

3. Venue for this action is proper in Douglas County, Colorado pursuant to C.R.C.P. 98(c)(1) as Defendant Kopit, upon information and belief, resides in Douglas County at the commencement of the action. Venue is also proper as the underlying Parental Responsibilities Evaluation is related to a Douglas County domestic relations matter.

NATURE OF THE CASE

4. Plaintiff is the proud and loving father of a minor child, R.C.:



5. As the result of a domestic relations matter involving Plaintiff and his former spouse, Defendant was retained to perform a Parental Responsibilities Evaluation (“PRE”) which involved extensive time with Plaintiff alone at Defendant’s office or Plaintiff’s home as well as time with Plaintiff and R.C.

6. During Defendant’s completion of the PRE, and as alleged in further detail below, Defendant made numerous verbal comments and physical actions of a sexual nature.

7. Plaintiff rebuffed, ignored, or otherwise rejected Defendant’s obvious sexual advances.

8. Prior to Plaintiff's rejection of Defendant's obvious sexual advances, Defendant represented that he "can't tell [Plaintiff] any reason why [Plaintiff] wouldn't get 50/50 custody."; i.e., that Defendant saw no issues with Plaintiff's ability to parent R.C. and that Defendant would be recommending that custody of R.C. be split evenly between Plaintiff and R.C.'s mother.

9. However, after Plaintiff rebuffed, ignored, or otherwise rejected Defendant's obvious sexual advances, Defendant took every step in his power to retaliate against Plaintiff and ensure that he be discredited to the maximum extent possible in the final PRE (and before the domestic relations court) and, most catastrophically, lose all custody of R.C.

10. Indeed, Defendant's final PRE grossly and falsely mischaracterized Plaintiff and recommended that Plaintiff lose all custody of R.C.

11. As a result, Plaintiff was forced to spend hundreds of thousands of dollars in additional legal and professional fees, including a rebuttal PRE.

12. Finally, at a May 9, 2024 domestic relations hearing, nearly two years after Plaintiff lost custody of R.C., **the domestic relations court found Defendant to be so not credible that the** Court expressed expressed that it was having "hard time believing [that] Defendant is unbiased." As a result of the Court's comments, the opposing party at this hearing chose to not even call Defendant. This hearing came on the heels of a April 11, 2024 hearing in which Defendant only testified by Zoom and offered testimony overwhelmingly negative regarding Plaintiff.

13. This civil action follows. This civil action alleges that Defendant committed assault and the intentional infliction of emotional distress on Plaintiff, which resulted in catastrophic consequences for Plaintiff.

14. Defendant is in no way immune from suit given the nature of the acts and specific legal claims set forth in this Civil Complaint and Jury Demand.

GENERAL GUIDELINES REGARDING PARENTAL RESPONSIBILITY EVALUATORS

15. According to the Colorado Supreme Court's Chief Justice Directive 21-02 (Directive Concerning Court Appointments of Parental Responsibility Evaluators Pursuant to C.R.S. § 14-10-127) ("the CJD"), parental responsibility evaluators such as Defendant are obligated to comport with numerous standards, including: (a) The PRE shall act professionally; (b) The PRE shall maintain objectivity; (c) The PRE shall not serve inconsistent dual roles; and (d) The PRE shall collect data and investigate sufficiently to allow the PRE to provide competent recommendations.

16. In elaborating upon these duties, the CJD also set forth numerous “general principles” similarly incumbent upon parental responsibility evaluators, including:

PREs shall provide their services in a manner consistent with the highest professional standards. They shall be accurate and honest in their work and in their communications with the parties and the court. With the child(ren)’s safety always paramount when determining the best interests of the child(ren), PREs shall respect the rights, the dignity, and the welfare of the parties and the child(ren) with whom they work.

The PRE shall maintain objectivity and independence.

The PRE serves as an investigative arm of the court. The PRE must gather information, formulate recommendations, and report to the court concerning the disputed issues relating to the allocation of parental responsibilities for the child and to assist in determining the best interests of the child, as set forth in the order of appointment.

A PRE shall complete a fact-finding investigation consistent with the order of appointment, the applicable legal standard, and the complexity of the issues. The purpose of the evaluation and report is to assist in determining the best interests of the child, with the child's safety always paramount. The evaluation and subsequent report must focus on the best interests of the child and the factors set forth in sections §14-10-124, C.R.S. and §14-10-129, C.R.S. in any post-decree or relocation case. In addition, the evaluator shall assess a party's parenting attributes, as those attributes relate to the best interests of the child and consider any psychological needs of the child when making recommendations concerning decision making and parenting time.

17. The CJD also requires that written policies must include information regarding “[t]he PRE complaint process, including contact information for the SCAO and other applicable regulatory or disciplinary agencies governing the PRE.” Plaintiff never received any of these written policies.

GENERAL ALLEGATIONS

18. Plaintiff’s formal relationship with Defendant began on or about October 26, 2022, when Plaintiff filled out Defendant’s New Client Information sheet, signed a Disclosure Statement and Surprise/Balance Billing Disclosure Form, and further executed an Informed Consent for Parental Responsibilities Evaluation form.

19. With the exception of the New Client Information Sheet, Defendant Kopit on behalf of Defendant LKLPC countersigned each document.

20. The Informed Consent for Parental Responsibilities Evaluation form (Informed Consent Form) notes that Defendant’s “findings may be used in the court proceedings to make determinations related to those proceedings.”

21. The Informed Consent Form guarantees, in writing, that the “results of [Defendant’s] evaluation **are objective**[] . . . [and] may (or may not) support the outcome you desire.” (Emphasis added.)

22. For this work, Defendant charge \$175 per hour and \$175 per session, a fee for testimony in the range of \$1,500 to \$2,5000, and require a retainer of \$5,000.

23. Throughout the entire professional relationship, Plaintiff made all payments due to Defendant.

24. Plaintiff otherwise satisfied all conditions precedent under the agreements including, but not limited to, the Informed Consent Form.

25. The agreements the parties signed, in other words, required that Defendant were to remain objective throughout the entirety of the Parental Responsibilities Evaluation and not intentionally or negligently include false or misleading information or intentionally or negligently omit material and critical information, both of which had, as the forms note, the potential to dramatically affect Plaintiff’s right to parent and familial integrity.

26. On May 2, 2023, Defendant issued a Parental Responsibilities Evaluation (“the PRE”).

27. The PRE breached Defendant’s obligation to remain objective and other obligations under the written agreements by setting forth numerous false or misleading statements intentionally or negligently designed to attack Plaintiff’s credibility and parenting capabilities.

28. The PRE’s false or misleading statements include, but are not limited to:

Page 1 The very first substantive line in the PRE report states that “[Plaintiff] tended to take more of an aggressive approach towards [his former spouse].” The sentence contains absolutely no specifics or follow-ups about how Plaintiff could possibly even be “aggressive” in his “approach towards [Plaintiff’s former spouse]” especially since the parties were ordered to have no contact with one another outside of a Court-ordered communications platform, Talking Parents, the entirety of which Defendant had access to and which reveal no aggressive communications. Defendant’s decision to include this allegation as the very first

item was obviously intended to negatively impact and harm Plaintiff and his ability to parent. This page also includes a detail about Plaintiff taking his ex-spouse's last name but intentionally omits that he did so in order to benefit his son, such as by taking advantage of his former-spouse's and her father's Cornell University legacy.

Additionally, Defendant note that “[b]oth parents could benefit from additional level II parenting classes.” Despite the fact that only Plaintiff had enrolled in therapy, his decision to make the brave step into mental health treatment was only used against him. Specifically, Defendant asserted – without ever even talking to his mental health provider – that “his treatment continue and should also include anger therapy.” Defendant never took the obligatory step to gain more information on Plaintiff's treatment and whether such therapy, indeed, included anger management.

Page 2 The PRE sets forth a number of attacks and accusations which have no bearing on Plaintiff's ability to parent and instead are intentionally designed to malign his character. These include the intentional or negligent omission of the fact that Plaintiff had never been convicted much less even charged with any crime. Nevertheless, the PRE includes several completely unsupported allegations of domestic violence.

Pages 9 – 18. The PRE's summaries of Defendant's interviews with Plaintiff and his former spouse lack objectivity. Pages 7 – 12 are essentially a summary of solely the former spouse's allegations regarding Plaintiff; Defendant did not allow Plaintiff the opportunity to respond to such allegations. When compared with the summary of Defendant's interview with Plaintiff – which instead intensely re-hashes childhood issues which were totally outside of Plaintiff's control, discusses in a negative light the sensitive, private information which Plaintiff disclosed to Defendant, and all but glosses over Plaintiff's major accomplishments including decorated military service, extensive education, and international success as a business owner and employer to an impressive number of staff members – the lack of objectivity again, breaches the agreements the parties executed. Defendant also failed to mention that Plaintiff had solely funded both a whole life insurance policy for which R.C. was the beneficiary and which has a cash value of approximately \$30,000 as well as a “529(b)” plan with an approximate current value of \$126,000.

Page 9 The PRE also intentionally portrays Plaintiff as an “anti-vaxxer” in order to perniciously continue to impact his credibility and, therefore, ability to parent. Specifically, after summarizing the former's spouse's narrative regarding vaccinating the child, the PRE fails to mention that Plaintiff disclosed to Defendant that he had no issues with vaccines whatsoever and, in fact, during his military

service, faithfully and without objection received vaccinations. Additionally, the PRE intentionally fails to disclose that Plaintiff told Defendant about his company's work at VA hospitals which, similarly, require vaccination, all of which Plaintiff received. The overall aim of these one-sided statements was to portray Plaintiff as someone who cannot be trusted to make medical decisions about his son – a conclusion Defendant, in fact, reached later on in the PRE.

Page 11 The PRE lacks objectivity when discussing private medical issues Plaintiff fully disclosed to Defendant. For example, the PRE fails to mention that Plaintiff signed a release enabling Defendant to access his records and instead implicitly portrays his use of testosterone as outside the bounds of a medically prescribed course of treatment. Even though the PRE does briefly mention testosterone replacement therapy much later in the report, in other places it fails to mention that such treatment was prescribed. In only discussing the alleged side effects, the PRE, instead, intentionally or negligently implies that Plaintiff is taking steroids, with the overall goal of portraying him as unstable and therefore a danger to his son.

29. In addition to the above false or misleading statements, the PRE also intentionally omits the following information:

The PRE fails to include Plaintiff's highly important statement that he did not re-enlist in the military so that he could have more time with his son. Instead, there is extensive discussion about Plaintiff's alleged issues re-adjusting to civilian life (when, in fact, he had proven that he was a high performer and successful business owner after military service), which make it appear that he is military veteran plagued with PTSD who could lash out against his son at any moment.

Next, The PRE extensively discusses the child's early birth and subsequent health issues. However, the only information regarding Plaintiff is that he was "squeamish" at the birth and "did not know anything regarding feeding or infant care." The PRE, sadly, leaves out Plaintiff's summary of the tender care he provided to the child after he returned from the NICU, which included changing his diaper, weighing it, wrapping the child in a swaddle, feeding the child his bottle while playing classical music such as Mozart For Babies, and engaging in other loving care – all of which Plaintiffs told Defendant about in great detail. The PRE fails to mention that Plaintiff, during one of his sessions with Defendant, even played a favorite song he played for his infant son after returning from the NICU.

The PRE fails to mention that, even after several emails to Defendant confirm as much, Plaintiff sent Defendant dozens of photographs that he has of his son and that his Facebook profile, in fact, contains 5,000+ photographs of his son. Instead,

the PRE extensively focuses on Plaintiff's alleged reluctance to become a father and crassly states, wildly out of context, that Mr. Caruso was concerned as to whether his son would "make it." Despite given multiple opportunities to elaborate on Defendant's repetition of Plaintiff's statement that he is "doting father," the PRE actually provides no specific examples of how he is, in fact, doting, despite being provided with a bevy of information to do so. Instead, the PRE makes it seem as if Plaintiff never wanted his son in the first place (as it repeatedly points out his statements that, given his age and traumatic childhood, he was unsure if he wanted to children) in an effort to subtly imply that his son is much better off without his own father.

In addition to negatively portraying his fathering, the PRE frames Plaintiff as a lackluster employee who essentially fell into his business because of his father-in-law's connections; it also inaccurately summarizes that Plaintiff said he "fell apart" as a result of COVID. The PRE omits that Plaintiff told Defendant in detail about how, even in the midst of COVID, his company rebranded, launched a new website, started a Google marketing company, and was even – despite focusing on the service industry – cash positive during the pandemic. There is not even a mention of the company Mr. Caruso owns, that it has offices all over the world, or that, as Plaintiff told Defendant, the company simultaneously works on over a hundred projects and has accounts receivable in excess of \$400,000.00, with expenses being paid in the meantime by a large line of credit.

30. The PRE, while including detailed allegations made by Plaintiff's former spouse regarding alleged domestic violence, intentionally fails to leave out similar allegations made by Plaintiff regarding his former spouse.

31. The PRE, while including detailed allegations made by Plaintiff's former spouse regarding alleged domestic violence, intentionally failed to leave out any mention of Plaintiff telling Defendant that Plaintiff's former spouse drugged him with prescription medication.

32. The PRE, while including ample accusations made by Plaintiff's former spouse against Plaintiff, intentionally failed to leave out any mention of Plaintiff telling Defendant that Plaintiff's former spouse hacked into his electronic devices.

33. The PRE, while including ample, unsupported statements regarding Plaintiff's alleged (but baseless) alcohol and drug use, intentionally failed to leave out any mention of Plaintiff telling Defendant about his former spouse's prescription drug use and the deleterious effects such prescription drug use had.

34. The PRE repeatedly characterizes Plaintiff as an alcoholic and drug addict while intentionally failing to mention that there was no evidence for these characterizations whatsoever, outside of unsupported anecdotal evidence.

35. Along these lines, the PRE fails to include any mention of the self-imposed, voluntary alcohol screens – all of which were negative – which Plaintiff produced to Defendant.

36. The PRE also intentionally fails to discuss a negative hair follicle drug test Plaintiff produced.

37. The fact that Plaintiff had produced and shown Defendant hundreds of negative, voluntary alcohol tests, a negative hair follicle test, and that he was provably clean throughout his extensive military service, was intentionally omitted in the same PRE which repeatedly characterized Plaintiff as addicted to alcohol and drugs.

38. The PRE also intentionally fails to discuss the financial support Plaintiff established for his son, including that he had established a six-figure college fund (funded solely by Plaintiff) and a whole life insurance policy with a cash value which will transfer to his son when his son turns 18.

39. The PRE also intentionally omits that, as evidence of his care for his son's future financial wellbeing, Plaintiff contributes \$1,044 per month to this account.

40. Failing to include any evidence of Plaintiff's financial support and investment in his child was intentionally intended to strengthen the false narrative that Plaintiff is a "deadbeat dad" with no sustainable professional prospects.

41. During their interactions, Defendant Kopit repeatedly commented on Plaintiff's physique, including at Plaintiff's house and in front of Plaintiff's child. These comments are concerning as the PRE also accuses Plaintiff of "body-shaming."

42. The PRE also breached the written agreements between the parties by diagnosing Plaintiff with serious mental health disorders, including "Narcissistic Personality Type, Schizoid Personality Type, Unspecified Personality Disorder (Sadistic) Style, and Paranoid Personality Style."

43. Because the agreements between the parties specifically disclaim psychotherapeutic treatment, these "diagnoses" were only included in order to continue to negatively impact Defendant's evaluation of Plaintiff's parenting ability.

44. These diagnoses are also unsupported by any formal testing or data.

45. Defendant also intentionally failed to communicate with or obtain records from Plaintiff's treating mental health provider, all of which would have confirmed that Plaintiff had none of the psychiatric disorders with which Defendant diagnosed him.

46. Defendant's conduct violated numerous provisions of mutually-executed agreements between the parties, including the Disclosure Statement and the Informed Consent for Parental Responsibilities Evaluation.

47. Defendant's conduct intentionally inflicted emotional harm upon Plaintiff.

48. The PRE's conclusions – including that Plaintiff should only be awarded supervised parenting time and that Plaintiff is not entitled to any decision making, educational decision making, and “final decision-making responsibility regarding major medical, dental, and mental health decisions for the child” – gravely impact Plaintiff's right to familial integrity and, at bottom, his ability to parent a son who was in his custody and care 24 hours a day/7 days a week prior to domestic relations proceedings being initiated.

ASSAULT ALLEGATIONS

49. The above, biased, discrediting, and malicious PRE was issued only after Plaintiff rebuffed, ignored, or otherwise rejected numerous verbal comments and physical actions of a sexual nature.

50. Defendant's verbal comments and physical actions of a sexual nature began at the very first meeting between Plaintiff and Defendant.

51. During this meeting, which took place at Defendant's office on or about **November 9, 2022**, the following interactions of a sexual nature occurred:

- Defendant sat back in his chair and immediately removed his shoes;
- Defendant told Plaintiff that he could “do whatever [Plaintiff] wants” and that Plaintiff could “take off [his] shoes” if he wanted as well;
- Defendant also invited Plaintiff to “**take off [his] shirt**”
- Defendant invited Plaintiff to “sit on the couch” so that Defendant could “sit on the couch with [him]”
- After advising Plaintiff to “take off [his] shirt,” Defendant smiled and laughed in a way that can only be described as sexual in nature;

- Defendant told Plaintiff that he is “**good looking for an older guy**” and praised Plaintiff by saying “good for [him]” in relation to his physique;
- Defendant remarked to Plaintiff that he was “gonna [*sic*] do well” in relation Plaintiff’s sex life now that Plaintiff was in the process of a divorce from Plaintiff’s wife;
- Defendant made numerous, highly inappropriate comments to Plaintiff about Plaintiff’s sexual preferences, including asking Plaintiff whether Plaintiff was “seeing anyone” and whether Plaintiff liked “**guys, girls, [or] both**”;
- Defendant placed his hand on the small of Plaintiff’s back;
- Defendant touched Plaintiff’s knee on the inside of the knee; and
- Defendant touched and squeezed Plaintiff’s arm on the upper bicep and tricep of the arm.

52. Defendant also interacted with Plaintiff – while R.C. was present – at a home visit which occurred **on or about January 4, 2023.**

53. During this home visit, and in the presence of R.C.’s son, the following interactions of a sexual nature occurred:

- Defendant asked Plaintiff what he eats on a regular basis because Defendant “just want[ed] to know **how [Plaintiff] look[s] so good**”;
- Defendant complimented Plaintiff by saying he had “**such a big, strong body**”;
- Defendant again squeezed and touched Plaintiff’s arm on the upper bicep and tricep of the arm. ;
- **Defendant intentionally looked down at Plaintiff’s crotch, looked up, and smiled.**

54. Before this point, Plaintiff recognized that Defendant held enormous power in determining how much custody Plaintiff was to receive of R.C. and was extremely hesitant to say anything – even in response to Defendant’s obvious sexual advances – which would frustrate, upset, anger, or otherwise cause Defendant to retaliate by recommending little or no custody of R.C.

55. However, Plaintiff reached a breaking point when verbal and physical sexual advances were made in R.C.’s presence.

56. Plaintiff demanded that Defendant stop his obvious sexual advances in front of Plaintiff’s son, R.C.

57. Prior to this statement, Defendant repeatedly advised Plaintiff that Defendant “can’t tell [Plaintiff] any reason why [Plaintiff] wouldn’t get 50/50 custody.”

58. However, after Plaintiff demanded that Defendant stop his obvious sexual advances, including and especially those in front of R.C., Defendant became cold, unempathetic, and did everything in his power to ensure that Plaintiff would have no custody of R.C.

59. Defendant retaliated against Plaintiff by issuing the above PRE, which caused Defendant to lose custody of R.C. for nearly two years.

60. Plaintiff was forced to spend hundreds of thousands of dollars on additional legal and professional fees, including a rebuttal PRE.

61. At a May 9, 2024 hearing, the domestic relations court agreed with the rebuttal PRE, essentially struck Defendant’s report and opinions, and awarded Plaintiff increased custody of R.C.

62. Plaintiff sustained extreme emotional distress as a result of both Defendant’s verbal assault and physical sexual advances and the resulting, retaliatory PRE.

FIRST CLAIM FOR RELIEF

Assault

63. Plaintiff incorporates herein by reference all of the allegations contained in the preceding and foregoing paragraphs of this pleading.

64. Defendant intended to cause an offensive or harmful physical contact with Plaintiff.

65. Defendant intended to place Plaintiff in apprehension of harmful physical contact.

66. Defendant placed Plaintiff in apprehension of immediate physical contact.

67. That contact was harmful.

68. That contact appeared to be harmful.

69. That contact was offensive.

70. That contact appeared to be offensive.

71. Plaintiff has been damaged by Defendant's conduct and assault and is entitled to recover all damages available under Colorado law.

SECOND CLAIM FOR RELIEF

Battery

72. Plaintiff incorporates herein by reference all of the allegations contained in the preceding and foregoing paragraphs of this pleading.

73. Defendant's acts alleged above resulted in physical contact with Plaintiff.

74. Defendant intended to make harmful physical contact with Plaintiff.

75. Defendant intended to make offensive contact with Plaintiff.

76. The contact was harmful.

77. The contact was offensive.

78. Plaintiff has been damaged by Defendant's conduct and battery and is entitled to recover all damages available under Colorado law.

THIRD CLAIM FOR RELIEF

Extreme and Outrageous Conduct (Emotional Distress)

79. Plaintiff incorporates herein by reference all of the allegations contained in the preceding and foregoing paragraphs of this pleading.

80. Defendant engaged in extreme and outrageous conduct including, but not limited to, making numerous verbal comments and committing numerous physical actions, all of which were in an obviously sexual nature and some of which occurred in the presence of Plaintiff's young son, R.C.

81. Defendant did so recklessly or with the intent of causing Plaintiff severe emotional distress.

82. Defendant's conduct caused Plaintiff severe emotional distress.

83. Plaintiff has been damaged by Defendant's conduct and is entitled to recover all damages available under Colorado law.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Michael Caruso, prays for judgment against Defendant Lon Kopit, Psy.D. in an amount to be determined by the trier of fact for his losses as set forth above and for costs, expert witness fees, attorney's fees, statutory penalties, pre- and post-judgment interest, and such other further relief as the Court may deem appropriate, just, and proper.

Respectfully submitted on this _____ day of _____, 2024.

/s/ Elliot A. Singer
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