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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – WEST DISTRICT

WADE ROBSON Plaintiff, v. MJJ PRODUCTIONS, INC., ET AL Defendants.	Case No.: BC508502 [Related to BC545264, *James Safechuck v. Doe 1, et al*.] [*Both cases assigned to the Honorable Mark A. Young - Dept. M*] **NON-PARTIES, LILY CHANDLER AND TABITHA ROSE MARKS', OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER GRANTING MOTION FOR PROTECTIVE ORDER** Date: December 4, 2020 Time: 9:00 a.m. Location: Dept. M Reservation ID: 404415495602 Complaint Filed: May 10, 2013 Trial Date: June 14, 2021

Non-Parties, Lily Chandler and Tabitha Rose Marks, hereby submit their Opposition to Plaintiff's Motion for Reconsideration of the Court's September 24, 2020, Order Granting their Motion for a Protective Order preventing Plaintiff from conducting their depositions.

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MEMORANDUM OF POINTS AND AUTHORITIES

PRELIMINARY STATEMENT

Plaintiff's Motion for Reconsideration should be denied because no new legitimate facts or law have been presented to warrant reconsideration of this Court's September 24, 2020, Order granting non-parties, Lily Chandler and Tabitha Rose Marks' Motion for a Protective Order preventing Plaintiff from taking their depositions in this action. Plaintiff further fails to satisfy any of the mandatory requirements set forth within section 1008(a) that govern the instant motion. Instead, Plaintiff's motion merely rehashes the same arguments that this Court has already rejected in its tentative ruling during oral argument and in its final comprehensive and well-reasoned written decision to bar Plaintiff from taking their depositions. Accordingly, as outlined herein and because Plaintiff fails to satisfy the requirements governing a motion for reconsideration, Ms. Chandler and Ms. Marks respectfully urge this Court to deny Plaintiff's motion in its entirety.

By way of brief background, in 2016, Plaintiff subpoenaed non-parties Lily Chandler and Tabitha Rose Marks to appear for their depositions to obtain information "regarding Jordan [Chandler's] current whereabouts, along with other discoverable information either witness may have regarding Jackson's abuse of Jordan." (*See,* Plaintiff's Opposition to Motion for Protective order at page 2:18-19.) Ms. Chandler is the half-sister of Jordan Chandler, and Ms. Marks is his former fiancée. Thereafter, counsel for Jordan Chandler and counsel for Ms. Chandler and Ms. Marks each requested that Plaintiff withdraw the subpoenas because these non-parties desired to maintain their constitutional right to privacy and did not want to be involved in Plaintiff's action against Defendants. Moreover, neither Ms. Chandler nor Ms. Marks had any personal knowledge of Jordan's interactions with Jackson that occurred nearly thirty (30) years ago when Ms. Chandler was a young child, and when Ms. Marks did not know Jordan.

Despite several attempts to resolve this dispute amicably and without Court intervention, Plaintiff refused to withdraw the subpoenas. Plaintiff's persistent harassment and attempts to invade Ms. Chandler's and Ms. Marks' privacy directly contradicted representations made by Plaintiff's counsel in July 2016:

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> Obviously, if the alleged victims and their families wish not to discuss it or disclose it that should be their right. We are in no way suggesting that these boys and their families be in any way forced to disclose or discuss this. Rather, we want them to be un-gagged if they want to discuss it they should be able to without fear of legal consequence.

(See, Motion for Protective Order at page 1:8-18; Exhibit A to Declaration of Gerald M. Siegel filed in support of the motion.)

Counsel for Ms. Chandler and Ms. Marks, in addition to counsel for Jordan Chandler, have repeatedly stated to Plaintiff that they wish to maintain their privacy and do not wish to get involved in Plaintiff's claims against Defendants. Accordingly, on October 24, 2016, Ms. Chandler and Ms. Marks were constrained to file a Motion for a Protective Order to prevent their depositions.

In December 2017, prior to the disposition of the subject Motion for a Protective Order, Defendants prevailed on a Motion for Summary Judgment that disposed of all claims. Plaintiff appealed. In January 2020, the Court of Appeal reversed the decision granting Summary Judgment and remanded the action back to the trial court in March 2020. After remand, the Motion for a Protective Order was calendared for argument. On September 24, 2020, the Court granted Ms. Chandler's and Ms. Marks' Motion for a Protective Order. In a thorough and well-reasoned tentative ruling and subsequent written decision, the Court balanced the non-parties' privacy rights "that implicate their familial relationships, as well as Jordan Chandler's alleged childhood sexual abuse history along with the inherent intrusiveness of these lines of inquiries, against the interests of Plaintiff in obtaining this information from nonparties who have no direct knowledge of any sexual abuse, including alleged abuse of Plaintiff and Jordan Chandler." (Minute Order, Exhibit 10 to Plaintiff's Motion for Reconsideration; Declaration of attorney Taylor Boren ("Boren Dec."), ¶14, filed in support of the motion.) Upon doing so, the Court held that Plaintiff failed to demonstrate the "compelling need" required to take these non-party depositions and entered an Order that Plaintiff cannot take the depositions of Ms. Chandler and Ms. Marks. (Exhibit 10; Boren Dec., ¶14.)

Pursuant to Code of Civil Procedure section 1008(a), Plaintiff seeks reconsideration of the September 24, 2020, Order, claiming there exists "new law" not previously known to counsel or the Court at the time of argument, which new law has caused "significant changes to the laws relating

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to both childhood sexual abuse" and "significant shifts in the weighing of privacy interests versus the disclosure within discovery … cutting in favor of allowing these depositions." (Motion, page ii, lines 8-18.) Plaintiff also contends that "significant new evidence" has come to light warranting reconsideration. (*Id*.) A cursory examination of Plaintiff's submission reveals that these arguments lack merit. Instead, the instant motion for reconsideration is nothing more than Plaintiff's frivolous attempt at a second bite of the proverbial apple.

Initially, Plaintiff's Motion for Reconsideration fails to satisfy the threshold *jurisdictional* requirements of section 1008(a), because the lone declaration of counsel submitted in support of the motion fails to proffer an explanation as to why the supposed "new" facts and law were not available to the parties or to the Court when the motion was heard. This omission is fatal to Plaintiff's motion on its own, without consideration of the other failures that plague the pending motion. However, assuming, *arguendo,* that Plaintiff's motion satisfied section 1008(a)'s jurisdictional requirements, which it plainly does not, the "new" law and facts upon which Plaintiff relies are wholly irrelevant to the legal principles that govern the issuance of the Protective Order sought by Ms. Chandler and Ms. Marks, and granted by the Court. At the risk of stating the obvious, the enactment of new laws extending the rights of the victims of childhood sexual abuse have nothing to do with Ms. Chandler and Ms. Marks, the undisputed fact that they have no personal knowledge of Jordan's interactions with Jackson in the early 1990s, and that both non-parties wish to invoke their constitutional rights to privacy to resist the unwarranted and abusive intrusion proposed by Plaintiff's counsel. Incredibly, the other "new" law raised by Plaintiff is cited in this Court's written decision, which completely undermines Plaintiff's contention that the law could ever be conceived as "new."

Moreover, Plaintiff does not introduce any "new" facts to the Court, but instead merely introduces the testimony of another non-party, consisting of an anecdote involving Ms. Chandler, to try to persuade this Court that Ms. Chandler and Ms. Marks may be possessed of information that can aide in proving Plaintiff's claim for treble damages. This argument does not come close to establishing that Ms. Chandler and Ms. Marks are *actually* possessed of any personal knowledge, relevant testimony, and/or admissible evidence, regarding Jordan's interactions with Jackson nearly thirty (30) years ago, which is itself irrelevant to Plaintiff's case, as the Court held in its Order.

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Even if Plaintiff satisfied the jurisdictional requirements of section 1008(a) and presented legitimate "new" law or facts to this Court, which he has not, Plaintiff's motion falls well short of demonstrating that there is any legal or factual reason why this Court should reverse its decision to prevent Plaintiff from taking the depositions of Ms. Chandler and Ms. Marks. Simply stated, Plaintiff has failed to address, let alone demonstrate, that there is a compelling need for Ms. Chandler's and Ms. Marks' deposition testimony because the information they have is *directly relevant* to the case and *essential* to determining the truth of the matters in dispute. Moreover, Plaintiff has made no showing, or even attempted to show, that Ms. Chandler or Ms. Marks are actually possessed of such information or that the discovery Plaintiff seeks outweighs Ms. Chandler's and Ms. Marks' constitutional right to privacy, and their very real fears that depositions in this matter will compromise their safety and expose them to public ridicule and embarrassment. Based upon the foregoing and for the reasons set forth herein, Plaintiff's Motion for Reconsideration should be summarily denied.

LEGAL ARGUMENT

I. THE INSTANT MOTION SHOULD BE DENIED BECAUSE PLAINTIFF FAILS TO SATISFY THE FUNDAMENTAL JURISDICTIONAL REQUIREMENTS FOR FILING A MOTION FOR RECONSIDERATION OF AN ORDER PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 1008(A)

Code of Civil Procedure section 1008(a), states:

> When an application for an order has been made to a judge, or to a court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order. The party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown.

"This section specifies the court's *jurisdiction* with regard to applications for reconsideration of its orders and renewals of previous motions, and applies to all applications to reconsider any order of a judge or court, or for the renewal of a previous motion, whether the order deciding the previous matter or motion is interim or final. *No application to reconsider any order or for the renewal of a*

previous motion may be considered by any judge or court unless made according to this section." (*Code of Civil Procedure* § 1008 (e).) (Emphasis Added.) Thus, failure to comply with the foregoing requirements removes a deficient motion for reconsideration, such as this one, from the Court's jurisdiction.

The legislative intent of section 1008 was to restrict motions for reconsideration to circumstances where a party offers some fact or circumstance not previously considered by the court, in addition to *some valid reason for not offering the new facts or law earlier*. (*Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500 (emphasis added); *Mink v. Sup.Ct. (Arnel Develop. Co., Inc.)* (1992) 2 Cal.App.4th 1338, 1342; *Baldwin v. Home Sav. of America* (1997) 59 Cal.App.4th 1192, 119, cited in Weil & Brown, *Civil Procedure Before Trial* (2020 Thomson Reuters/The Rutter Group), section 9:324, page 9(I)-148.) The burden of a moving party under section 1008 is comparable to that of a party seeking a new trial on the basis of newly discovered evidence: the evidence must be such that the moving party *could not*, with reasonable diligence, have discovered or produced it at the trial. (*New York Times Co. v. Sup.Ct*. (*Wall St. Network, Ltd.*) (2005) 135 Cal.App.4th 206, 212-213, cited in Weil & Brown at 9:324, page 9(I)-148.)

A party seeking reconsideration of a prior order based on "new or different facts, circumstances or law" must provide a satisfactory explanation for failing to present the information at the first hearing; i.e., a showing of reasonable diligence. (*Garcia v. Hejmadi* (1997) 58 Cal.App.4th 674, 690; *California Correctional Peace Officers Ass'n v. Virga* (2010) 181 Cal.App.4th 30, 47, cited in Weil & Brown at 9(I)-148-149.) Evidence is not considered "new," if it was available to a party before the prior hearing. (*Blue Mountain Development Co. v. Carville* (1982) 132 Cal.App.3d 1005, 1013, disapproved on another ground in *Passavanti v. Williams* (1990) 225 Cal.App.3d 1602, 1605-1608.) Any new facts alleged in support of a section 1008 motion for reconsideration must be more than merely collateral to the merits of the motion on which reconsideration is sought. (*Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500.)

Reconsideration cannot be granted based on a claim that the court *misinterpreted* the law in its initial ruling (as opposed to a change in the law in the interim). That is not a "new" or '"different" matter. (*Gilbert v. AC Transit, supra*, 32 Cal.App.4th at 150, cited in Weil & Brown at 9(I)-149.) A

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motion for reconsideration must be denied where it is based on evidence that could have been presented in connection with the original motion. (*Morris v. AGFA Corp*. (2006) 144 Cal.App.4th 1452, 1460; *Hennigan v. White* (2011) 199 Cal.App.4th 395,406, cited in Weil & Brown at 9(I)-149-150.) Thus, for example, deposition testimony obtained after a motion for summary judgment was granted was not considered proper grounds for reconsideration where the moving party failed to show why the deposition could not have been taken prior to the disposition of the motion. (*Jones v. P.S. Develop. Co., Inc*. (2008) 166 Cal.App.4th 707,725 (disapproved on other grounds by *Reid v. Google, Inc*. (2010) 50 Cal.4th 512, 532, cited in Weil & Brown at 9(I)-149-150.)

Based upon the foregoing requirements, it is well-settled that a motion for reconsideration must be accompanied by a declaration stating what application was made previously; when and to what judge the application was made; what order or decisions were made; and what new or different facts, circumstances, or law are claimed to be shown. (*Code of Civil Procedure* §1008(a); see *Branner v. Regents of Univ, of Calif*. (2009) 175 Cal.App.4th 1043, 1048,96 CR3d 690, 693—motion filed and served without supporting affidavit was *invalid* (affidavit filed later insufficient)]," cited in Weil & Brown at 9(I)-150.) If the statutory requirements of section 1008 are not met, the motion for reconsideration should be denied on its face. Conversely, where the requirements are met, reconsideration may be heard, however, that does not mean the court must reverse its prior decision. Upon reconsideration, the court may simply reaffirm its original order. (*Coms v. Miller* (1986) 181 CA3d 195, 202, cited in Weil & Brown at 9(I)-150-151.)

II. PLAINTIFF'S MOTION FOR RECONSIDERATION IS NOT SUPPORTED BY ANY "NEW" LAW, FACTS, OR CIRCUMSTANCES, AND ITS SUPPORTING DECLARATION IS JURISDICTIONALLY DEFICIENT

The only declaration filed in support of plaintiff's motion for reconsideration is that of attorney Taylor Boren, whose State Bar Number is 325590, and who was admitted to practice law in California on May 28, 2019. In a conclusory manner, Mr. Boren's declaration presents as "new" evidence, [redacted] excerpts from the deposition of Anthony Pellicano taken August 24, 2020, the unredacted version of which has been lodged under seal. (Boren Dec., ¶11, Exhibit 7). However, Mr. Boren's declaration fails to set forth facts that demonstrate that Plaintiff was reasonably diligent in taking the deposition of Mr. Pellicano and obtaining his testimony, which was taken on August 24,

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2020, one month before the September 24 hearing on the motion for Protective Order. Mr. Boren's declaration offers no explanation as to why this deposition was not and could not have been *taken earlier*. (See, Weil and Brown, supra, at 9(I)-149-150)(emphasis added.)

Mr. Boren's declaration similarly fails to offer any explanation as to why Plaintiff did not seek leave of court to submit Mr. Pellicano's testimony before the September 24th hearing, given Plaintiff's counsel's apparent contention that this testimony is of such great importance that it justifies reconsideration of the Court's order granting the motion for Protective Order, which it plainly does not. In fact, this "new" evidence has nothing to do with Ms. Chandler's or Ms. Marks' personal knowledge of issues related to Plaintiff's case. Indeed, Mr. Pellicano's deposition cannot be characterized as "new" evidence because it was known and available to Plaintiff at the time of the September 24th hearing. Plaintiff had ample opportunity to present this testimony to the Court before or during the hearing. Mr. Boren's declaration simply fails to offer any explanation why Mr. Pellicano's testimony was not previously submitted to the Court, and therefore, fails to comply with the jurisdictional requirements of section 1008(a).

Mr. Boren's Declaration also purports to offer as "new" law an amendment to Code of Civil Procedure section 340.1, which expanded the statute of limitations for bringing childhood sexual assault cases, effective January 1, 2020. In addition to the fact that this "new" law has nothing to do with the law that governs a non-party's entitlement to a Protective Order, the amendment to section 340.1 is not "new law" within the meaning of section 1008(a) because that amendment had been in effect, and was well known to Plaintiff and this Court, long before the September 24 hearing. In fact, this amendment to section 340.1, and the resulting expansion of the statute of limitations for victims of childhood sexual abuse was the basis upon which the Court of Appeal reversed summary the judgment that was granted in favor of the Defendants. Moreover, Mr. Boren's Declaration states that Plaintiff's counsel attempted to raise the issue of this "new law" concerning childhood sexual abuse at the hearing on September 24, 2020, and the "treble damages" issue Plaintiff now raises. (Boren Dec., ¶ 4; Motion, page 1, lines 9-12.) In addition, during oral argument, Plaintiff's counsel asked the Court, *for the first time*, for additional time to brief these "new" legal developments in opposing a different motion for a protective order filed in this case by other non-party deponents,

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which was also heard on September 24. (See Reporters Transcript of Proceedings, Ex. 9, page 48 line 24-page 49, line 7; page 74, lines 2-3; Boren Dec., ¶ 13.) Mr. Boren's Declaration makes no showing as to why Plaintiff did not seek leave of court to brief this "new law" before the September 24 hearing. The foregoing failures are fatal to Plaintiff's motion, as the lone declaration submitted in support of the motion fails to satisfy section 1008(a), thereby failing to satisfy the jurisdictional requirements of a motion for reconsideration.

Finally, Mr. Boren's Declaration further baselessly contends that *Williams v Superior Court* (2017) 3 Cal.5th 531, is "new law" that was not previously considered by this Court in reaching its decision, and therefore warrants reconsideration. However, *Williams* is not "new law" for purposes of a motion for reconsideration under Code of Civil Procedure section 1008(a), because the decision was published on July 13, 2017, three years before the motion hearing at issue. During the pendency of the non-party movants' Motion for Protective Order, Defendants' motion for summary judgment was briefed, argued, and granted on December 19, 2017. Thus, Plaintiff had ample time and opportunity between July and December 2017, to seek leave of court to supplement its opposition to the Motion for Protective Order with a discussion of *Williams,* but failed to take action. Plaintiff also had time to supplement its opposition to the pending Motion for Protective Order after the case was remanded by the Court of Appeal back to the trial court on March 6, 2020 . However, Plaintiff again failed to act. Mr. Boren's Declaration does not address any of these issues, much less explains why the "new" law could not have been presented to the Court at any time during the time the Motion for Protective Order was pending, and before the September 24 hearing.

Notwithstanding the foregoing, this Court cited *Williams* in its tentative and final rulings, which severely undermines and renders frivolous Plaintiff's contention that *Williams* is "new" law that was not considered when the Court granted Ms. Chandler's and Ms. Marks' Motion on September 24. Although the Court's tentative ruling does not cite *Williams* for the baseless theory Plaintiff now advances, the Court was plainly aware of *Williams* and its application to the Motion for a Protective Order. In fact, the Court's citation to *Williams* in the tentative ruling swung the door wide open for Plaintiff to address this case during oral argument and explain how and why this "new law" "lowered the threshold" for Plaintiff's attempt to invade Ms. Chandler's and Ms. Marks'

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constitutional rights to privacy. However, Plaintiff's counsel never mentioned *Williams* in his argument or the purported "lower threshold" Plaintiff now, conveniently contends *Williams* created. Significantly, as discussed in greater detail below, no such lower threshold exists.

Accordingly, Plaintiff's motion for reconsideration should be denied because Plaintiff has failed to present "new facts" or "new law." Moreover, Plaintiff has entirely failed to show reasonable diligence in his efforts to present the alleged new facts or law to the Court before the September 24, 2020, hearing on the Motion for Protective Order. These fatal failures divest this Court of jurisdiction to entertain the pending motion.

III. THE "NEW" LAW AND FACTS OFFERED BY PLAINTIFF ARE WHOLLY IRRELEVANT TO THE ISSUES GOVERNING WHETHER MS. CHANDLER AND MS. MARKS ARE ENTITLED TO A PROTECTIVE ORDER

A. Anthony Pellicano's Testimony.

Plaintiff has filed a redacted Points and Authorities in support of the Motion for Reconsideration, citing to portions of Anthony Pellicano's deposition testimony for the proposition that it represents new material facts warranting reconsideration of the September 24 Order. Simply stated, Mr. Pellicano's testimony has no bearing on the issues implicated by the Motion for Protective Order or the basis on which this Court correctly granted the non-party movants' motion. Ms. Chandler has stated in an Affidavit that she has no personal memory or knowledge of any interactions with Jackson. It is also an undisputed fact that Ms. Marks did not know Jordan Chandler during the period of his interactions with Jackson. Thus, Mr. Pellicano's testimony does not, and cannot, disturb or change any of these facts, and Plaintiff does not attempt to make such an argument.

To the extent Mr. Pellicano claims to have witnessed events involving Jordan or Lily Chandler that are relevant to *the Plaintiff's case*, then Mr. Pellicano can testify to those facts to the extent the court permits such testimony. However, Mr. Pellicano's testimony regarding Lily Chandler bears zero connection or relevance to the issues raised in her motion for Protective Order, or in the analysis undertaken by the Court in granting the motion because it remains undisputed *that Lily Chandler was a very young child at the time of the alleged interactions with Michael Jackson and has no memory of those events*. Thus, not only is Mr. Pellicano's deposition testimony not "new" information as defined by section 1008(a), but the information is wholly irrelevant to the issue of

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whether Ms. Chandler and Ms. Marks were entitled to a protective order.

B. Amendment to Section 340.1.

Plaintiff has not demonstrated any nexus between the amendment to section 340.1 and his burden to demonstrate a compelling need for the deposition testimony of Ms. Chandler and Ms. Marks because their testimony was directly relevant to the case and essential to determining the truth of the matters in dispute. (See, *Britt v. Sup.Ct.* (1978) 20 Cal.3d 844, 859-862.) Plaintiff has not even attempted to prove any nexus because none exists. There is nothing about this amendment or this code section that implicates the issues raised in the Motion for Protective Order or in the Court's decision to grant the non-parties' motion. Instead, this amendment governs a victim's right to bring a claim for childhood sexual abuse that was previously time barred. Thus, the amendment to section 340.1 is not new law and bears no relevance to whether the non-parties are entitled to a protective order.

C. *Williams v. Superior Court.*

Finally, Plaintiff argues that *Williams v Superior Court* "lower[s] the threshold for discovery of non-parties in light of countervailing interests," which "directly impacts" the prospective depositions of Ms. Chandler and Ms. Marks. (Motion, page 6, lines 16-19). This assertion is nothing more than a construct created by counsel that is not supported by *Williams*, and therefore lacks merit. *Williams* was a representative action that sought civil penalties on behalf of the State of California and aggrieved employees statewide under PAGA, for alleged wage and hour violations. (*Id*., 3 Cal.5th at 537-538.) Williams sought contact information for his fellow employees via interrogatories to the defendant employer. When the employer resisted providing the information, Williams filed a motion to compel. The trial court granted the motion in part and denied it in part. On review, after denial of a writ by the Court of Appeal, the California Supreme Court held that, by statute, a party may use interrogatories to request the identity and location of those with knowledge of discoverable matters and that it was not the burden of a party propounding interrogatories to show an interrogatory seeks relevant, discoverable information, but the burden of an objecting party to show why the questions are not within the purview of the code section. Among the objections asserted by the employer was that the information sought "private information that is protected from disclosure by Article I section

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1 of the California Constitution without consent." (*Id*. at 541-542).

In rejecting the employer's "privacy" objection, the Court first recounted that cases have uniformly applied the "right to privacy" test in class action or representative cases involving employment wage and hour violations to hold that "fellow employees would not be expected to want to conceal their contact information from plaintiffs asserting employment law violations, the state policies in favor of effective enforcement of these laws weigh on the side of disclosure, and any residual privacy concerns can be protected by issuing so-called Belaire-West notices affording notice and an opportunity to opt out from disclosure." (*Id*. at 553.) The Court also observed that an employee's contact information, although private, is "less sensitive than one's medical history or financial data." (*Id*. at 554.) Moreover, the element of "reasonable expectation of privacy" requirement set forth in *Hill v. National Collegiate Athletic Assn*. (1994) 7 Cal.4th 1, 35, is not met in these cases because "we doubt Williams's fellow employees would expect that information to be withheld from a plaintiff seeking to prove labor law violations committed against them and to recover civil penalties on their behalf [citations omitted]. Rather, fellow employees 'might reasonably expect, and even hope, that their names and addresses would be given to' a plaintiff seeking to vindicate their rights." (*Id*. at 554.) And finally, the court found there was no "serious invasion of privacy" at risk here, where a "*Belaire-West* notice" would be provided affording each employee the opportunity to opt-out of having their information shared. (*Id*. at 555.) Accordingly, the court held that, "[b]ecause two of the three threshold *Hill* requirements are absent here, we need not move on to a balancing of interests." (*Id*. at 555).

Importantly, as it relates to the Court's granting of Ms. Chandler's and Ms. Marks' motion for a protective Order and the instant Motion for Reconsideration, the Supreme Court in *Williams* reaffirmed that "[a] threatened invasion of privacy can, to be sure, be extremely grave, and to the extent it is, to conclude in a given case that only a compelling countervailing interest and an absence of alternatives will suffice to justify the intrusion may be right." (*Id*., at 557; see, e.g., *American Academy of Pediatrics v. Lungren* (1997) 16 Cal.4th 307, 340-342.) Accordingly, Plaintiff's contention that *Williams* reduces his burden related to the non-party movants' Motion for Protective Order, and in turn the analysis undertaken in the Court's September 24, 2020, Order, is without merit,

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and misconstrues the holding in *Williams*.

IV. PLAINTIFF'S REPACKAGED OPPOSITION TO THE MOTION FOR PROTECTIVE ORDER FAILS TO CARRY HIS BURDEN TO SHOW A COMPELLING NEED FOR MS. CHANDLER'S AND MS. MARKS' DEPOSITIONS

Plaintiff's Motion for Reconsideration offers no argument or explanation as to why his rehashed failed arguments and the purported "new" facts and/or law should result in reversing any of the following findings made by the Court in its September 24, 2020, decision: (1) Ms. Chandler and Ms. Marks "met their burden in demonstrating that Plaintiff seeks information that is constitutionally protected"; (2) the burden shifted to Plaintiff "to demonstrate that the information sought is directly relevant to a claim or defense"; (3) "the ultimate goal appears to be for Plaintiff to find and depose Jordan Chandler for the purpose of using evidence of Jordan Chandler's sexual abuse to assist in proving his own case of sexual abuse"; (4) to the extent Plaintiff seeks to admit character evidence, it would be inadmissible under Evidence Code section 1102(a); (5) the Fourth Amended Complaint alleges that numerous agents and employees of the defendant companies "actively participated in, and witnessed, Jackson's child sexual abuse conduct"; (6) the Court does not conclude that even the deposition of another alleged victim, Jordan Chandler, would bear any relevance to Plaintiff's claims; (7) Plaintiff has failed to connect the overriding public interest in preventing child sexual abuse with the depositions at issue; and (8) "[t]he Court has balanced the privacy rights of Chandler and Rose that implicate their familial relationships as well as Jordan Chandler's alleged childhood sexual abuse history along with the inherent intrusiveness of these lines of inquiries, against the interests of Plaintiff in obtaining this information from nonparties who have no direct knowledge of any sexual abuse, including alleged abuse of Plaintiff and Jordan Chandler. As a result, the Court determines that Plaintiff has failed to demonstrate the compelling need for their depositions." (See, Exhibit 10, pages 11-13; Boren Dec., ¶ 14).

Plaintiff's ultimate failure to address why the purported "new" facts and law should change the forgoing holdings is fatal to the Motion for Reconsideration. Because Plaintiff has provided no new evidence or new law that would alter or in any way affect the facts, analysis, findings or conclusions the Court set forth in its ruling, the instant Motion should be denied.

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CONCLUSION

Based upon the foregoing, Plaintiff's motion for reconsideration should be denied.

Dated: November 19, 2020

THARPE & HOWELL, LLP

By: _____

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

1. At the time of service I was at least 18 years of age and **not a party to this legal action**.

2. My business address is 15250 Ventura Boulevard, Ninth Floor, Sherman Oaks, CA 91403.

3. I served copies of the following documents (specify the exact title of each document served):
NON-PARTIES, LILY CHANDLER AND TABITHA ROSE MARKS', OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER GRANTING MOTION FOR PROTECTIVE ORDER

4. I served the documents listed above in item 3 on the following persons at the addresses listed:

Vince W. Finaldi, Esq. John C. Manly Jane E. Reilley MANLY, STEWART & FINALDI 19100 Von Karman Avenue Suite 800 Irvine, CA 92612 Tel.: (949) 252-9990 Fax: (949) 252-9991 E-mail: jmanly@manlystewart.com E-mail: vfinaldi@manlystewart.com E-mail: jreilley@manlystewart.com	Attorneys for Plaintiff, WADE ROBSON
Howard Weitzman Jonathan P. Steinsapir Katherine Kleindienst KINSELLA, WEITZMAN, ISER, KUMP & ALDISERT 808 Wilshire Blvd., 3rd Floor Santa Monica, CA 90401 Tel.: (310) 566-9800 Fax: (310)_566-9850 E-mail: hweitzman@kwikalaw.com E-mail: JSteinsapir@kwikalaw.com E-mail: KKleindienst@kwikalaw.com	Attorneys for Defendants, MJJ Ventures, Inc. and MJJ Productions, Inc.
Bryan J. Freedman Sean M. Hardy FREEDMAN + TAITELMAN, LLP 1801 Century Park West, 5th Floor Los Angeles, California 90067 Telephone: (310) 201-0005 Facsimile: (310) 201-0045 E-mail: bfreedman@ftllp.com E-mail: smhardy@ftllp.com	Attorneys for Non-Parties JONATHAN SPENCE and MARION FOX

5. a. X **BY ELECTRONIC TRANSMISSION.** Only by e-mailing the document(s) to the persons at the e-mail address(es) listed pursuant to Emergency Rule 12 of the California Rules of Court which states a party represented by counsel, who has appeared in an action or proceeding, must accept electronic service of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission; and, wherein the serving party must confirm by telephone or email the appropriate electronic service address for counsel being served. Please be advised that during the Coronavirus (Covid-19) pandemic, this office will be working remotely, not able to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

b. ___ **By United States mail**. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and *(specify one):*

(1) ___ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid on the date shown below, or

(2) ___ placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Sherman Oaks, California.

c. X **BY OVERNIGHT DELIVERY.** I enclosed the documents on the date shown below in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

6. I served the documents by the means described in item 5 on *(date): 11/19/20*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

11/19/20	Nara A. Niebla	
DATE	(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)

I:\28000-000\28055\Pleadings\Opp to Mot Recon re Motion for Protective Order_Final.docx

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