

1 Fabian Zazueta, [REDACTED]  
2 Garrett Respondek, [REDACTED]  
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4 **ZAZUETA LAW, PLLC**  
5 2633 E. Indian School Rd., Ste. 370  
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7 Office: [REDACTED]  
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9 *Attorneys for Gregory Gillespie*

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
8 **IN AND FOR THE COUNTY OF MARICOPA**

9 [REDACTED],

Case No.: CV2021-052893

10 **Plaintiff,**

**APPLICATION FOR COSTS**

11 **v.**

(Assigned to the Hon.  
Michael Gordon)

12 **GREGORY GILLESPIE,**

13 **Defendant.**

14  
15 Pursuant to A.R.S. § 12-341, Defendant/Counterclaimant Gregory Gillespie  
16 (“Defendant”), by and through undersigned counsel, respectfully requests recovery of his  
17 taxable costs as the successful party in this matter. [See Defendant’s Verified Statement of  
18 Costs, attached hereto as **Exhibit “A”**].<sup>1</sup> This Application is supported by the following  
19 Memorandum of Points and Authorities.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I. INTRODUCTION**

22 On August 11, 2021, Plaintiff initiated this Action and brought claims for abortion  
23 coercion and intentional infliction of emotional distress. On January 4, 2022, Defendant

24  
25 <sup>1</sup> Counsel for Defendant has reached out to Defendant’s prior counsel regarding a record  
26 of fees. To date, undersigned counsel has not received any such records, but undersigned  
counsel will supplement Defendant’s Verified Statement of Costs once he receives  
additional documentation.



1 answered the Complaint and brought counterclaims for fraud and intentional infliction of  
2 emotional distress. Here, Defendant was forced to defend himself against a claim that is  
3 not supported by Arizona law, i.e., abortion coercion, and, as a result, Defendant was  
4 required to file a motion to dismiss for a claim that simply lacked legal support. With  
5 respect to Plaintiff’s claim for intentional infliction of emotional distress, Plaintiff  
6 presented utterly no evidence to support her claim, and a portion of Defendant’s briefing  
7 was directed to addressing Plaintiff’s late disclosures. And, at the end of the litigation,  
8 Defendant successfully defended Plaintiff’s claims. Considering the totality of the  
9 litigation, and Plaintiff’s conduct, Defendant is entitled to his taxable costs.

10 **II. LEGAL ARGUMENT**

11 Under A.R.S. § 12-341: “The successful party to a civil action shall recover from  
12 his adversary all costs expended or incurred therein unless otherwise provided by law.”  
13 The Court possess “...substantial discretion to determine who is a successful party.” *Assyia*  
14 *v. State Farm Mut. Auto. Ins. Co.*, 229 Ariz. 216, 223–24, 273 P.3d 668, 675–76 (App.  
15 2012) (citing *Fulton Homes Corp. v. BBP Concrete*, 214 Ariz. 566, 572, ¶ 25, 155 P.3d  
16 1090, 1096 (App.2007) (quoting *Pioneer Roofing Co. v. Mardian Constr. Co.*, 152 Ariz.  
17 455, 467, 733 P.2d 652, 664 (App.1986) (internal quotations omitted)). Arizona courts  
18 have upheld an award of costs based on the totality of the litigation, even where neither  
19 party prevailed on their respective claims. *Nataros v. Fine Arts Gallery of Scottsdale, Inc.*,  
20 126 Ariz. 44, 49, 612 P.2d 500, 505 (App. 1980) (internal citations omitted). Moreover,  
21 Arizona courts have applied the net judgment rule. *See Ayala v. Olaz*, 161 Ariz. 129, 131,  
22 776 P.2d 807, 809 (App. 1989).

23 Even though neither party prevailed on their respective claims, Defendant is the  
24 successful party in this Action. The Court, through its discretion, should consider Plaintiff’s  
25 lack of legal and factual support for her claims, which unnecessarily increased the costs of  
26 this matter. The Court should also consider Plaintiff’s conduct, which included, but is not

1 limited to, providing no support for her claim for intentional infliction of emotional  
2 distress. When confronted with this reality, Plaintiff introduced late disclosures that  
3 Defendant was forced to address. Despite the above, Defendant’s Motion for Summary  
4 Judgment was granted. Given the totality of the litigation, the Court, in its discretion,  
5 should find that Defendant is the successful party in this matter.

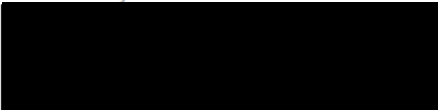
6 **III. CONCLUSION**

7 For the foregoing reasons, the Court should grant the present Application.

8 **RESPECTFULLY SUBMITTED** this 15<sup>th</sup> day of December 2023.

9 **ZAZUETA LAW, PLLC**

10  
11 /s/ Fabian Zazueta  
12 Fabian Zazueta, Esq.  
13 Garrett Respondek, Esq.  
14 Oscar Fimbres-Ruiz, Esq.  
15 2633 E. Indian School Rd., Ste. 370  
16 Phoenix, AZ 85016



17 *Attorneys for Gregory Gillespie*

18 **ELECTRONICALLY** filed this same day  
19 via AZTurboCourt.com.

20 **COPY** emailed this same day on:

21 Kyle O’Dwyer, Esq.  
22 **FORTIFY LEGAL SERVICES**  
23 3707 E. Southern Ave.  
24 Mesa, AZ 85206



25 *Attorney for Plaintiff*

26 /s/ Garrett Respondek

# EXHIBIT A



1 Fabian Zazueta, [REDACTED]  
2 Garrett Respondek, [REDACTED]  
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9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 [REDACTED]

12 **Case No.: CV2021-052893**

13 **Plaintiff,**

14 **VERIFIED STATEMENT OF COSTS**

15 **v.**

16 (Assigned to the Hon.  
17 Michael Gordon)

18 **GREGORY GILLESPIE,**

19 **Defendant.**

20 **TO THE CLERK OF THE COURT AND THE PARTIES AGAINST WHOM**  
21 **COSTS ARE CLAIMED:**

22 I declare under penalty of perjury that the foregoing is true and correct:

23 1. I am the managing attorney at Zazueta Law, PLLC and responsible for  
24 representing Defendant in this Action.

25 2. I make this Verified Statement of Costs with personal knowledge that the  
26 following costs have been incurred and expended by Zazueta Law, PLLC in this Action.

<b>DESCRIPTION</b>	<b>AMOUNT</b>
Filing Fee: Notice of Appearance	\$10.61
Filing Fee: Motion for Summary Judgment	\$10.61
Filing Fee: Separate Statement of Facts	\$10.61



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Filing Fee: Notice of Extension to file Response to Motion for Summary Judgment	\$6.70
Filing Fee: Response to Motion for Summary Judgment and Separate Statement of Facts	\$6.70
Filing Fee: Stipulation to Extend Time	\$6.70
Filing Fee: Application for Costs	\$6.70
Filing Fee: Notice of Lodging of Proposed Judgment	\$6.70
<b>TOTAL</b>	<b>\$65.33</b>

3. Pursuant to A.R.S. § 12-341, Defendant hereby claims these costs against Plaintiff.

4. I have read the foregoing and verify that the facts stated herein are true and correct to the best of my knowledge.

**RESPECTFULLY SUBMITTED** this 15<sup>th</sup> day of December 2023.

**ZAZUETA LAW, PLLC**

/s/ Fabian Zazueta  
Fabian Zazueta, Esq.  
Garrett Respondek, Esq.  
Oscar Fimbres-Ruiz, Esq.  
2633 E. Indian School Rd., Ste. 370  
Phoenix, AZ 85016



*Attorneys for Gregory Gillespie*