UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GABRIEL BENSON	:	**Case Number:** 5:24-cv-1200
	:	
Plaintiff,	:	**Judge:** Boyko
	:	
-vs-	:	
	:	
CITY OF AKRON, et al.	:	
	:	
Defendants.	:	

RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO STAY

I. INTRODUCTION

This is a case about a city and its officers continually abusing their police power to squash their sour grapes. Defendants City of Akron ("Akron" or "City"), Aaron Williams ("Williams"), and Kara Workman ("Workman") (collectively "Defendants") falsely arrested Gabriel Benson ("Benson") for obstructing official business and failure to disclose personal information without probable cause because they were furious that he used vulgar language to insult them. During the criminal proceedings, Defendants attempted to strongarm Benson into waiving his claims. But he refused. Defendants eventually dismissed their claims because they were unsupportable. Benson then filed this action. Now, Defendants have refiled those same criminal claims to retaliate against Benson.

II. BACKGROUND INFORMATION

A. Defendants arrested Benson for refusing to provide identification on his own property and swearing at officers.

On January 18, 2024, Benson went to a bar with his wife. His wife left before he did. Police arrived at the bar, they ended up citing Benson for disorderly conduct, and they returned him to his home. Defendants initially issued a summons for that first offense in the Akron Municipal Court. That case is not the subject of this lawsuit.

In an entirely **separate** event that evening, Benson got into an argument with his wife. She called the police. (Exhibit 1, Report). However, when police arrived, Benson's wife clearly informed Defendants that Benson did nothing physically aggressive, and he did not lay his hands on her. (Id.) When Defendants arrived, they had no warrant. The Defendants allege that Benson locked the door. (Id.) Because his wife was outside, Defendants allege that Benson ultimately did decide to open the door and speak with the Defendants. (Id.) Defendants began demanding that Benson identify himself, and Defendants allege that Benson refused. (Id.) Defendants kept demanding that Benson identify himself, and Defendants allege that Benson told them he did not need to do so. (Id.) Defendants then warned Benson that if he would not identify himself at his own home, they could arrest him for refusing to identify himself at his own home. (Id.) The Report implies that Benson still refused to provide identification. The Defendants arrested him, and Defendants admit that Benson did not physically resist their arrest. (Id.) Nonetheless, Defendants note in their Report that Benson was arrested for not providing identification and aiming "obscenities" at the officers. (Id.) Defendants took Benson into custody and detained him until his arraignment instead of issuing him a summons. That case, which is the matter addressed in this Action, was Case No. 24-CR-00469.[1]

[1] https://courts.akronohio.gov/AkronCaseInformation/cases/criminal/24-CR-00469-001

B. Defendants charged Benson with Failure to Identify Himself and Obstruction of Justice at his home.

Two separate cases were filed. However, Case No. 24-CR-00469 specifically involved Benson's arrest at his home. In that case, Defendants charged Benson with obstruction of business under R.C. § 2921.31 and failure to disclose personal information under R.C. § 2921.29 on January 18, 2024. This is the *only* criminal case addressed in this Action.

C. Defendants tried to pressure Benson into waiving this lawsuit during the prosecution.

Defendants presented Benson's Counsel with a proffered waiver. The waiver appeared as a standard, form waiver with blanks. (Exhibit 2. Waiver of 42 USC § 1983 claim). The Release stated that Benson would agree to waive all his civil rights and constitutional rights claims against the City of Akron, the Police Department, and the arresting officers. (Id.) The waiver further desired that Benson acknowledge that he signed the waiver "without threats of any kind having been made in order to obtain this release," which is not accurate because Defendants were threatening Benson with continued criminal prosecution at the time. (Id.)

D. Defendants' charges were dismissed almost seven months ago.

Benson refused to sign the waiver because he strongly felt that he was permitted to refuse to identify himself on his property. Even though Benson refused to sign the waiver, Defendants still dismissed all claims and actions against Benson on March 5, 2024, after Benson refused to sign the waiver. (Exhibit 3, Dismissal).

E. Defendants refiled the same claims only one day after filing their Answer to the Complaint.

Four months after Defendants dismissed the charges against Benson, they refiled the charges. (Doc. #1). Defendants filed their Answer to the Complaint on September 19, 2024. (Doc. #7). This Court ordered a case scheduling conference on September 20, 2024. (Doc. #8).

Defendants then refiled the same claims they previously tried to strongarm Benson to release on that same day, September 20, 2024. (Id.) Defendants have also added a disorderly conduct claim based upon the same facts listed within their Report. (Id.)

Defendants have now filed their motion to stay this Action under *Younger*.

III. LAW AND ARGUMENT

Defendants must establish three factors in order to apply *Younger* abstention to this Action: (1) the criminal proceeding was *ongoing*; (2) the proceedings must involve an important state interest; and (3) the state proceedings must provide an adequate opportunity for the federal plaintiff to raise his constitutional claims. *Youssef v. Schuette*, No. 19-1225, 2019 U.S. App. LEXIS 27958 *5 (6th Cir. Sep. 17, 2019).

The Sixth Circuit has held that the "proper time of reference for determining the applicability of *Younger* abstention **is the time that the federal complaint is filed**." *Fed. Express Corp. v. Tenn. Pub. Serv. Com.*, 925 F.2d 962, 969 (6th Cir. 1991) (emphasis added), *see also*, *Thomas v. Tex. State Bd. of Med. Exam'rs*, 807 F.2d 453, 457 (5th Cir. 1987). The Supreme Court has held that the *Younger* abstention would not apply where a plaintiff can make "any showing of bad faith, harassment, or any other unusual circumstance." *Younger v. Harris*, 401 U.S. 37, 54, 91 S. Ct. 746 (1971).

The Complaint clearly states that all charges against Benson were dismissed **before** this Action was filed. (See Complaint, generally). Defendants do not, and they cannot, dispute this fact. Thus, Benson already achieved a favorable outcome concerning his malicious prosecution claim, and there were no claims "ongoing" or "pending" at the time this case was filed. Defendants, in a transparent attempt to game the *Younger* doctrine, have refiled their unsupportable charges in order to retaliate against Benson and obstruct this Action because Benson refused to

succumb to Defendants' attempt to strongarm him into releasing this same lawsuit. Defendants' actions are in bad faith, and they are intended to intimidate and retaliate against Benson for bringing this Action.

A. Benson already obtained a favorable outcome concerning the refiled charges.

Because Defendants voluntarily dismissed their claims, Benson already obtained a favorable outcome regarding his malicious prosecution claims. In *Thompson v. Clark*, 142 S.Ct. 1332 (2022), the United States Supreme Court held that when a prosecutor dismisses a charge without explanation, such as Defendants did here, this constitutes a favorable outcome to move forward with a malicious prosecution claims under the Fourth Amendment. (See *Id.*, *generally*). In *Thompson*, police entered the plaintiff's home without a warrant and handcuffed him on suspicions of child abuse. *Id.* at 40. The baby was examined and determined to only have diaper rashes. *Id.* Like Defendants here, the officers arrested the plaintiff for obstructing their business. *Id.* Like this case, the prosecutor dismissed the case without giving an explanation. *Id.*

The district court dismissed the plaintiff's malicious prosecution case holding that without an affirmative holding of innocence, the plaintiff could not establish a favorable outcome to support is malicious prosecution claim. *Id.* at 41. The Second Circuit Court of Appeals affirmed. *Id.* The Supreme Court reversed. *Id.*, *generally*.

The Court looked at common law, and it discussed that American courts have generally applied these three elements to establish malicious prosecution: (i) the charges were instituted without any probable cause; (ii) the motive in instituting the charges was malicious; and (iii) the plaintiff's prosecution ended favorably for the plaintiff. *Id.* at 43-4. Looking at history, the Court reasoned that the favorable termination element of a malicious prosecution claim was satisfied so long as the prosecution ended without a conviction. *Id.* at 45. "For that reason, **a plaintiff could**

maintain a malicious prosecution claim when, for example, the prosecutor abandoned the criminal case, or the court dismissed the case without providing a reason." *Id*. (emphasis added). The Court discussed that some courts in history required a final dismissal from a judge, but other courts historically did not. *Id.* at 47, *comparing*, *Woodman v. Prescott*, 66 N. H. 375, 376-377, 22 A. 456 (1890); *Paukett v. Livermore*, 5 Iowa 277, 282 (1857). The Court observed that "those cases did not purport to alter the basic favorable termination principle—namely, that a malicious prosecution claim could proceed when the prosecution terminated without a conviction." *Id.*

> The question of whether a criminal defendant was wrongly charged does not logically depend on whether the prosecutor or court explained why the prosecution was dismissed. And the individual's ability to seek redress for a wrongful prosecution cannot reasonably turn on the fortuity of whether the prosecutor or court happened to explain why the charges were dismissed. In addition, requiring the plaintiff to show that his prosecution ended with an affirmative indication of innocence would paradoxically foreclose a §1983 claim when the government's case was weaker and dismissed without explanation before trial, but allow a claim when the government's evidence was substantial enough to proceed to trial. That would make little sense.
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> *Id.* at 49.

Thus, the Court concluded that even when a prosecutor voluntarily dismisses a "weaker" case without explanation from the prosecutor or the court, the plaintiff has obtained a favorable termination of the prosecution. Here, Defendants dismissed their claims without explanation, and Benson consequently has already established that he achieved a favorable outcome regarding his malicious prosecution claim.

Defendants have now added an additional claim for disorderly conduct it seems. However, this has no affect on the favorable outcome analysis. In *Chiaverini v. City of Napoleon*, 144 S. Ct. 1745, 1748 syllabus (2024), the Supreme Court has held "[t]he presence of probable cause for one charge in a criminal proceeding does not categorically defeat a Fourth Amendment malicious-prosecution claim relating to another, baseless charge." Therefore, when a person is arrested with

three crimes, and any single charge is baseless, a person may now maintain a malicious prosecution claim on the baseless charges regardless of the outcome on any other charge.

Defendants here are trying to pile on another (baseless) claim to retaliate against Benson for brining this lawsuit. Under the Supreme Court's new opinion in *Chiaverini*, Defendants' actions have no impact other than highlighting their malice.

B. There is no probable cause to support Defendants' obstruction of business charge.

Defendants' refiled obstruction of business charge is unsupportable and retaliatory on its face. The United States Supreme Court has "consistently held that a refusal to cooperate, without more, does not furnish the minimal level of objective justification needed for a detention or seizure." *Florida v. Bostick*, 501 U.S. 429, 437, 111 S. Ct. 2382 (1991); *citing*, *Brown v. Texas*, 443 U.S. 47, 52-53, 99 S. Ct. 2637 (1979); *Florida v. Royer*, 460 U.S. 491, 498, 103 S. Ct. 1319 (1983).

This Court in *Kaylor v. Rankin*, 356 F. Supp. 2d 839, 846-47 (N.D. Ohio 2005) noted that Ohio law does not consider swearing at an officer or refusing to identify oneself as obstructing official business under R.C. § 2921.31. In that case, the officers alleged that a citizen obstructed official business because he made offensive comments, and he "refused to disclose his identity." *Id.* The elements of obstruction are: "(1) no person, without privilege to do so; (2) with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within his official capacity; (3) shall do an act which hampers or impedes a public official in the performance of his lawful duties." *Id.* Because merely swearing at an officer does not constitute "fighting words," this Court rejected the officers' arguments. *Id.* at 848, *citing*, *Greene v. Barber*, 310 F.3d 889, 896 (6th Cir. 2002) (noting that arrestee's "use of the word 'asshole' could not reasonably have prompted a violent response from the arresting officers" and "it is hard to imagine [arrestee's]

words inciting a breach of the peace by a police officer whose sworn duty it was to uphold the law").

The Ohio Eighth District Court of Appeals has held that swearing at officers and refusing to furnish information is not "obstructing business" under Ohio law. *City of Parma v. Campbell*, NOS. 79041 and 79042, 2001 Ohio App. LEXIS 4907 (Ct. App. Nov. 1, 2001). In *Campbell*, officers were called to a citizen's home concerning a custody dispute. *Id.* at *2-3. When they arrived, the citizen would not open the door. *Id.* at *3. The officers saw a red substance on the door, and they forced their way into the home. *Id.* The officers alleged the citizen refused to provide them information concerning a child's whereabouts, "was extremely irate, uttered obscenities at them, and flailed around." *Id.* The citizen's boyfriend also called and cussed repeatedly at the officers, and he threatened to sue them. *Id.* at *4-5. The government charged the couple with obstruction of business. *Id.* at *6. The trial court denied the couple's motion for acquittal, and the couple appealed. *Id.* The Eighth District reversed. *Id.* The Court held that refusing to answer an officer's questions and open the door is not obstruction of business because it is not an act. *Id.* at *9. In addition, the court held that swearing at police and instructing them to leave one's property is also not obstruction. *Id.* at *14, *see also*, *Garfield Heights v. Simpson*, 82 Ohio App. 3d 286, 611 N.E.2d 892 (1992) (the Eighth District held that it was unreasonable for officers to arrest a citizen for obstruction because he told the officers to get off his property).

It is both well-known and established in Ohio that officers can neither arrest nor prosecute a person for obstruction of justice merely because that person refused to comply with police orders and answer their questions. Indeed, there is a long line of cases making this abundantly clear.

In *State v. Dickman*, 2015-Ohio-1915, P16, 34 N.E.3d 488 (10th Dist. 2015), the Tenth District Court of Appeals held that police violated the Fourth Amendment when they arrested a citizen for refusing to identify himself, and they excluded all evidence after the arrest.

In *State v. Muldrow*, 10 Ohio Misc. 2d 11, 460 N.E.2d 1177 (Mun. Ct. 1983), the court held that refusing to cooperate with fingerprinting is not obstruction of justice. In *Columbus v. Michel*, 55 Ohio App. 2d 46, 378 N.E.2d 1077 (1978), the court held that it was not obstruction of justice to refuse to open a door when police commanded the person to do so even though the court thought the police had the right to kick in the door.

In *State v. Ellis*, 2020-Ohio-1115, ¶25 152 N.E.3d 1255 (8th Dist. 2020), the Eighth District Court of Appeals held that "a defendant's refusal to provide his driver's license to an officer on request, or the refusal to answer a police officer's questions regarding one's identity cannot support a conviction for obstructing official business."

In *State v. McCrone*, 63 Ohio App. 3d 831, 835, 580 N.E.2d 468 (9th Dist. 1989), the Ninth District Court of Appeals held that the refusal to produce a driver's license is not obstruction of justice because "refusing to cooperate with a law enforcement officer is not punishable conduct."

Defendants' own Police Report exhibits that they arrested Benson at his own home for refusing to do what they wanted. Indeed, after Defendants arrived at the scene, they immediately became aware that Benson had not physically attacked or harmed anyone in his house. (Exhibit 1). Defendants' Report further states that Benson refused to identify himself while at his own home. (Id.) The Report continues that "**Officers gave him multiple opportunities to disclose his name and date of birth, warning him that he could be placed under arrest**" for refusing to disclose this information. (Id.) (emphasis added). The Defendants then arrested Benson for not providing this information upon demand, but they admit that Benson "cooperated to let officers place him in

handcuffs" for refusing to identify himself. (Id.) Because Benson aimed "obscenities" against the officers, they threw him in jail, and they instituted the malicious prosecution against him in January of 2024.

Thus, Defendants' own report exhibits that Defendants: (1) demanded that Benson identify himself; (2) threatened to arrest Benson if he would not identify himself; and (3) arrested Benson because he refused to identify himself and swore at them. This is the precise conduct that numerous courts have held does not support an obstruction of justice claim.

Defendants clearly recognized this arrest was not going to hold water, so they first indicated to Benson they would dismiss all claims against him, but they would only do so if Benson signed the waiver of his constitutional claims against Defendants. (Exhibit 2). When Benson refused to sign the waiver, prosecutors still dismissed the claims because they clearly had no intent to prosecute the baseless obstruction of business claims. (Exhibit 3). Now, Defendants have decided to retaliate against Benson and "obstruct" this Action by refiling charges with no support.

C. There is no probable cause to support Defendants' charge under R.C. § 2921.29 for refusal to identify oneself on his own land.

Defendants' refiled charge under R.C. § 2921.29 is unsupportable and retaliatory. R.C. § 2921.29 states the following:

> No person **who is in a public place** shall refuse to disclose the person's name, address, or date of birth, when requested by a law enforcement officer who reasonably suspects either of the following . . ." (Emphasis added).

The first eight words of this statute clearly exhibits that it does not apply to refusals to present identification on "private" property, which is not a "public place." In *State v. Dunn*, 2020-Ohio-1261 (5th Dist. 2020), the Fifth District Court of Appeals held that arrests are not proper under this statute even when a person refuses to supply identification on *someone else's* private property. In that case, a couple were camping on someone else's private property with permission.

Id. at ¶18. Officers responded to reports of a disturbance, and they discovered the campers naked in their tent. *Id.* When the officers demanded identification from the woman, she refused because she felt it was inappropriate for officers to ask a woman with an exposed bottom for identification. *Id.* The officers claimed they wanted information for a report. *Id.* The Fifth District concluded there was no criminal act because the couple was on private property with permission, which is not a "public place." *Id*. at ¶18.

Here, Defendants' own report clearly exhibits that Defendants had no probable cause to arrest Benson for refusing to present his identification, and they certainly have no probable cause to refile this charge merely to intimidate him for bringing this Action. The Report clearly indicates that Defendants were at Benson's own home, and within his own property boundaries when they arrested him for not providing his identification.

D. Defendants' attempt to pressure Benson into waiving his rights creates an unusual set of circumstances.

Defendants' actions here present quite the unusual set of circumstances because Defendants previously failed to obtain a release of this lawsuit against Benson in exchange for dismissing criminal charges against him. In 1994, the Ohio Disciplinary Board issued the following Advisory Opinion:

> When a prosecutor offers to dismiss a criminal charge that lacks merit in exchange for a defendant's waiver of the right to pursue a civil remedy, the quid pro quo is illusory. The defendant relinquishes civil rights in exchange for the prosecutor's agreement to fulfill an ethical duty, the ethical duty to not prosecute criminal charges that lack merit. Such conduct is a misuse of the criminal process and in this Board's view constitutes a threat to continue a criminal charge to gain advantage as to a civil matter . . .
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> (See Advisory Opinion 94-010, attached as Exhibit 4).

Defendants offered to dismiss the refiled charges against Benson if he signed a waiver of his civil claims against the Defendants. (Exhibit 2). Defendants presented Benson what appears

as a form waiver.[2] Even though Benson refused to sign the waiver, Defendants still dismissed their weak claims, which clearly exhibited a lack of confidence in those claims. For almost seven months, Defendants never lifted a finger again. Now, only one day after they filed their Answer, Defendants have reinstated the same charges against Benson they failed to convince him to waive during his initial malicious prosecution. Those claims for obstruction of justice and refusal to identify himself were always unsupportable. This past attempt at securing a waiver of this same lawsuit, Defendants previous dismissal of these same claims without a waiver, and Defendants' decision to file these claims now seven months later (one day after answering the Complaint), presents an unusual set of circumstances that should preclude *Younger's* abstention.

E. Defendants cannot punish Benson for swearing at them and offending them on his property.

There is not much mystery for Defendants' animosity when viewing Defendants' own Report, charges, waiver, and refiled charges. Benson refused to submit to Defendants' authority when he was not required to, Benson said unpleasant things to Defendants they did not like, and Benson refused to submit to Defendants' coercive demands to waive his constitutional rights. Defendants cannot keep prosecuting Benson because he swore at them.

"[O]ne man's vulgarity is another man's lyric." – Justice Harlan, *Cohen v. California*, 403 U.S. 15, 91 S. Ct. 1780 (1971). "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." – Justice Brennan, *Texas v. Johnson*, 491 U.S. 397, 414, 109 S. Ct. 2533 (1989). Offensive speech is protected speech. In *Cohen*, 403 U.S. 15, the Supreme Court overturned the conviction of a man who was arrested for wearing a jacket that had "F**k

[2] Defendants' waiver of claims in exchange for dismissal appears standard, as if this is a regular practice that Defendants engage in.

the Draft" printed on it within a courtroom corridor. The Court held that the word "F**K" was not obscenity because it was not used erotically. *Id*. at 19-20. The Court held that the word "F**K" was not a fighting word because wearing the jacket would not provoke a reasonable person into a violent act. *Id.* Regarding the word "F**K," the Supreme Court wrote the following:

> For, while the particular four-letter word being litigated here is perhaps more distasteful than most others of its genre, it is nevertheless often true that one man's vulgarity is another's lyric. Indeed, we think it is largely because governmental officials cannot make principled distinctions in this area that the Constitution leaves matters of taste and style so largely to the individual. Id. at 25 (emphasis added).

Therefore, curse words in most circumstances are protected speech, and a government cannot punish individuals for choosing words that are offensive to certain listeners. The Sixth Circuit has also made it abundantly clear that officers may not prosecute citizens for disorderly conduct or obstructing justice because those citizens swear at them while they are interacting. In *Wood v. Eubanks*, 25 F.4th 414, 419-421 (6th Cir. 2022), a citizen wore a T-shirt that said "F*** the Police" on it to a county fair in Clark County, Ohio, called the officers "f**king pigs," and "f**kin thugs with guns that don't uphold the United States Constitution," and "fat-ass." *Id.* Precisely like this case, the officers then arrested the citizen for **disorderly conduct** and **obstructing official business**. *Id.* at 421. The trial court dismissed the plaintiff's claims holding the officers were entitled to qualified immunity. The citizen appealed, and the Sixth Circuit reversed stripping the officers of their immunity.

The Sixth Circuit held that the officers falsely arrested the plaintiff because they lacked probable cause. *Id.* at 423. The officers arrested the citizen' because his "language consisted of personally abusive epithets." *Id.* at 423 (emphasis added). The Sixth Circuit rejected this argument because rudeness and insult are not "grounds for a seizure." *Id.* at 424. The Sixth Circuit

ultimately reversed, determined the arrests were unconstitutional, and stripped the officers of their immunity.

There is a long line of historical cases that forbid punishing people for offending authority figures. In *Houston v. Hill*, 482 U.S. 451, 107 S. Ct. 2502 (1987), the Supreme Court held that a statute that criminalized "willfully" "interrupting" police conduct was facially overbroad because it punished protected objections to official conduct. In *Houston*, the plaintiff taunted officers while they were arresting his companion. *Id.* at 453-4. The plaintiff even admitted that he willfully wanted to distract the officers while they were arresting his companion. *Id.* at 460-1. Although the statute regulated some physical actions, such as assaulting an officer, other statutes existed to regulate that conduct. Consequently, the statute-at-issue in *Houston* was used to punish *language* that interrupted official business. *Id.*

In striking down the statute, the Court reasoned that the Constitution does not permit regulating language merely because it interrupts an officer in "any manner." *Id.* "The freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state." *Id.* The Supreme Court held that the statute in *Houston* was unlawful because it empowered the government with the unfettered discretion to arrest individuals merely because a speaker's words offended their sensibilities. *Id.* at 465-6. The Court expressly wrote the following:

> Although we appreciate the difficulties of drafting precise laws, **we have repeatedly invalidated laws that provide the police with unfettered discretion to arrest individuals for words or conduct that annoy or offend them**. As the Court observed over a century ago, "it would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside and say who could be rightfully detained, and who should be set at large. (Emphasis added).

Thus, the Court concluded that the statute was overbroad because it gave the government the discretion to arrest someone merely because he offends the government actors during their official action. *See also*, *Gooding v. Wilson*, 405 U.S. 518, 92 S. Ct. 1103 (1972) (striking down a law for overbreadth that restrained "abusive" language, tending to cause a breach of the peace); *see also*, *Terminiello v. Chicago*, 337 U.S. 1, 4-5, 69 S. Ct. 894 (1949) (striking down a statute because it permitted the punishment of a person when his speech stirs anger in others).

Here, Defendants are continuing to punish Benson because he continued to use "obscenities" and offend them after they arrested him for refusing to identify himself. (See Report, Exhibit 1).

IV. CONCLUSION

The *Younger* abstention should not apply here because: (1) the Defendants filed unsupportable charges without probable cause; (2) Defendants then tried to obtain a waiver of Benson's civil rights lawsuit in return for a dismissal; (3) Benson refused to sign the waiver; (4) Defendants dismissed their charges anyways because they were weak; (5) Benson filed the same suit Defendants attempted to have waived against him; and (6) Defendants then filed the same unsupportable claims one day after answering the Complaint, and almost seven months after dismissing those same claims. Defendants' refiled charges exist in the most unusual circumstances, and they are made in bad faith to intimidate and punish Benson for refiling the same *dismissed* claims he refused to waive.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that this Response was served on Defendants via this Court's electronic filing and service system on this 7th day of October, 2024.

/s/ Matt Miller-Novak
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