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Freenev Anita

CAUSE NO. DC-15-03069

**ANDREA POLITO and ANDREA
POLITO PHOTOGRAPHY, INC.,**

Plaintiffs.

v.

**NEELY MOLDOVAN and
ANDREW MOLDOVAN,**

Defendants.

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IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS

**L-193RD
 JUDICIAL DISTRICT**

PLAINTIFF’S ORIGINAL PETITION

Plaintiffs Andrea Polito (“Polito”) and Andrea Polito Photography, Inc. (“APP”) (collectively “Plaintiffs”) file this *Plaintiff’s Original Petition* against Neely Moldovan (“Neely”) and Andrew Moldovan (“Andrew”) (collectively, the “Moldovans” or “Defendants”), and in support thereof respectfully show the Court as follows:

I. NOTICE OF RELATED CASE

1. Pursuant to Local Rule 1.06, Plaintiffs respectfully give notice of a related petition for presuit discovery pursuant to Rule 202 of the Texas Rules of Civil Procedure recently filed by Plaintiffs in Cause No. DC-15-00660 and styled, *Andrea Polito and Andrea Polito Photography, Inc. v. Seeking the Depositions of Neely Moldovan, Andrew Moldovan and Waste of Makeup Media, LLC*, in the 134th Judicial District Court, Dallas County, Texas (the “Rule 202 Petition”). The subject matter of this lawsuit arises out of the same facts and issues as the Rule 202 Petition. Plaintiffs request assignment and/or transfer of this lawsuit to the 134th District Court to facilitate an orderly and efficient disposition of the litigation.

II. INTRODUCTION

2. This is a case about APP's clients, the Moldovans, who sought local media to publish a story based on defamatory and disparaging statements about Polito and APP to exact unjustified revenge for their personal benefit; who republished the story on various social media and electronic forums, including Twitter, Facebook, Instagram, emails, and text messages to harm Polito and APP; and who directed business away from Polito and APP. To further destroy Polito and APP's reputation and business, the Moldovans engaged in a smear campaign taken worldwide on many websites and different forms of media. The Moldovans took pride and pleasure in the harm they caused, bragging they were "pretty sure her business is done." The Moldovans' tortious actions have damaged Polito's personal and professional reputation, caused her extreme emotional distress, and already caused, and will continue to cause, substantial economic damages to APP.

III. DISCOVERY PLAN

3. Plaintiffs submit that this matter should be conducted under Discovery Plan Level Two, as set forth in Rule 190.3 of the Texas Rules of Civil Procedure.

IV. PARTIES

4. Andrea Polito is an individual residing in Dallas County, Texas.

5. APP is incorporated in Texas with its principal office located at 311 N. Market Street #325, Dallas, Texas 75202.

6. Neely Moldovan is an individual resident of the State of Texas. Neely may be served through her counsel Walter Boyd, III at The Law Offices of Walter A. Boyd, III, 4918 Milam Street, Houston, Texas 77006.

7. Andrew Moldovan is an individual resident of the State of Texas. Andrew may be served through his counsel Walter Boyd, III at The Law Offices of Walter A. Boyd, III, 4918 Milam Street, Houston, Texas 77006.

V. JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction because the matter in controversy exceeds this Court's minimum jurisdictional limits.

9. Personal jurisdiction is proper in this matter because the Moldovans reside in and transact business within the State of Texas, and have acquiesced to such jurisdiction. Venue is proper and mandatory under Texas Civil Practice and Remedies Code § 15.017 because Dallas County is the county of the Defendants' place of residence, and the county of Plaintiffs' residences, during the commission of the offenses complained of in this Petition.

VI. FACTUAL BACKGROUND

10. Andrea Polito began APP 12 years ago and has sacrificed her own personal milestones to photograph the milestones of others. Being a small Dallas entity, APP receives new clients through online inquiries, word-of-mouth referrals from former clients and wedding coordinators, and her social media efforts on Facebook and wedding vendor websites. Until the Moldovans decided to engage in conduct to ruin her business, Polito had built APP into one of the more successful wedding photography businesses in the Dallas area.

11. Polito is a private person and has shied away from the limelight during her career. Unfortunately, her successful business and privacy came to a screeching halt when the Moldovans happily decided they would destroy her business in local, national, and social media.

A. Neely Seeks Out APP and is Provided All Information Regarding APP's Services.

12. On December 20, 2013, Neely submitted an online inquiry through the APP website to discuss APP photographing her upcoming wedding in October 2014. Neely then met with Polito at the APP studio on January 2, 2014. Andrew was not present.

13. As is customary and routine for Polito, she designed for Neely a custom wedding package within her specific budget, including the policies and procedures for obtaining all of the items included within the wedding package. Polito walked through the itemized wedding package step-by-step, providing Neely detailed information on APP's services, including the costs, timing, and delivery of the services and finished products. At the initial consultation, Polito provided Neely with printed copies of her custom wedding package, contract, and additional materials that Polito covered in depth during the consultation, including a comprehensive frequently asked questions ("FAQ") section.

14. During this initial consultation, Polito explained in detail, and Neely understood, the selection-and-delivery process of her wedding photographs, the album creation process, including the different cover options and prices, the purpose for the archival fee, the additional cost to hire Polito herself to photograph the wedding (rather than other APP photographers), the separate items available on the a la carte menu (including the album cover), and the cost of additional hours of coverage during the wedding.

B. Neely hires Polito as photographer for the Moldovans' wedding.

15. After the consultation, APP Studio Coordinator, Chaney Haralson ("Chaney"), emailed Neely a copy of the contract on January 2, 2014 and asked if Neely had any questions regarding the material Neely and Polito discussed during the consultation. In response, Neely submitted the contract by email on January 6, 2014 and asked no questions.

16. On January 8, 2014, Chaney emailed Neely another copy of her welcome packet that contained her payment schedule, FAQ, timeline checklist, and additional product information.

C. APP photographs the Moldovans' wedding series.

17. APP began photographing the Moldovans' wedding series with the engagement photo session in May 2014.

18. Neely expressed her excitement and approval of these photos in several forums, including emails to Chaney and on Neely's blog and Facebook. Neely is a social media guru, who maintains her own blog at www.acompletewasteofmakeup.com, has several social media sites, and her sole source of income is derived from social media marketing, which is affected by the popularity and/or traffic generated by her social media sites.

19. APP photographed the rehearsal dinner on October 10 and the actual wedding on October 11. Chaney notified Neely on November 11 that the wedding images would be available online by the end of the week. When Neely responded, asking if the Moldovans would receive a disc of images, Chaney explained again that the disc of high-resolution images would be released when the final album was completed and delivered. Neely responded, "Sounds great!"

20. On November 18, Chaney sent Neely a link with her wedding day photo proofs, reminding Neely that the high-resolution images would be released when the album was completed.

D. The Moldovans request high-resolution images before completing the required album order form.

21. However, on December 2, Neely began asking Chaney again when she would receive her high-resolution images. In multiple emails, Chaney repeatedly explained the

previously detailed selection-and-delivery procedure and timeline, and also repeatedly attached to her emails the wedding package with the same information and FAQ. In particular, Chaney reiterated to the Moldovans that the album must be completed, and that they would receive their high-resolution images upon delivery of the album, as plainly stated in bold letters in their contract. The Moldovans were required to submit their storybook album order form before the album could be designed and delivered, and only when the album was delivered would the photos be released. APP responded to Neely's numerous and redundant questions and inquiries in a timely and professional manner.

22. Nevertheless, Neely continued to badger Chaney with questions regarding the high-resolution photographs, asserting that she was entitled to immediate delivery per the contract, and despite the fact that Neely had been provided all of the information from the initial consultation and multiple times throughout the process. Eventually, and for the first time, Andrew emailed Chaney on December 29 with the same questions and demands.

23. Concerned about the clients' satisfaction, APP offered the Moldovans delivery of the high-resolution images once the album design was *approved* by the Moldovans rather than when the completed album was *delivered*, allowing the Moldovans to receive the photos much earlier than permitted by the contract. Still, the Moldovans demanded immediate release of the photos without submitting the album order form.

24. The Moldovans contended that they paid for the storybook album cover, when, in fact, the cover must be purchased separately and only when the couple is ready to order the actual album, which had been disclosed by Polito from Day 1 in the initial consultation. Because the albums are internationally hand-assembled, cover options and prices vary from the time of initial consultation to the time after the wedding and honeymoon when a couple actually submits

the order form, which can often extend 18 months. The order form details the different costs for the cover options, ranging from \$125.00 to \$225.00.

25. When Polito was apprised of the Moldovans' persistent (and unreasonable) demands, she emailed Neely on January 14, 2015 and, in an upbeat and respectful tone, requested that Neely select the album cover, with the intention of waiving the cost of the cover. Polito was willing to make this further concession, in addition to the previous offer to release the photos once the album design was approved, not because the Moldovans' gripes were legitimate, but because she believes in keeping her clients happy and wanted to put their concerns to rest. Polito simply requested that Neely submit the album order form so that Polito knew which photos to include in the album design and which cover Neely preferred.

E. The Moldovans institute a media campaign against Polito and APP.

26. But by the time Polito emailed Neely on January 14, the Moldovans had already been contacting local media about their frustrations based on their, at best, failure to properly read the contract and, at worst, flagrant disregard of their contract and numerous communications with APP.

27. Specifically, on January 12, 2014, Neely began searching for local media through her personal contacts on Facebook, Twitter, and by phone. Andrew then emailed several news outlets, including WFAA, NBC DFW, KDFW Fox 4, KTVT, and NBC Universal. Then, on January 14, 2014, the Moldovans invited NBC 5 and journalist Scott Gordon to their home for an interview. The story aired on January 16, 2014 with an accompanying article.

28. Polito only learned after sending her January 14 email that the Moldovans had been in contact with local media. In fact, the Moldovans were already meeting with NBC 5 and

Gordon by the time Polito sent her January 14 email, deadset in their pursuit of publicity and public shaming.

29. The Moldovans proceeded to republish the story in different electronic forums, such as blogs, Google, Facebook, Instagram, Twitter, NBC, text messages, and emails, and to make disparaging and defamatory statements in those same forums with the direct intent to harm Plaintiffs. Those statements include the following:

a. Polito was “**holding their pictures hostage**,” which is false and wrongfully accuses Polito of improperly withholding pictures to which the Moldovans were allegedly justly entitled at the time the statement was made, or earlier, without further action from the Moldovans (Neely and Andrew during NBC 5 interview that aired on January 16 at approximately 10 p.m.). Despite conflicting testimony during presuit depositions regarding the “holding hostage” language, the Moldovans’ subsequent publications of the interview article and video amount to ratification of the representation that they made said statement. APP was not withholding the album *or* the pictures upon additional payment (and was willing to assume the cost of the album cover). APP also offered to deliver the high-resolution negatives before the Moldovans would have otherwise received the images pursuant to the contract. The bottom line is that APP was absolutely not holding the Moldovans’ pictures hostage.

b. Polito “**cheated**,” “**scammed**,” and “**blatantly stole money while holding pictures ransom and then adding on extra fees that weren’t in [the] original contract**,” which charges Polito with the crimes of fraud and theft, and suggests Polito is dishonest both personally and professionally (Wedding Wire review from “Andrew” with October 11, 2014 wedding date). Although Andrew denies making this post, the evidence will demonstrate that Andrew did in fact make this post: the review was posted by Andrew M. whose wedding was on October 11, 2014, and Andrew Moldovan’s wedding was on October 11, 2014; the review uses the same language that the Moldovans used with friends, news media, and on social media, and other evidence produced by the Moldovans will demonstrate that Andrew made the statement. Polito did not cheat or scam the Moldovans, and never held pictures for ransom.

c. Polito wanted the Moldovans “**to pay several hundred dollars more before [she would] provide [the Moldovans’] album or give [them their] pictures on a DVD**,” which falsely accuses Polito of improperly withholding pictures to which the Moldovans were allegedly justly entitled at the time the statement was made, or earlier, without further action from the Moldovans (emails from Andrew to WFAA, NBC DFW, KDFW Fox 4, KTVT, NBC Universal, January 12).

d. Polito had **“weeks to fulfill”** delivery to the Moldovans “what [they] paid for” (Neely’s Facebook conversation with Emily Schultz between January 15 and January 17). In her deposition, Neely testified that the timeline for obtaining her wedding photos was outlined in her contract and wedding package, and that each stated the photographs would be turned over upon delivery of the completed storybook album. Neely also admitted that APP offered to deliver the high resolution negatives upon completion and approval of the album order design, as a concession offered by APP, providing the images ahead of the time provided for in the contract. Neely further testified that she never selected the images or submitted the album order form at the time of making the statement. In short, the statement is false and misrepresents the facts, the controlling documents, and the communications between the parties.

e. The Moldovans **“never got[] a single email from [Polito] after calling and emailing her directly,”** which falsely accuses Polito of not responding to the Moldovans, and, in connection with the other statements detailed herein, portrays Polito as an unscrupulous person who demands more money without offering explanation or opportunity to speak with the clients (Neely’s thank you to supporters in a Facebook post, between January 17 and January 19; Neely’s Facebook conversation with Emily Schultz between January 15 and January 17; Neely’s responses to Instagram comments, January 18 and 19). The Moldovans testified during their presuit depositions that they did not directly call or email Polito. APP was in constant communication with the Moldovans and was responsive to their communications. Moreover, Polito did communicate with the Moldovans on January 14 after being informed by her staff of the situation.

f. **“None of [what Polito said in her response letter posted to the APP blog] is true,”** which falsely and unambiguously accuses Polito of dishonesty regarding the entirety of her letter in response to the social media onslaught she endured, calling into question her personal and professional character (Neely’s comment to friend’s Facebook post; Neely’s Facebook conversation with Emily Schultz between January 15 and January 17; Neely’s text conversation with former APP employee Laura Durham; Neely’s text conversation with Sara Lake, January 21; Neely’s group text conversation with Ally, Michele, and Ashley, January 21).

g. Polito was **“having her photog friends harass [Neely] on Twitter, Instagram [her] blog etc,”** which falsely accuses Polito of intending to harass Neely at the hands of third parties, suggesting that Polito instituted a campaign against Neely because of a guilty conscience and/or out of retaliation for the Moldovans’ allegedly justified social and news media communications (Neely’s comment to her own Facebook post, January 17 at 6:33 p.m.; Neely’s Facebook conversation with Emily Schultz between January 15 and January 17). Neely also expressly attacked Polito’s professional character in stating **“[t]he fact that she’s now having people attack me on all forms of social media shows how non professional she is.”** (Neely’s Facebook conversation with Emily Schultz between January 15 and January 17). In her deposition, Neely testified that she believed Polito’s friends must have been coerced or asked to attack Neely and/or defend Polito without providing proof in support. Neely admitted on the

record that, while it was her *opinion* or belief that Polito directed her friends to harass Neely, Neely made a *factual* statement without proof.

h. Polito “[**kept**] **nickel and diming [the Moldovans] even tho [sic] [they] spent 7000,**” which falsely accuses Polito of deception, charging hidden fees, and generally unscrupulous business practices as a professional photographer (Neely’s text conversation with Sara Lake, January 21). Neely testified in her deposition that, since her initial consultation with APP on January 2, 2014, she had been provided numerous times with her contract and wedding package, which each clearly stated the cost for additional coverage, the editing of photographs, and rehearsal dinner coverage. The total amount stated is also false.

i. “**The day before [the Moldovans’] wedding [Polito and/or APP] called and said [the Moldovans] needed to pay \$900 extra for the 2 extra hours not included in [their] contract they were working the wedding day which they never told us about before,**” which falsely accuses Polito of deception, charging hidden fees, and generally unscrupulous business practices as a professional photographer (Neely’s Facebook conversation with Melissa Mathis, January 13). Neely testified in her deposition that, since her initial consultation with APP on January 2, 2014, she had been provided numerous times with her contract and wedding package that each clearly stated the cost for additional coverage. Neely was not actually charged \$900 and admitted she was not aware when the actual charge was made because she was on her honeymoon; rather her father’s card was charged on October 21, ten days after the wedding.

j. Polito “**didn’t shoot ou[r] wedding. She sent 2 people we had never met,**” which, in connection with the other statements detailed herein, portrays Polito as an unscrupulous and unprofessional photographer who breached her contract with the Moldovans and generally failed to perform her job requirements as a photographer (Neely’s thank you to supporters in a Facebook post, between January 17 and January 19; Neely’s Facebook conversation with Gabrielle Gorham Hill, January 16). Neely testified during her deposition that, since her initial consultation with APP on January 2, 2014, she understood and had been provided numerous times with her wedding package, which clearly stated the Moldovans contracted for two company photographers and also stated the additional cost to hire Polito specifically, and that she did not opt or pay for Polito to photograph her wedding but rather contracted for APP’s company photographers.

k. Neely was “**pretty sure [Polito’s] business is done**” (Neely’s Facebook conversation with Emily Schultz between January 15 and January 17; Neely Facebook comment to her NBC article post, January 16 at approximately 10 p.m.). Andrew published statements to his friends, evidencing his intent and/or knowledge of the harm his and Neely’s actions would cause Plaintiffs, namely: “[s]he’s **gonna get her image ruined**” (Andrew’s text message to Shawn Hayward, January 16); “[t]he people will let up on Neely but the photographer’s business is damaged” (Andrew’s text message to Shawn Hayward, January 16); “**we were hoping [Polito] would have tried to save her business and given us our album and pictures**” (Andrew’s text message to Ted Vitale, January 17), implying Polito’s options were to hand over the photographs and album or

suffer consequences of the Moldovans ruining her business. When asked if Polito knows what Neely does for a living, Neely replied “oh she knows” (Neely’s Facebook comment in response to question posed by Melissa McCullough Ulrich, January 16 at approximately 10:30 p.m.), posted in another forum “**I’m a blogger and I’m going to be all over this once it’s resolved**” (Neely’s comment in Park Cities Facebook post, January 12), and told a third party that she had and/or wanted to acquire “**so much ammunition to screw [Plaintiffs] over**” and that she and Andrew “**are hoping that [their] story makes the news and completely ruins [Polito’s] business**” (Neely’s Facebook conversation with Lauren Schwalb, January 12 *before* the story aired and *before* meeting with NBC), which, taken together, suggest Neely’s intent to institute and/or perpetuate a campaign to damage Plaintiffs. Neely also told a wedding coordinator at the Petroleum Club that “**honestly the best you can do is just tell girls to use someone else, james French, holt hanesworth, anyone else**” (Neely’s Facebook conversation with Lauren Callon, January 16), directing potential business away from Polito. Yet the Moldovans represented to NBC or approved of the representation made by NBC that “neither of [them] ever hoped [Polito’s] business is ruined nor do [they] even want that” (Neely and Andrew during NBC 5 follow-up story published on January 22). Taken together, these statements manifest Neely and Andrew’s malicious intent to harm Polito and APP and interfere with APP’s business.

1. The Moldovans also “liked” numerous other defamatory per se statements posted by third parties, thereby ratifying and republishing those libelous statements. These numerous statements endorsed by the Moldovans are nasty and reprehensible, including those that refer to Polito as a “scam artist,” that imply a death threat, and that accuse Polito of “g[iving] [the reviewer] AIDS.” In several instances, Neely more than “liked” the posts, she also commented on them, acknowledging that she agreed with them and/or found them humorous.

VII. CAUSES OF ACTION

A. COUNT ONE: Defamation (Polito and APP).

30. The foregoing paragraphs are hereby incorporated by reference as if fully set forth herein.

31. As detailed herein through paragraphs 23(a)-(l), the Moldovans recklessly and intentionally published in text messages, emails, and through several online forums false, misleading, deceptive, and disparaging statements to defame Polito and APP. The Moldovans’ statements are defamatory and actionable pursuant to Texas common law and constitute statutory libel pursuant to Ch. 73 of the Texas Civil Practice and Remedies Code.

32. The statements are defamatory by charging Polito and/or APP with unscrupulous business practices and character by, allegedly, not complying with the contract, not communicating with the Moldovans, charging hidden fees, and failing to photograph the wedding herself, among other allegations. Each of the statements is false.

33. The Moldovans acted with malicious intent to injure Polito and APP even before contacting and meeting with local media, and after the NBC story aired.

34. Plaintiffs' damages include, but are not limited to, general damages, economic damages such as lost profits and out-of-pocket losses, exemplary damages, court costs, and pre- and post-judgment interest.

B. COUNT TWO: Defamation *per se* (Polito and APP).

35. The foregoing paragraphs are hereby incorporated by reference as if fully set forth herein.

36. As detailed herein through paragraphs 23(a)-(l), the Moldovans unambiguously charged Polito with fraud, theft, and dishonesty regarding the contract at issue and APP's selection-and-delivery procedures. The Moldovans' statements are defamatory and actionable pursuant to Texas common law and constitute statutory libel pursuant to Ch. 73 of the Texas Civil Practice and Remedies Code.

37. The Moldovans' statements attacked Polito's character and APP's business practices, and subjected Plaintiffs to public hatred, contempt, ridicule, and impeached their honesty and integrity.

38. Polito has suffered a loss of reputation that manifests in lost profits, for which out-of-pocket losses have now been sustained. Indeed, as a direct result of Defendants' publication of the Moldovans' statements, APP has already lost substantial profits. Moreover,

the defamatory statements caused Polito severe emotional strain and mental anguish, and impaired her ability to conduct business.

C. COUNT THREE: Business Disparagement (APP).

39. The foregoing paragraphs are hereby incorporated by reference as if fully set forth herein.

40. As detailed herein through paragraphs 23(a)-(l), the Moldovans recklessly and intentionally published in text messages, emails, and through several online forums false, misleading, deceptive, and disparaging statements to injure APP.

41. The Moldovans had a malicious intent to injure APP before ever contacting or meeting with the media. The Moldovans admitted by deposition testimony that certain statements they made were false, and they knew those statements to be false when made. The Moldovans were reckless about the falsity of other statements.

42. The Moldovans had no privilege to make the defamatory and disparaging statements described above.

43. As a result, APP suffered economic damages, including lost income and out-of-pocket losses to compensate for the lost income.

D. COUNT FOUR: Tortious Interference with Prospective Contracts (APP).

44. The foregoing paragraphs are hereby incorporated by reference as if fully set forth herein.

45. The Moldovans contacted a number of Polito's clients, prospective clients, wedding coordinators and wedding planners with the intent to interfere with APP's business.

46. There is a reasonable probability that APP would have entered into prospective business relationships but for the Moldovans interference.

47. The Moldovans made various defamatory statements that deceived former and future brides about Polito's character and APP's business practices. Those statements, outlined in paragraph 23(a)-(l), amount to defamation, defamation per se, and business disparagement.

48. Neely acted with a conscious desire to prevent the prospective contract(s) from being formed.

49. Plaintiffs' damages include, but are not limited to, economic damages such as lost profits and out-of-pocket losses, exemplary damages, court costs, and pre- and post-judgment interest.

E. COUNT FIVE: Civil Conspiracy.

50. The foregoing paragraphs are hereby incorporated by reference as if fully set forth herein.

51. Neely and Andrew Moldovan are two people that acted with the object of exacting damage on Polito and APP through a tortious social and news media campaign rife with defamatory statements.

52. Specifically, Neely found media contacts while Andrew emailed them, and the Moldovans worked jointly and overtly in sharing their allegations with the media and in republishing both the NBC story and their own recountings in public and private forums with intent to harm Polito and APP with false and defamatory statements. Upon information and belief, the Moldovans also encouraged others to disparage and defame Polito and APP.

53. Plaintiffs' damages include, but are not limited to, economic damages such as lost profits and out-of-pocket losses, exemplary damages, mental anguish damages, court costs, and pre- and post-judgment interest.

VIII. GENERAL, SPECIAL CONSEQUENTIAL, EXEMPLARY, DAMAGES

54. As a consequence of Defendants' wrongful acts described above, Plaintiffs have suffered actual and consequential damages. Plaintiffs seek general and special damages, including damages associated with mental anguish, injury to feelings, and injury to character and reputation. Prior to the Defendants' remarks, Polito (and APP) enjoyed an excellent professional reputation, receiving favorable reviews from clients and others.

55. Plaintiffs request and are entitled to costs of Court, and pre- and post-judgment interest at the maximum rate agreed to by the parties or permitted by law, pursuant to Texas law.

56. Moreover, Plaintiffs plead exemplary damages on all causes of action. Defendants committed the aforementioned acts with the kind of willfulness, wantonness, and/or malicious intent for which the law allows the imposition of exemplary damages.

IX. CONDITIONS PRECEDENT AND RULE 47 STATEMENT

57. All conditions precedent to the filing of this action have been performed, have occurred or have been waived. Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiffs state they seek monetary relief over \$200,000 but not more than \$1,000,000.

X. JURY REQUEST

58. Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Plaintiffs request a trial by jury and will tender the appropriate fee.

XI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs Andrea Polito and Andrea Polito Photography, Inc. pray that Defendants be cited to appear and answer herein and that, upon trial, Plaintiffs receive Judgment as follows:

1. all actual, consequential, special, and exemplary damages as determined after trial on the merits;

2. costs of suit, including reasonable legal expenses;
3. pre- and post-judgment interest at the maximum rate provided by law; and
4. any and all other relief that justice requires.

Respectfully submitted,

GRUBER HURST JOHANSEN HAIL SHANK, LLP

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