

FILED

DEC 14 2021

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*Heaton Fontano*  
CLERK OF THE COURT

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

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1 OGSJ  
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3 Nevada Bar No. 8456  
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10 *Attorneys for Defendant/*  
11 *Counterclaimant Capucine Holmes*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 WILBERT R. HOLMES,

10 Plaintiff,

11 vs.

12 ERNEST H. MILLER; CAPUCINE Y.  
13 HOLMES; and the DETROIT  
14 CONNECTION, INC.,

15 Defendants.

CASE NO.: A-17-760443-C  
DEPT. NO.: 17

DATE: November 30, 2021  
TIME: 9:00 a.m.

16 AND ALL RELATED MATTERS

ORDER GRANTING SUMMARY JUDGMENT

17 The MOTION FOR SUMMARY JUDGMENT (the "Motion") filed by  
18 Defendant/Counterclaimant CAPUCINE Y. HOLMES ("Defendant") having come  
19 before the above-entitled Court on November 30, 2021, at 9:00 a.m.; Defendant  
20 having appeared by and through her attorney of record, James A. Fontano of the law  
21 firm of Heaton Fontano, Ltd., Plaintiff/Counterdefendant WILBERT R. HOLMES  
22 ("Plaintiff") appearing in proper person, and no other parties appearing; the Court  
23 having read and reviewed the Motion, the Declaration of Capucine Holmes and the  
24 exhibits appended to the Motion, the Opposition to Motion for Summary Judgment  
25 11/16/2021, filed by Plaintiff on November 12, 2021 (the "Opposition"), and the  
26 Defendant's Reply, and good cause appearing, the Court enters the following findings  
27 of fact and conclusions of law:  
28

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DEC 13 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

21-356031

HEATON FONTANO  
ATTORNEYS AT LAW

1 The Court finds as follows:

2 1. Plaintiff has failed to provide any evidence establishing the claim of  
3 intentional infliction of emotional distress.

4 2. Plaintiff's Opposition failed to cite any points and authorities, and  
5 Plaintiff has presented no evidence in opposition to the Motion.

6 3. From and after May 31, 2017, Plaintiff has filed suit, pro per, against  
7 Defendant in multiple actions in the Eighth Judicial District Court, the Las Vegas  
8 Justice Court, and the North Las Vegas Justice Court (the "Other Actions").

9 4. Plaintiff has named as additional parties in this matter and the Other  
10 Actions third-parties including, but not limited to, Defendant's friends, business  
11 associates, attorneys, landlords, and employers, as well as civic and other  
12 organizations and persons with whom Defendant has current or former relationships.

13 5. Defendant has submitted admissible evidence that Plaintiff has  
14 published emails to dozens of people, including Defendant's friends, professional  
15 associates, and employer, each of which had the subject matter of "Devil Woman" and  
16 which included links to documents, photographs, videos, etc., that are slanderous or  
17 have been doctored by Plaintiff to put Defendant in an unfavorable light, including  
18 documents from this matter and the Other Actions, thereby causing Defendant  
19 embarrassment and shame.

20 6. On May 31, 2020, Chief Judge Linda Marie Bell entered a Decision and  
21 Order in this matter based upon nine (9) then-existing cases, which had been  
22 consolidated herein, plus four (4) previously dismissed matters filed by Plaintiff over  
23 a three-year period, pursuant to which she declared Plaintiff "to be a vexatious  
24 litigant" and "enjoined [Plaintiff] from filing in proper person in the Eighth Judicial  
25 District Court, subject to the terms of [Judge Bell's] Order."

26 Based upon the foregoing findings of fact, the Court enters the following  
27 conclusions of law:  
28

1           1.     The pleadings and evidence submitted by Defendant show that “there is  
2 no genuine issue as to any material fact and that the moving party is entitled to a  
3 judgment as a matter of law” pursuant to NRCP 56(c) and *Pegasus v. Reno*  
4 *Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002).

5           2.     The willful acts by Plaintiff constitute an abuse of process in that they  
6 were not proper in the regular conduct of this or any other proceeding and were taken  
7 for the ulterior purpose of harassing Defendant and her friends, associates, and  
8 others, and not to resolve a legitimate legal dispute.

9           3.     The commission and continuance of Plaintiff’s actions described above  
10 are in violation of Defendant’s rights and will produce great or irreparable injury to  
11 Defendant, and that Defendant is entitled to injunctive relief.

12           NOW THEREFORE, based upon the foregoing findings and conclusions,

13           IT IS HEREBY ORDERED, that the Motion for Summary Judgment shall be  
14 and is hereby GRANTED; and it is

15           FURTHER ORDERED, ADJUDGED, AND DECREED, that JUDGMENT is  
16 entered in favor of Defendant and against Plaintiff as to the sole cause of action  
17 for Intentional Infliction of Emotional Distress asserted in Plaintiff’s Complaint;  
18 and it is

19           FURTHER ORDERED, ADJUDGED, AND DECREED, that JUDGMENT is  
20 entered in favor of Defendant and against Plaintiff as to the First Cause of Action for  
21 Abuse of Process asserted in Defendant’s Counterclaim; and it is

22           FURTHER ORDERED, ADJUDGED, AND DECREED, that JUDGMENT is  
23 entered in favor of Defendant and against Plaintiff as to the Second Cause of Action  
24 for Declaratory Relief—Vexatious Litigant asserted in Defendant’s Counterclaim;  
25 and it is

26           FURTHER ORDERED, ADJUDGED, AND DECREED, that JUDGMENT is  
27 entered in favor of Defendant and against Plaintiff as to the Third Cause of Action  
28 for Injunctive Relief asserted in Defendant’s Counterclaim; and it is

1 FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall be  
2 and is hereby ENJOINED perpetually from taking any further actions to harass  
3 Defendant by making and/or publishing slanderous, libelous, and otherwise  
4 pejorative statements to Defendant's friends, associates, employers, employees, and  
5 the general public, and from otherwise causing injury or harm to Defendant in her  
6 personal and professional endeavors; and it is

7 FURTHER ORDERED, ADJUDGED, AND DECREED, that this matter shall  
8 be set for hearing on December 21, 2021, at the hour of 9:00 a.m., for a prove-up  
9 hearing as to the special damages incurred by Defendant as a direct and proximate  
10 result of Plaintiff's abuse of process, and that Defendant shall submit evidence of such  
11 damages to the court in advance of the hearing.

12 IT IS SO ORDERED.

13 Dated this 9th day of December, 2021

14 

15  
16 3FB 29F 4620 A679  
Michael Villani  
District Court Judge

17 Submitted by:

18 HEATON FONTANO, LTD.

19 /s/ James A. Fontano  
JAMES A. FONTANO  
Nevada Bar No. 8456  
5135 Camino al Norte, Ste 273  
N Las Vegas, Nevada 89031  
21 Attorneys for Defendant Capucine Y. Holmes

22 Approved as to form and content:

23 [REFUSED TO SIGN]  
24 WILBERT R. HOLMES  
3890 S. Nellis Blvd., Lot 56  
25 Las Vegas NV 89121  
26 Plaintiff in Proper Person

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

4  
5  
6 Wilbert Holmes, Plaintiff(s)

CASE NO: A-17-760443-C

7 vs.

DEPT. NO. Department 17

8 Ernest Miller, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order Granting Summary Judgment was served via the court's  
13 electronic eFile system to all recipients registered for e-Service on the above entitled case as  
listed below:

14 Service Date: 12/9/2021

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