration on behalf of the corporate defendants. He refused to do  
15 so. I asked him to tender the malpractice to the PLF. He refused to do so.

16 27. I filed my Motion to Compel arbitration in October 216. Brandsness refused to do so  
17 and withdrew immediately thereafter.

18 28. Attached hereto as **Exhibit 1** is a true and correct copy of my Third Amended  
19 Complaint in this case, filed and dated 8.3.21.

20 29. Attached hereto as **Exhibit 2** is a true and correct copy of the order of remand from  
21 the U.S. District Court of Oregon, dated 6.22.21. A short time after I filed the First  
22 Amended Complaint in this case, the Federal Court removed that action to Federal Court  
23 over my objections. Judge Mosman dismissed the complaint against all of the parties.  
24 Eventually the 9<sup>th</sup> Circuit reversed and ordered the federal court to remand the case back  
25 to Clackamas County Circuit.

26 30. Attached hereto as **Exhibit 3** is a true and correct copy of an email to and from

1 counsel for Brandsness confirming that we engaged in and completed discovery.

2 31. Attached hereto as **Exhibit 4** is a true and correct copy of the agreement between me,  
3 the corporate defendants and Andrew Brandsness for legal representation in case 3:15-cv-  
4 2401 and 3:14-cv-0406, dated 1.26.16. Also attached hereto is the declaration I filed with  
5 that agreement in federal court. Brandsness had argued in Federal Court that since I had  
6 not produced a written contract that therefore there was not an agreement on him  
7 providing professional advice or representation.

8 32. Attached hereto as **Exhibit 5** is a true and correct copy of Zweizig's employment  
9 agreement dated, 8.11.01, which has a mandatory arbitration section. That mandatory  
10 arbitration agreement was upheld in New Jersey State Court. Brandsness had the  
11 employment agreement and knowledge of a prior arbitration between me, Zweizig's  
12 former employer and Zweizig, an arbitration of an ORS 659A claim that started in 2004  
13 and ended in 2011.

14 33. Attached hereto as **Exhibit 6** is a true and correct copy of the opinion and award  
15 issued in the arbitration referenced above, dated 3.31.11.

16 34. Attached hereto as **Exhibit 7** is a true and correct copy of the Answers filed by the  
17 Corporate Defendants, which was prepared by Brandsness, and me in federal case 3:15-  
18 cv-2401, both Answers dated 1.28.16.

19 35. Attached hereto as **Exhibit 8** is a true and correct copy of my Motion to Compel  
20 arbitration in federal case 3:15-cv-2401, that first Motion filed on 3.1.16. From that time  
21 forward I pressed Brandsness to file a Motion to Compel Arbitration, but he refused to do  
22 so. On advice of Brandsness I withdrew that Motion in June 2106, believing as he  
23 represented that it was too late to file a Motion to Compel arbitration after the initial  
24 Answer. Subsequently I determined that Brandsness had intentionally lied about that  
25 portion of the law that allows a litigant to compel arbitration. I then order Brandsness to  
26 file a Motion to Compel arbitration on behalf of the corporate Defendants, but he refused

1 to do so. He was terminated thereafter and I immediately filed a Motion to Compel  
2 arbitration, dated 10.16.16. Subsequently I determined that Brandsness identified as bi-  
3 sexual, something I had not known. Andrew Brandsness and I have known each other  
4 since I was eleven years old. We played baseball together and graduated from the same  
5 High School.

6 36. Attached hereto as **Exhibit 9** is true and correct copy of the Order and Opinion of  
7 Judge Marco Hernandez, dated 1.5.17, wherein he denied my Motion to Compel for two  
8 specific reasons. First, he found that a non-signatory may not independently file a Motion  
9 to Compel (not true under Oregon Law). Second, he found that I waived the right to  
10 compel arbitration when I first answered the Complaint (also not true under Oregon  
11 Law). Hernandez recently came out as bi-sexual.

12 37. Attached hereto as **Exhibit 10** is true and correct copy of Excerpt I filed in my appeal  
13 to the 9<sup>th</sup> Circuit, in my effort to recover from the damage caused by Brandsness. The  
14 Excerpt contains many of the Motions, judgments and rulings I will reference in my brief.

15 38. Attached hereto as **Exhibit 11** is true and correct copy of a forensic report issued by  
16 police officer Steve Williams, finding that Zweizig downloaded, possessed and  
17 distributed child porn, porn, pirated movies and music using a peer to peer program in his  
18 name. Zweizig created a shared D drive on the computer he used for work, from his home  
19 in New Jersey, where he maintained his collection of filth.

20 39. Attached hereto as **Exhibit 12** is true and correct copy of my original Complaint in  
21 this case.

22 40. Attached hereto as **Exhibit 13** is true and correct copy of my First Amended  
23 Complaint filed in this case, dated December 5, 2018. In that amended complaint I  
24 identified Nancy Walker as a Jane Doe defendant. Walker was the Court reporter during  
25 the 3:15-cv-2401 trial and edited the transcript of the case to remove arguments made by  
26 Zweizig, arguments that would have resulted in a reversal on appeal. Walker has never



1 denied that she edited the official Transcript at the request of then Chief Judge Michael  
2 Mosman.

3 41. Attached hereto as **Exhibit 14** is true and correct copy of the Notice of Removal of  
4 this case to Federal Court dated 1.16.19.

5 42. Attached hereto as **Exhibit 15** is true and correct copy of Defendant Brandsness'  
6 Motion to Dismiss in case 3:19-cv-00082, dated 1.22.19, alleging therein that there was  
7 no written contract merely because I had for a time not filed the contract in support.  
8 Brandsness statements constituted perjury and I ask this court to take due notice. This  
9 Motion provides additional support that Brandsness is willing to commit perjury in this  
10 case but also that he intended to falsely convey the law on the Motion to Compel  
11 arbitration. I am entitled by law to take this evidence to a jury to decide on the claims I  
12 raised in this case and an award of noneconomic damages. The fact that the PLF provided  
13 free legal support to Zweizig in several other related legal matters supports my contention  
14 that those parties who touched this case and who identify as LGB have abused their  
15 positions and committed multiple torts with no other purpose than to advance some  
16 version of support for the LGB community. That version of support includes support for  
17 child predation and decriminalizing child porn.

18 43. Attached hereto as **Exhibit 16** is true and correct copy of my Response in opposition  
19 to Brandsness Motion to Dismiss in federal case 3:19-cv-00082, arguing the existence of  
20 the contract. That Motion is dated 2.9.19.

21 44. Attached hereto as **Exhibit 17** is true and correct copies of two letters from the  
22 Oregon State Bar Professional Liability Fund wherein they deny coverage of Brandsness  
23 malpractice. I tendered insurance coverage for the Judgment in case 3:15-cv-2401. That  
24 coverage request was filed in March 2018.

25 45. Attached hereto as **Exhibit 18** is true and correct copy of Federal Judge Mosman's  
26 Opinion and Order, dated 4.25.19, dismissing my claims against Branddness and the

1 other Defendants. Mosman’s dismissal of claims against Brandsness and the other  
2 Defendants was reversed by the 9<sup>th</sup> Circuit. Mosman only recently came out as bi-sexual.

3 46. Attached hereto as **Exhibit 19** is true and correct copy of the Order and Opinion of  
4 the 9<sup>th</sup> Circuit, dated 5.26.21, reversing the dismissal of the state law claims in case 3:19-  
5 cv-00082 and ordering the case be remanded back to Clackamas County Circuit.

6 47. Attached hereto as **Exhibit 20** is true and correct copy of my Second Amended  
7 Complaint, dated 7.8.21 filed in this case after remand back to Clackamas County Circuit  
8 Court. That Second Amended Complaint removed Nancy Walker and several other  
9 defendants with whom I had settled.

10 48. Attached hereto as **Exhibit 21** is true and correct copy of the Docket in this case.

11 49. Attached hereto as **Exhibit 22** is true and correct copy of the deposition of Max  
12 Zweizig in case 19cv01547, wherein he admits that the Oregon State Bar Professional  
13 Liability Fund offered him free representation in multiple Clackamas County cases in  
14 exchange for his silence in this case. He admits to not asking for that representation, the  
15 question on this topic starting at page 22.

16 50. Attached hereto as **Exhibit 23** is true and correct copy of my Motion to Compel the  
17 PLF Insurance coverage agreements of the defendants in this case including Max  
18 Zweizig. The PLF opposed my related subpoena for these documents and although no  
19 order had been signed denying that subpoena, the insurance coverage documents of all  
20 defendants but Andrew Brandsness have not been provided.

21 51. Attached hereto as **Exhibit 24** is true and correct copy of the “about us” page from  
22 the PLF’s website, stating that “For over forty years, the Oregon State Bar Professional  
23 Liability Fund (PLF) has provided malpractice coverage to lawyers in private practice in  
24 the state of Oregon. The PLF is a unique organization within the United States. The  
25 Oregon State Bar Board of Governors created the PLF in 1977 pursuant to state statute  
26 (ORS 9.080) and with approval of the OSB membership. The PLF began operation on

1 July 1, 1978, and has been the mandatory provider of primary malpractice coverage for  
2 Oregon lawyers since that date.”

3 52. Attached hereto as **Exhibit 25** is true and correct copy of an article written by  
4 journalist Stephanie Volin, wherein she argues that the PLF is acting well outside the  
5 scope of its charter and covering claims to cover up associations with criminal actors  
6 while rejecting legitimate claims. I have written similar articles and in fact raise relevant  
7 questions on why the PLF is even tax-exempt. The truth is that the PLF engages in illegal  
8 activities including sponsoring child porn and other wise engaging in civil rights abuses  
9 supported by its woke managers. That is why the PLF must be shut down.

10 53. Attached hereto as **Exhibit 26** is true and correct copy of my opening brief with the  
11 9<sup>th</sup> Circuit wherein I am attempting to reverse numerous issues from the 3:15-cv-2401  
12 case, including the Court’s finding that I waived arbitration and that as a non-signatory  
13 could not Compel arbitration. As previously noted, I and the corporate defendants in that  
14 case filed an Answer to the Complaint before I filed a Motion to Compel arbitration,  
15 upon advice by Brandsness that the defendants could not file a Motion to Compel  
16 because of the other defendants named (besides NDT).

17 54. Attached hereto as **Exhibit 27** is true and correct copy of a Motion to Compel  
18 arbitration in a case Max Zweizig brought in New Jersey state Court, alleging therein  
19 ORS 659A employment claims. I would have the Court note that I was non-signatory  
20 party to the same agreement referenced herein (Exhibit 5), represented by an attorney  
21 who filed the joint Motion to Compel on behalf of NDT and me. We prevailed in that  
22 Motion to Compel and Zweizig engaged in that arbitration starting in 2006.

23 55. Attached hereto as **Exhibit 28** is true and correct copy of an article published  
24 confirming a state settlement in a sexual harassment lawsuit brought by eight staff of  
25 democrat legislators. That settlement for noneconomic damages amount to approximately  
26 \$90,000 for each of seven of those litigants. One of the defendants received a settlement

1 of \$415,000.

2 56. Attached hereto as **Exhibit 29** is true and correct copy of a report on mandatory  
3 arbitration, concluding therein that employees damage awards are approximately 25% of  
4 those in Federal Court. One of the benefits to arbitration for skilled employers to to  
5 represent the corporate employer without the need for legal counsel, except for providing  
6 advice on material issues. The savings for avoiding expensive legal counsel supports for  
7 efficient settlements with former employees. I and NDT paid more than \$60,000 to win  
8 the Motion to Compel arbitration in New Jersey.

9  
10 **I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST**  
11 **OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE**  
12 **FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR**  
13 **PERJURY**

14  
15 DATED: June 14, 2023

16 /s/ Timothy C. Rote  
17 Timothy C. Rote  
18 Plaintiff *Pro Se*  
19 7427 SW Coho Ct. #200  
20 Tualatin, OR 97062  
21 (503) 272-6264  
22  
23  
24  
25  
26

1 **CERTIFICATE OF SERVICE**

2  
3 I hereby certify that I served the Plaintiff's Declaration on:

4 Foster Garvey  
5 Attention: Matthew Yium  
6 121 SW Morrison Street, 11<sup>th</sup> Floor  
7 Portland, OR 97204  
8 503.223.3939  
9 [matthew.yium@foster.com](mailto:matthew.yium@foster.com)  
10 Bernick, Stendahl, Cook and PLF

11 FD Firm  
12 Bernard S. Moore  
13 2592 E Barnett Rd.  
14 Medford, OR 97504  
15 541.779.2333  
16 [moore@fdfirm.com](mailto:moore@fdfirm.com)  
17 Counsel for Andrew Brandsness

18 Steele Law  
19 Attention: Nathan Steele  
20 125 NW Greeley Ave  
21 Bend, OR 97703  
22 541.647.1812  
23 [ngs@steelelaw.com](mailto:ngs@steelelaw.com)  
24 Counsel for Anthony Albertazzi

25 [X] Via First Class Mail

26 [X] Via Email

[X] Via OECF Notification

DATED: June 14, 2023

24 /s/ Timothy C. Rote  
25 Timothy C. Rote  
26 *Plaintiff Pro se*

DECLARATION OF SERVICE