

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

FILED

<p>MAX MILLER  <i>Plaintiff,</i>  v.  EMILY MORENO, ET AL.  <i>Defendants</i></p>	<p>2026 MAY 27 A 9:49 CLERK OF COURTS CUYAHOGA COUNTY Case No. CV-26-138810  Judge Joy Kennedy</p>
<p>DEFENDANT EMILY MORENO'S MOTION FOR EXPEDITED RELIEF THROUGH DISMISSAL AND REQUEST FOR EXPEDITED HEARING UNDER THE UNIFORM PUBLIC EXPRESSION PROTECTION ACT, R.C. 2747.01 ET SEQ.</p>	

Defendant Emily Moreno respectfully moves this Court for expedited relief under Ohio's Uniform Public Expression Protection Act (R.C. 2747.01 *et seq.*) to dismiss Plaintiff's claim with prejudice, and for an award of attorney fees and costs as required by the statute. Under R.C. 2747.03(A)(1), this Court must stay these proceedings pending full resolution of this motion. Ms. Moreno also requests a hearing on this motion within the next 60 days under R.C. 2747.04(A)(1). An adverse decision by the Court is subject to immediate interlocutory appeal. R.C. 2747.05(C).

A memorandum of support follows. Because this may be the Court's first opportunity to address the new statute, the memorandum is thorough.

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....iii

MEMORANDUM IN SUPPORT.....1

I. ISSUES PRESENTED..... 1

II. INTRODUCTION ..... 1

III. STATEMENT OF FACTS..... 4

IV. LAW AND ARGUMENT..... 6

    A. *The Daily Mail* statements touched on a matter of public concern—a congressman/candidate’s alleged misconduct—and so Miller’s claims fall within the scope of cases against which UPEPA (R.C. § 2747.01) protects. .... 10

        1. At its core, the First Amendment protects speech concerning candidates for public office, like Plaintiff Congressman Max Miller. .... 11

        2. Ms. Moreno’s alleged statement about Congressman Miller throwing boiling water on her touched on a matter of public concern protected by UPEPA..... 12

    B. None of the four UPEPA exceptions authorize Plaintiff Miller’s claim..... 17

    C. There is no cause of action upon which relief may be granted because Ms. Moreno didn’t make the alleged statements—and, in any case, they were true or substantially true. .... 18

        1. The Court should dismiss Miller’s claims because the statute of limitations has expired. ... .. 19

        2. Ms. Moreno did not cause the allegedly defamatory statements to be published. .... 20

        3. Ms. Moreno’s alleged statement that Miller threw water on her is true and thus is not actionable as defamation..... 23

        4. Ms. Moreno did not cause *The Daily Mail* to publish information she knew or should have known to be false, and thus, Miller cannot show actual malice. .... 25

        5. The statement about the handwritten letter in which Miller apologizes for failing to protect Ms. Moreno is subject to multiple interpretations—some innocent—and thus is not defamatory..... 27

        6. Miller cannot succeed on his false-light claim because *The Daily Mail* statements are true and Ms. Moreno did not publish them. .... 28

D. This Court should order Miller to pay Ms. Moreno’s attorney fees, costs, and other expenses as required under UPEPA because Ms. Moreno has met her burden. .... 29

V. CONCLUSION ..... 30

## TABLE OF AUTHORITIES

### Cases

<i>Am Chem. Soc. v. Leadscope, Inc.</i> , 2012-Ohio-4193 .....	18, 23
<i>Anderson v. WBNS-TV, Inc.</i> , 2019-Ohio-5196 .....	23
<i>Becker v. Toulmin</i> , 165 Ohio St. 549 (1956) .....	27
<i>Beckley Newspapers Corp. v. Hanks</i> , 389 U.S. 81 (1967) .....	26
<i>Boulger v. Woods</i> , 917 F.3d 471 (6th Cir. 2019) .....	27
<i>Bruss v. Vindicator Printing Co.</i> , 109 Ohio App. 3d 396 (7th Dist. 1996) .....	23
<i>Cleveland Leader Printing Co. v. Nethersole</i> , 84 Ohio St. 118 (1911) .....	27
<i>Connick v. Myers</i> , 461 U.S. 138 (1983) .....	12
<i>Dale v. Ohio Civ. Serv. Emps. Ass'n</i> , 57 Ohio St.3d 112 (1991) .....	23
<i>Garrison v. Louisiana</i> , 379 U.S. 64 (1964) .....	26
<i>Gertz v. Robert Welch, Inc.</i> , 418 U.S. 323 (1974) .....	26
<i>Hartman v. Kerch</i> , 2023-Ohio-1972 (8th Dist.) .....	23, 27, 28
<i>Lawrence v. Gilby's Pizza Craven</i> , 2026-Ohio-1797 (6th Dist.) .....	n.1
<i>M.G. v. Bainbridge Island Sch. Dist. #303</i> , 566 P.3d 132 (Wash. Ct. App. 2025) .....	12

<i>Mackey v. Krause</i> , No. 20240785, 2025 WL 24800059 (Utah Aug. 28, 2025).....	12
<i>Maddox Defense, Inc. v. GeoData Sys. Management, Inc.</i> , 2019-Ohio-1778 (8th Dist.).....	23
<i>McCartney v. Oblates of St. Francis Del. Sales</i> , 80 Ohio App.3d 345 (6th Dist. 1992).....	28
<i>McCurdy v. Montgomery County</i> , 240 F.3d 512 (6th Cir. 2001).....	2
<i>McKimm v. Ohio Elections Comm.</i> , 89 Ohio St.3d 139 (2000).....	26
<i>Monitor Patriot Co. v. Roy</i> , 401 U.S. 265 (1971).....	11, 12, 25
<i>N.Y. Times v. Sullivan</i> , 376 U.S. 254 (1964).....	2, 25
<i>Rosenblatt v. Baer</i> , 383 U.S. 75 (1966).....	25
<i>San Diego v. Roe</i> , 543 U.S. 77 (2004).....	12
<i>Scott v. News-Herald</i> , 25 Ohio St.3d 243 (1986).....	2, 26
<i>Snyder v. Phelps</i> , 562 U.S. 443 (2011).....	12
<i>St. Amant v. Thompson</i> , 390 U.S. 727 (1968).....	26
<i>Stohlmann v. WJW TV, Inc.</i> , 2006-Ohio-6408 (8th Dist.).....	23
<i>Welling v. Weinfeld</i> , 113 Ohio St.3d 464 (2007).....	29
<i>Yeager v. Loc. Union 20</i> , 6 Ohio St.3d 369 (1983).....	27

## Statutes

R.C. 2747.01(B)(3) .....	2, 7, 10
R.C. 2747.01(C) .....	3, 17
R.C. 2747.01(C)(1–4) .....	17
R.C. 2747.02 .....	7
R.C. 2747.03(A)(1) .....	7
R.C. 2747.03(B) .....	7
R.C. 2747.03(D) .....	7
R.C. 2747.04(A)(1) .....	7
R.C. 2747.04(B) .....	7
R.C. 2747.04(C) .....	8, 10, 18
R.C. 2747.04(D) .....	7
R.C. 2747.05(A) .....	4, 10, 29
R.C. 2747.06(B) .....	6, 10
R.C. 2747.06(C) .....	6

## Other Authorities

Catherine Bouris, <i>MAGA Rep Accused of Brutally Beating GOP Senator’s Daughter</i> , <i>Daily Beast</i> (May 8, 2026) .....	16
Virginia Chamlee, <i>Stephanie Grisham Speaks Out After Being Sued by Her Ex (a White House Co-Worker) Over Abuse Claims He Denies</i> , <i>People</i> (Oct. 6, 2021) .....	15
Jill Cowan, <i>Swakwell Suspends Campaign for California Governor Amid Sexual Assault Accusations</i> , <i>N.Y. Times</i> (Apr. 12, 2026) .....	13
Rob Crilly & Morgan Phillips, <i>Exclusive: Trump tells guests at Bedminster wedding of former aid and GOP House candidate Max Miller he will endorse Mike DeWine for governor—despite criticizing him multiple times</i> , <i>The Daily Mail</i> (Aug. 29, 2022) .....	12
Karoun Demirjian and Sharon LaFraniere, <i>Hegseth Ex-Sister-in-Law Tells Senators He Was ‘Abusive’ to Second Wife</i> , <i>N.Y. Times</i> (Jan. 21, 2025) .....	14

Sabrina Eaton, <i>Rep. Max Miller ends defamation suit against former WH spox Stephanie Grisham</i> , cleveland.com (Aug. 31, 2023).....	14
Alison Eldridge, <i>Streisand effect</i> , Britannica (Apr. 1, 2026).....	n.2
Hailey Fuchs, <i>Max Miller sues ex-wife and her legal team for domestic abuse allegations</i> , Politico (May 14, 2026).....	15
Dan Gooding, <i>28 House Lawmakers Investigated for Alleged Sexual Misconduct: Full List</i> , Newsweek (Apr. 20, 2026).....	13
Ron Kampeas, <i>Former Trump aide Stephanie Grisham accuses Jewish congressional candidate Max Miller of abuse</i> , Jewish Telegraphic Agency (Oct. 6, 2021).....	14
Annie Karni, <i>These G.O.P. Women Want Congress Members to Pay a Price for Abuse. Will It Work?</i> , The N.Y. Times (May 2, 2026) .....	13
Ryan King, <i>Rep. Max Miller’s divorce from Sen. Bernie Moreno’s daughter gets ugly over questions about 2-year-old’s broken collarbone</i> , N.Y. Post (Apr. 24, 2026).....	22
Skylar Laird, <i>SC representative charged with distributing child sexual abuse material</i> , South Carolina Daily Gazette (Jun. 12, 2025) .....	14
Ryan Mancini, <i>Ohio GOP congressman sues ex-wife over abuse allegations</i> , The Hill (May 14, 2026) .....	14
Alex Miller and Adam Pack, <i>‘Disturbing’ allegations against unnamed senator under review in wake of scandals rocking Congress</i> , Fox News (Apr. 16, 2026) .....	14
National Conference of Commissioners on Uniform State Laws, <i>Uniform Public Expression Protection Act</i> , at 4 (Oct. 2, 2020).....	10
Scott Noll, <i>Police: ‘open investigation’ into abuse allegations of Max Miller’s child</i> , ABC News 5 Cleveland (Apr. 23, 2026; last updated Apr. 24, 2026) .....	16
Marisa Saenz, <i>Former White House press secretary Stephanie Grisham accuses Northeast Ohio congressional candidate Max Miller of abuse</i> , WKYC (Oct. 5, 2021; last updated Oct. 6, 2021) 15	
Felicia Sonmez, <i>Former Trump press secretary Stephanie Grisham accuses congressional candidate of abuse</i> , The Washington Post (Oct. 5, 2021) .....	15
Cory Shaffer, <i>Ex-Trump staffer Max Miller files defamation lawsuit against Stephanie Grisham over abuse allegations</i> , Cleveland.com (Oct. 5, 2021) .....	3
Julie Carr Smyth, <i>Ex-Trump aide files defamation suit over abuse allegations</i> , Associated Press (Oct. 6, 2021).....	15

Julie Carr Smyth, *US Rep. Max Miller sues his ex-wife for defamation in escalation of long-running divorce feud*, CBS News 19 from Associated Press (May 14, 2026) ..... 16

Jenna Sundel, *Cory Mills Assault Investigation: Police Called to Republican’s Home*, Newsweek (Feb. 25, 2025)..... 13

TMZ Staff, *Rep. Max Miller – Police Investigate Child Neglect Claims in Nasty Custody Battle*, TMZ DC (Apr. 22, 2026)..... 16

Frank Thorp V and Scott Wong, *Speaker Mike Johnson responds to domestic abuse allegations against a GOP congressman: ‘He’s got to work that out’*, NBC News (May 15, 2026)..... 16

*US Democrat Keith Ellison denies domestic abuse allegation*, BBC (Aug. 13, 2018)..... 14

Joshua Wilburn, *Congresswoman Lauren Boebert’s Son Tyler Charged with Child Abuse Over Incident With Her Grandson*, Radar (Jul. 27, 2025)..... 13

*S.B. 237: Hearings Before the S. Judiciary Comm.*, 136th Gen. Assembly (2024) ..... 2

## MEMORANDUM IN SUPPORT

### I. ISSUES PRESENTED

- A. **Scope.** Ohio's Uniform Public Expression Protection Act (UPEPA), R.C. Chapter 2747.01 *et seq.*, protects speech made about a matter of public concern, protected by the First Amendment. The First Amendment protects speech about a congressman/candidate's misconduct, and news outlets are interested in such conduct. Does UPEPA protect *The Daily Mail* statements?
- B. **Exceptions.** Under UPEPA, a plaintiff cannot successfully defend against a motion for expedited relief if a defendant shows that no exception listed under R.C. 2747.01(C) applies. No such exception applies to Ms. Moreno's circumstances. Should the Court dismiss Plaintiff Congressman Max Miller's claims under UPEPA?
- C. **No defamation.** Under UPEPA, a court must grant expedited relief if the defendant establishes that the plaintiff failed to state a cause of action on which relief can be granted. The one-year statute of limitations has run on any comments Ms. Moreno may have made. *The Daily Mail* statements are also true or substantially true, and Ms. Moreno didn't cause them to be published. Should the Court grant Ms. Moreno's UPEPA motion?
- D. **Fees.** Under R.C. 2747.05(A), if a court grants a motion for expedited relief, it must award the defendant reasonable attorney fees, court costs, and other expenses. Ms. Moreno has met her burden under UPEPA to show her speech is protected and neither eligible for an exception nor actionable as defamation. Should the Court order Congressman Miller to pay Ms. Moreno the statutorily mandated fees and costs?

### II. INTRODUCTION

Political candidate and Congressman Max Miller seeks to silence a woman who has information about his misdeeds. The First Amendment to the United States Constitution and Ohio's Uniform Public Expression Protection Act ("UPEPA") prohibit him from succeeding.

In testimony before the Ohio Senate Judiciary Committee, the sponsors of Ohio's now-adopted anti-SLAPP (Strategic Lawsuits Against Public Participation) bill—the Uniform Public Expression Protection Act ("UPEPA")—testified that this new law is aimed at "provid[ing] protection for individuals exercising their constitutional right to free speech against frivolous lawsuits designed to stifle opposition." *S.B. 237: Hearings Before the S. Judiciary Comm.*, 136th

Gen. Assembly (2024), <https://www.legislature.ohio.gov/legislation/135/sb237/committee>.

“These lawsuits,” Senators Theresa Gavarone and Nathan Manning testified, “are purposed to silence or intimidate an individual for exercising their rights to free speech, which is protected under both the Ohio and United States Constitutions.” *Id.* Under R.C. § 2747.01, protected speech includes communications on a matter of public concern. R.C. § 2747.01(B)(3).

Here, a powerful, affluent congressman, Max Miller, sues his ex-wife over information she did not cause to be published. As for any conversations she did have about his abuse, the one-year statute of limitations has run its course. And, in either case, the statements at issue are true or substantially true, meaning they are not defamatory. Yet Congressman Miller presses on. He seeks to silence the victim of his abuse and punish her with lengthy, expensive, and emotionally painful litigation for exercising her First Amendment rights.

This is *exactly* the kind of action against which Ohio’s Uniform Public Expression Protection (anti-SLAPP) Act was designed to protect. Criticism of public officials—like Plaintiff Congressman Miller—is protected speech, and the First Amendment right to criticize public officials was clear “[s]ince the day the ink dried on the Bill of Rights.” *McCurdy v. Montgomery County*, 240 F.3d 512, 520 (6th Cir. 2001). The “freedom to discuss public affairs and public officials is unquestionably... the kind of speech the First Amendment was primarily designed to keep within the area of free discussion.” *N.Y. Times v. Sullivan*, 376 U.S. 254, 296–97 (1964) (Black, J., concurring). “Any threat of liability, with regard to the expression of unpopular statements, may result in a ‘chilling’ effect with devastating consequences to a democratic society.” *Scott v. News-Herald*, 25 Ohio St.3d 243, 246 (1986). As the Supreme Court wrote of citizens who criticize their elected officials, “[i]t is as much his duty to criticize as it is the official’s duty to administer.” *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 282.

Ms. Moreno did not cause *The Daily Mail* and other news outlets to publish the truth that Congressman Miller threw hot water on her. But even if she did, that speech would have been the same protected speech that the First Amendment and UPEPA were designed to protect. Exposing a congressman for his violent and criminal behavior is speaking on a matter of public concern. It constitutes First Amendment–protected criticism of that elected official. The public has a right to know when an elected official engages in such behavior, and the victim of that conduct has an unqualified right to speak the truth about her own experience, regardless of any effect on the official himself.

This lawsuit is the latest chapter in Congressman Miller’s well-established pattern of wielding his power and his fortune as weapons to crush his critics, intimidate his accusers, and silence the victims of his own misconduct. *See, e.g., Cory Shaffer, Ex-Trump staffer Max Miller files defamation lawsuit against Stephanie Grisham over abuse allegations*, Cleveland.com (Oct. 5, 2021), at <https://www.cleveland.com/court-justice/2021/10/ex-trump-staffer-max-miller-files-defamation-lawsuit-against-stephanie-grisham-over-abuse-allegations.html>. UPEPA was designed to dispose of abusive cases like this one, which are filed just to harass, inflict financial penalties, and deprive critics of their First Amendment rights.

Ms. Moreno asks this Court to grant his motion for expedited relief because:

- (1) Accusations of abuse against a congressman/congressional candidate are matters of public concern—and are protected speech within UPEPA’s scope.
- (2) Ms. Moreno’s speech falls under no exception listed in R.C. 2747.01(C), so Plaintiff Miller cannot prevail. R.C. 2747.01(C).
- (3) Plaintiff Miller fails to state a claim for which relief can be granted because the one-year statute of limitations has run, Ms. Moreno did not cause the alleged statements

to be published in *The Daily Mail*, and the statements are true or substantially true and were published without actual malice.

Finally, Ms. Moreno asks the Court to order Plaintiff pay, as mandated by statute, Ms. Moreno's attorney fees, costs, and other expenses under R.C. 2747.05(A).

### III. STATEMENT OF FACTS

In his complaint, Miller claims that Ms. Moreno "caused to be published the following false and defamatory statements about Plaintiff in *The Daily Mail* ("*The Daily Mail* statements"):"

- (1) "In an earlier incident, Miller allegedly hurled a pot of boiling water at Moreno during a June 9, 2024, argument. Some of the boiling water hit Moreno in the chest and she took photographs of her injuries the same day, sources told the outlet."
- (2) "A handwritten letter allegedly written by Miller to Moreno, the same day as the boiling water incident, shows the Congressman apologizing to his then-wife for failing to protect her, though he does not admit to any physical abuse."

Compl. ¶ 56.

Ms. Moreno and Miller married in August 2022. *E. Moreno Aff.* ¶ 3. The pair had a child but then divorced in June 2025. *Id.* Custody disputes are pending in the Cuyahoga County Court of Common Pleas Domestic Relations Division. Congressman Miller may suggest that these proceedings motivated Ms. Moreno's speech, but the opposite is true: she sought to keep his conduct private and never leveraged it in that forum. He himself brought it to light there. *See Miller v. Moreno*, No. 26-DV-408367, Brief in Opp. to Respondent's [Moreno's] Motion to Dismiss and Reply in Support of Motion to Extend Time Limits and for a Discovery Order, at 5, 10 (Cuy. Cnty. Comm. Pleas Domestic Rel. Div. Mar. 9, 2026), attached as Ex. C.

On June 8, 2024, Ms. Moreno told Miller she planned to leave him. *E. Moreno Aff.* ¶ 4. In retaliation, Miller threw onto Ms. Moreno hot water from a pan of eggs he'd just cooked. *Id.* Ms. Moreno fell to the floor and Miller pulled out the sink sprayer, spraying Moreno. *Id.* Moreno took their toddler and fled to her parents' home. Moreno sustained injuries from the incident and took pictures. *Id.* Ex. A-2-6.

In October 2025, Ms. Moreno talked to the court-appointed parenting coordinator from her domestic-relations case, Deborah Koricke. *Id.* ¶ 9. She contemporaneously told Ms. Koricke about how Miller threw the hot water on her and sprayed her with the sink hose. *Id.* During a May 12, 2026 deposition, as part of the domestic-relations case, Ms. Koricke testified that Miller confirmed that he sprayed Ms. Moreno with the sink hose. *Id.* Ex. A-7. The full deposition was filed on the Domestic Relations Division's docket.

On February 23, 2026, as part of their investigation into alleged abuse of the pair's daughter, Bay Village police spoke to Ms. Moreno. *Id.* ¶ 11. Ms. Moreno told the officer that Miller had abused her, including recounting the hot-water incident. *Id.* Ex. A-8. The officer included Ms. Moreno's statement on his incident report. *Id.* The relatively contemporaneous report is a public record.

On May 7, 2026, *The Daily Mail* published an article entitled "Chilling photos expose Trump-backed congressman's 'abuse'... as senator's daughter reveals scalding water attack and humiliating apology letter." Compl. Ex. 5. Ms. Moreno did not cause that article to be published. *E. Moreno Aff.* ¶ 14. She never spoke with any reporter from *The Daily Mail*. *Id.* Nor did she direct anyone to leak on her behalf that information. *Id.* ¶ 16.

#### IV. LAW AND ARGUMENT

Ohio’s adoption of the UPEPE protects a “person’s exercise of the right of freedom of speech and of the press ... on a matter of public concern.” R.C. 2747.01(B)(3). In short, the question is whether the defendant exercised their free-speech rights to discuss a matter important to the public. *Id.* R.C. 2747.06(B) echoes the sweeping interpretation of the Act’s scope by mandating that “a court shall broadly construe and apply section[] 2747.01....” R.C. 2747.06(B).

Ohio’s anti-SLAPP law took effect recently, on April 9, 2025. So there is little Ohio caselaw on it, especially in appellate courts.<sup>1</sup> But some Ohio common pleas courts, including Cuyahoga County’s, have dismissed under UPEPA’s framework speech-based claims like those here. *See Kertesz v. Pidikiti*, No. CV-25-122630 (Cuyahoga Comm. Pleas Dec. 10, 2025) (McGinty, J. W.); *Shehadeh v. Eckman*, No. CV-25-119825 (Cuyahoga Comm. Pleas Dec. 15, 2025) (Gallagher, J. S.); *Walker v. Arrington*, No. CV-25-127392 (Cuyahoga Comm. Pleas May 6, 2025) (Spellacy, J.). *See also George v. George*, No. 25-CV-167 (Guernsey Comm. Pleas Oct. 20, 2025); *Babinec v. Milford Exempted Village School Dist.*, No. CVC-01635 (Clermont Comm. Pleas Apr. 7, 2026). Some courts have ruled beyond defamation on other speech-based claims, which underscores the statute’s broad speech protections. *See Atkins v. Brown*, No. CV-25-125167 (Cuyahoga Comm. Pleas Feb. 2, 2026) (Gallagher, J. S.).

Under R.C. 2747.06(C), the legislature directed courts to “consider the need to promote uniformity of the law with respect to its subject matter among states that enact a substantially similar law.” R.C. 2747.06(C). Ten states—Hawaii, Idaho, Kentucky, Maine, Minnesota, New

---

<sup>1</sup> A May 23, 2026 Westlaw search yielded one published state-court opinion discussing Ohio’s new Uniform Public Expression Protection Act. *Lawrence v. Gilby’s Pizza Craven*, 2026-Ohio-1797 (6th Dist.). That case did not discuss the law’s substance, only the procedure.

Jersey, Ohio, Pennsylvania, Utah, and Washington—have adopted UPEPA. This brief discusses applicable law from 10-state legal research.

Under the law's plain text:

- A party who is subjected to a civil action under the Act may file a motion for expedited relief within 60 days of being served with a complaint. R.C. 2747.02.
- Once that motion has been filed, the court is required to stay all other proceedings in the action, including discovery or hearing any other pending motion.  
R.C. 2747.03(A)(1). Attorney fees, court costs, and other litigation expenses are not subject to the stay. R.C. 2747.03(D).
- The stay must remain in effect until 30 days after the court rules on the motion or after an appeal of the ruling—which is immediately appealable—concludes, whichever is later. R.C. 2747.03(B).
- A court fielding a motion for expedited relief under UPEPA must conduct a hearing within 60 days after the motion is filed, unless the court allows limited discovery under R.C. 2747.03. R.C. 2747.04(A)(1).
- Then, the court must rule on the motion for expedited relief within 60 days after the hearing. R.C. 2747.04(D). In ruling on the motion, a court may consider the pleadings, motion, responses to the motion, and any evidence that could be considered in ruling on summary judgment. R.C. 2747.04(B).
- A court **must** dismiss the cause of action with prejudice if **all** the following occur:
  1. The moving party establishes that the cause of action is based on a communication protected under R.C. 2747.01(B);

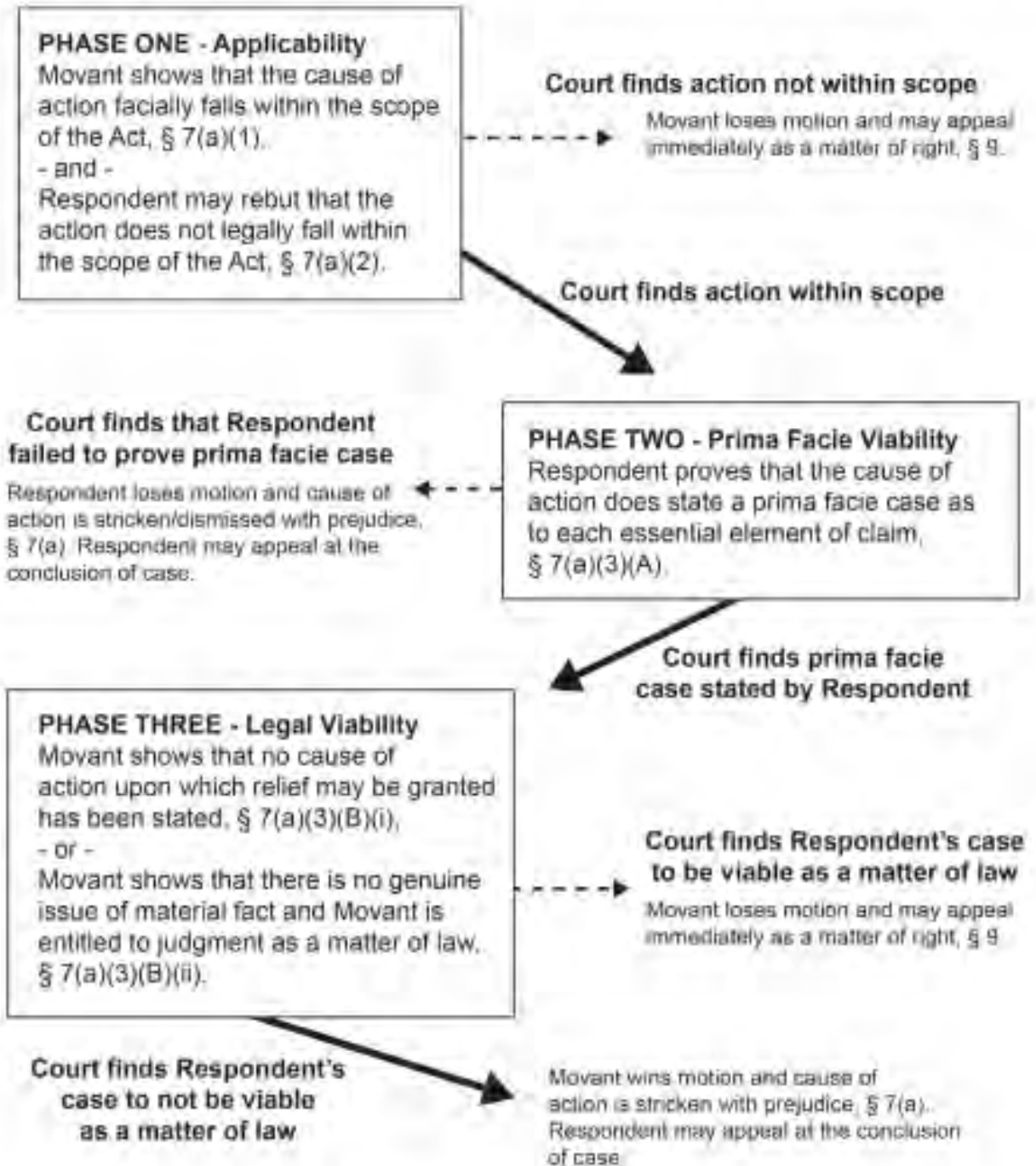
2. The responding party fails to establish that an exception listed in R.C. 2747.01(C) applies; and
3. *Either* the responding party fails to establish a *prima-facie* case for each essential element of the cause of action, *or* the moving party establishes that either
  - (a) the responding party failed to state a cause of action upon which relief can be granted, or
  - (b) there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.

R.C. 2747.04(C).

The National Conference of Commissioners on Uniform State Laws, which drafted UPEPA, provided the helpful graphic replicated on the following page to break down the steps in motion practice.

## Motion Analysis Path § 7(a)

Analysis path after a pleading is filed that asserts a cause of action with the scope of § 2, and the party against whom the cause of action is asserted files a motion for expedited relief per § 3.



National Conference of Commissioners on Uniform State Laws, *Uniform Public Expression Protection Act*, at 4 (Oct. 2, 2020), <https://medialaw.org/wp-content/uploads/2022/05/UPEPA-with-comments.pdf>.

If the court dismisses the action, then it **must** award to the moving party reasonable attorney fees, court costs, and other reasonable litigation expenses. R.C. 2747.05(A). This Court should do that because

- (1) Ms. Moreno’s speech fell within the scope of conduct that UPEPA protects,
- (2) it fell into no exception, and
- (3) Miller fails to state a claim for which relief can be granted.

**A. *The Daily Mail* statements touched on a matter of public concern—a congressman/candidate’s alleged misconduct—and so Miller’s claims fall within the scope of cases against which UPEPA (R.C. § 2747.01) protects.**

Under UPEPA’s framework, defendants must first establish that their communications are protected under the statute—meaning that it touches on a matter of public concern. R.C. 2747.04(C); R.C. 2747.01(B)(1–3). Section (B)(3) protects a “person’s exercise of the right of freedom of speech ... guaranteed by the United States Constitution or the Ohio Constitution, on a matter of public concern.” R.C. 2747(B)(3). As stated above, the legislature directed courts broadly construe and apply the statute’s scope. R.C. 2747.06(B) (“a court shall broadly construe and apply section [ ] 2747.01 ...”).

The First Amendment protects Ms. Moreno’s alleged speech. Allegations of abuse against a congressman are a matter of public concern, as the intense media interest in abuse allegations against various members of Congress, including Congressman Miller himself, confirms. Thus, Ms. Moreno’s purported speech falls under the ambit of speech protected under UPEPA.

**1. At its core, the First Amendment protects speech concerning candidates for public office, like Plaintiff Congressman Max Miller.**

As Plaintiff admits in his complaint, he is a sitting U.S. Representative running for re-election. Compl. ¶¶ 2, 7. The First Amendment specifically protects speech about a candidate's private life. *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 276 (1971).

In *Monitor Patriot*, the U.S. Supreme Court discussed whether revealing personal details about a candidate is protected speech. *Id.* The Court wrote that “anything which might touch on an official's fitness for office is relevant.” *Id.* at 273. “Few personal attributes are more germane to fitness for office than dishonesty, malfeasance, or improper motivation, even though these characteristics may also affect the official's private character.” *Id.* at 273–74. The Court explained that the principal activity of a candidate is putting before voters “every conceivable aspect of his public and private life” that he thinks might garner a good impression. *Id.* at 274. “A candidate who, for example, seeks to further his cause through the prominent display of his wife and children can hardly argue that his qualities as a husband or father remain of ‘purely private’ concern.” *Id.* The Court held that the First Amendment's protections must go beyond the ordinary meaning of “official conduct” to cover this sort of personal behavior. *Id.*

Even if Ms. Moreno did speak about Congressman Miller throwing boiling water at her—although she maintains she never spoke to *The Daily Mail*—that speech addresses his fitness for office, so the First Amendment protects it. Any accusations of misconduct address Congressman Miller's fitness for office. And Congressman Miller's former relationship with his now-ex-wife Ms. Moreno has been a prominent part of his political maneuvering. Rob Crilly & Morgan Phillips, *Exclusive: Trump tells guests at Bedminster wedding of former aid and GOP House candidate Max Miller he will endorse Mike DeWine for governor—despite criticizing him multiple*

*times*, The Daily Mail (Aug. 29, 2022), at <https://www.dailymail.com/news/article-11157007/Max-Miller-gets-married-former-presidents-Bedminster-golf-course-MAGA-wedding.html>. Like the candidate described in *Monitor Patriot*, Miller's prominent display of his wife renders his qualities as husband a public concern, and the First Amendment protects speech about those qualities.

**2. Ms. Moreno's alleged statement about Congressman Miller throwing boiling water on her touched on a matter of public concern protected by UPEPA.**

As explained above, Ohio's UPEPA directs courts to use the laws of other states that have adopted UPEPA. In interpreting what "public concern" means in the UPEPA context, both Utah courts and Washington courts adopted the Supreme Court's definition in *Snyder v. Phelps*, 562 U.S. 443, 453 (2011). See *Mackey v. Krause*, No. 20240785, 2025 WL 24800059, at \*8 (Utah Aug. 28, 2025); *M.G. v. Bainbridge Island Sch. Dist. #303*, 566 P.3d 132, 145 (Wash. Ct. App. 2025). In *Snyder*, the Court held that "[s]peech deals with matters of public concern when it can be 'fairly considered as relating to any matter of political, social, or other concern to the community,' or when it 'is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public.'" *Id.* (citing *Connick v. Myers*, 461 U.S. 138, 146 (1983); *San Diego v. Roe*, 543 U.S. 77, 83–84 (2004)).

Speech made in private discussing a public matter also receives UPEPA protection. For example, in *Mackey v. Krause*, a teacher sued after a student's parent appeared at a school-board meeting and made claims that the teacher behaved inappropriately and got into physical altercations with students. *Mackey v. Krause*, No. 20240785, 2025 WL 24800059, at \*2. The Utah Supreme Court ruled that, not only was Krause's speech to the board a matter of public concern falling within UPEPA's scope, but Krause's post-meeting, private-conversation

statement about his allegations also fell under the statute's purview. *Id.*

A congressman's potentially criminal or abusive behavior is a matter of political concern and of legitimate news interest. See Jill Cowan, *Swalwell Suspends Campaign for California Governor Amid Sexual Assault Accusations*, N.Y. Times (Apr. 12, 2026), at <https://www.nytimes.com/2026/04/12/us/eric-swalwell-suspends-california-governor-campaign.html?smtyp=cur&smid=fb-nytimes>; Dan Gooding, *28 House Lawmakers Investigated for Alleged Sexual Misconduct: Full List*, Newsweek (Apr. 20, 2026), <https://www.newsweek.com/house-lawmakers-investigated-alleged-sexual-misconduct-full-list-11855517> (congressional leadership receiving increased pressure to tackle alleged sexual abuse after former California congressman resigned and Texas congressman retired after both were alleged to have committed sexual misconduct); Annie Karni, *These G.O.P. Women Want Congress Members to Pay a Price for Abuse. Will It Work?*, The N.Y. Times (May 2, 2026), <https://www.nytimes.com/2026/05/02/us/politics/boebert-mace-luna-republican-women.html> (U.S. congresswomen demanded release of documents detailing any sexual-harassment settlements reached Congress members and want to make an example out of abusers to prevent future wrongdoing); Joshua Wilburn, *Congresswoman Lauren Boebert's Son Tyler Charged with Child Abuse Over Incident With Her Grandson*, Radar (Jul. 27, 2025), <https://radaronline.com/p/congresswoman-lauren-boebert-son-tyler-charged-child-abuse/>; Jenna Sundel, *Cory Mills Assault Investigation: Police Called to Republican's Home*, Newsweek (Feb. 25, 2025), <https://www.newsweek.com/cory-mills-investigation-assault-florida-donald-trump-prosecutor-2036007> (Florida congressman expressed interest in January 2025 for the Secretary of State Marco Rubio's previous Senate seat, but has been identified as a suspect alleged to have caused bruising to a 27-year-old woman); Karoun Demirjian and Sharon

LaFraniere, *Hegseth Ex-Sister-in-Law Tells Senators He Was 'Abusive' to Second Wife*, N.Y. Times (Jan. 21, 2025), <https://www.nytimes.com/2025/01/21/us/politics/hegseth-senators-affidavit.html> (U.S. Senator Jack Reed said the alleged pattern of abuse and misconduct alleged of defense-secretary nominee would disqualify any service member from leadership positions in the military, let alone defense secretary); *US Democrat Keith Ellison denies domestic abuse allegation*, BBC (Aug. 13, 2018), <https://www.bbc.com/news/world-us-canada-45174650> (two opponents in the 2018 Minnesota attorney-general election leveraged against candidate domestic-violence allegations made by candidate's then-girlfriend); Alex Miller and Adam Pack, *'Disturbing' allegations against unnamed senator under review in wake of scandals rocking Congress*, Fox News (Apr. 16, 2026), <https://www.foxnews.com/politics/disturbing-allegations-against-unnamed-senator-under-review-wake-scandals-rocking-congress>; Skylar Laird, *SC representative charged with distributing child sexual abuse material*, South Carolina Daily Gazette (Jun. 12, 2025), <https://scdailygazette.com/2025/06/12/sc-representative-charged-with-distributing-child-sexual-abuse-material/>.

Past allegations of Congressman Miller's domestic abuse also received nationwide media coverage. See Ron Kampeas, *Former Trump aide Stephanie Grisham accuses Jewish congressional candidate Max Miller of abuse*, Jewish Telegraphic Agency (Oct. 6, 2021), <https://www.jta.org/2021/10/06/politics/former-trump-aide-stephanie-grisham-accuses-jewish-congressional-candidate-max-miller-of-abuse>; Ryan Mancini, *Ohio GOP congressman sues ex-wife over abuse allegations*, The Hill (May 14, 2026), <https://thehill.com/homenews/house/5878818-miller-moreno-custody-battle/>; Sabrina Eaton, *Rep. Max Miller ends defamation suit against former WH spox Stephanie Grisham*, cleveland.com (Aug. 31, 2023), <https://www.cleveland.com/news/2023/08/rep-max-miller-ends-defamation-suit-against>

[former-wh-spox-stephanie-grisham.html](#); Felicia Sonmez, *Former Trump press secretary Stephanie Grisham accuses congressional candidate of abuse*, The Washington Post (Oct. 5, 2021), [https://www.washingtonpost.com/politics/former-trump-press-secretary-stephanie-grisham-accuses-congressional-candidate-of-abuse/2021/10/05/ac8617e2-25fb-11ec-8831-a31e7b3de188\\_story.html](https://www.washingtonpost.com/politics/former-trump-press-secretary-stephanie-grisham-accuses-congressional-candidate-of-abuse/2021/10/05/ac8617e2-25fb-11ec-8831-a31e7b3de188_story.html) (Grisham’s op-ed prompted spokeswoman for the Democratic Congressional Campaign Committee to make statement about Republicans continuing to uplift abusers); Julie Carr Smyth, *Ex-Trump aide files defamation suit over abuse allegations*, Associated Press (Oct. 6, 2021), <https://apnews.com/article/congress-cleveland-ohio-lawsuits-5eb9be34df76a8ed9f8cdd35d794e4f5> (Grisham told First Lady she didn’t call police about abuse because she didn’t think it would “be good to have another domestic abuse scandal hanging over the administration”); Marisa Saenz, *Former White House press secretary Stephanie Grisham accuses Northeast Ohio congressional candidate Max Miller of abuse*, WKYC (Oct. 5, 2021; last updated Oct. 6, 2021), <https://www.wkyc.com/article/news/politics/northeast-ohio-congressional-candidate-files-lawsuit-against-ex-girlfriend-abuse-allegations/95-72f3450e-d3c3-4bab-ac70-ddf49d108ff9>; Virginia Chamlee, *Stephanie Grisham Speaks Out After Being Sued by Her Ex (a White House Co-Worker) Over Abuse Claims He Denies*, People (Oct. 6, 2021), <https://people.com/politics/stephanie-grisham-sued-by-former-boyfriend-who-she-said-was-abusive/>.

And Ms. Moreno and Mr. Miller’s relationship—specifically their divorce and allegations against each other—have been the subject of intense media interest. *See* Hailey Fuchs, *Max Miller sues ex-wife and her legal team for domestic abuse allegations*, Politico (May 14, 2026), <https://www.politico.com/news/2026/05/14/max-miller-lawsuit-abuse-moreno-00920440>, attached as Ex. D (Miller is coming under microscope as part of a “renewed reckoning on

Capitol Hill over lawmakers' unethical behavior," leading both parties trying to sever out bad actors); Frank Thorp V and Scott Wong, *Speaker Mike Johnson responds to domestic abuse allegations against a GOP congressman: 'He's got to work that out'*, NBC News (May 15, 2026), <https://www.nbcnews.com/politics/congress/speaker-johnson-responds-domestic-abuse-allegations-max-miller-divorce-rcna345318>, attached as Ex. E (President Trump endorsed Miller for re-election as recently as May 5, 2026, and House Speaker Johnson stated allegations against Miller are something Miller needs to resolve); Julie Carr Smyth, *US Rep. Max Miller sues his ex-wife for defamation in escalation of long-running divorce feud*, CBS News 19 from Associated Press (May 14, 2026), <https://whnt.com/news/politics/ap-politics/ap-us-rep-max-miller-sues-his-ex-wife-for-defamation-in-escalation-of-long-running-divorce-feud/>, attached as Ex. F (Miller up for reelection this fall and press about abuse allegations has affected his chances of reelection); Catherine Bouris, *MAGA Rep Accused of Brutally Beating GOP Senator's Daughter*, *Daily Beast* (May 8, 2026), <https://www.thedailybeast.com/maga-rep-max-miller-accused-of-brutally-beating-maga-senator-bernie-morenos-daughter-emily/>, attached as Ex. G (Miller's lawyers have been sending to *The Daily Mail*, for outlet to cover, evidence, including transcripts of audio recordings between Miller and Moreno, and footage of Moreno after alleged 2/1 incident); TMZ Staff, *Rep. Max Miller – Police Investigate Child Neglect Claims in Nasty Custody Battle*, TMZ DC (Apr. 22, 2026), <https://www.tMZ.com/2026/04/22/max-miller-wife-accuses-him-of-abuse-neglect-in-custody-battle/>, attached as Ex. H; Scott Noll, *Police: 'open investigation' into abuse allegations of Max Miller's child*, ABC News 5 Cleveland (Apr. 23, 2026; last updated Apr. 24, 2026), <https://www.news5cleveland.com/news/local-news/police-open-investigation-into-abuse-allegations-of-max-millers-child>, attached as Ex. I (Moreno's attorney Zashin alleges Miller has a "well-documented history of using his wealth, lawyers, and courts to

bully his enemies”).

Congressman Miller himself admits in his complaint that Ms. Moreno’s alleged allegations have generated news media attention. Compl. ¶¶ 20, 56–57. And Miller drove much of that attention himself; he posted to his campaign X account nearly a dozen times, directly tagging *The Daily Mail* reporter who broke the story. *See* X posts, attached as Ex. D.

Because the First Amendment protects speech about a candidate’s personal life—like the speech Ms. Moreno in which allegedly engaged—and because new outlets have widely publicized these and similar allegations, making them matters of public concern, the Court should find that Ms. Moreno’s alleged speech satisfies the first UPEPA element.

**B. None of the four UPEPA exceptions authorize Plaintiff Miller’s claim.**

R.C. 2747.01 provides four, narrow exceptions to the Uniform Public Expression Protection Act—none of which authorize his claim:

- (1) A legal action against a governmental unit or an employee or agent of the governmental unit who was acting or purporting to act in an official capacity;
- (2) An enforcement action that is brought in the name of a governmental unit to protect against an imminent threat to public health or safety;
- (3) A legal action brought against a person primarily engaged in the business of selling or leasing goods or services, if the cause of action arises out of communication related to the person’s sale or lease of the goods or services;
- (4) A survivorship claim or a legal action seeking recovery for bodily injury or wrongful death, or statements made regarding that claim or legal action.

R.C. 2747.01(C)(1–4).

Ms. Moreno is neither a governmental unit nor employee. Nor was this action brought in

the name of any governmental unit. Ms. Moreno is not engaged in the business of selling or leasing goods or services. And this is not a survivorship claim.

In sum, no UPEPA exceptions apply. So Ms. Moreno has cleared the second hurdle to prevail under the Act.

**C. There is no cause of action upon which relief may be granted because Ms. Moreno didn't make the alleged statements—and, in any case, they were true or substantially true.**

After defendants establish that the speech at hand is within the scope of the Act's protections and that no exception applies, the burden then shifts to plaintiffs to show their actions are valid. R.C. 2747.04(C). If a plaintiff fails to do so, a defendant is entitled to relief. *Id.* Alternatively, defendants are entitled to relief if they can show that **either**

- (a) plaintiff failed to state a cause of action upon which relief can be granted, or
- (b) there is no genuine issue as to any material fact and defendants are entitled to judgment as a matter of law.

*Id.*

Here, Miller failed to state a cause of action upon which relief can be granted.

To establish defamation, Miller must show that Ms. Moreno

- (1) made a false statement of fact,
- (2) that was defamatory,
- (3) that was published,
- (4) Plaintiff suffered an injury as a result, and
- (5) Ms. Moreno acted with the requisite degree of fault in publishing the statement.

*Am Chem. Soc. v. Leadscope, Inc.*, 2012-Ohio-4193, ¶ 77.

Miller alleges that Ms. Moreno caused *The Daily Mail* to publish the following statements:

- (3) “In an earlier incident, Miller allegedly hurled a pot of boiling water at Moreno during a June 9, 2024, argument. Some of the boiling water hit Moreno in the chest and she took photographs of her injuries the same day, sources told the outlet.”
- (4) “A handwritten letter allegedly written by Miller to Moreno, the same day as the boiling water incident, shows the Congressman apologizing to his then-wife for failing to protect her, though he does not admit to any physical abuse.”

Compl. ¶ 56.

As explained below, Congressman Miller fails to state a claim for which relief can be granted because Ms. Moreno did not cause *The Daily Mail* to publish the allegations. Even if she did, the allegations are true or substantially true, so they can neither be defamatory nor have been published with actual malice. And the statement about Miller’s note is subject to multiple interpretations, some innocent—so it’s not defamation.

**1. The Court should dismiss Miller’s claims because the statute of limitations has expired.**

Under R.C. 2305.11, the statute of limitations for libel or slander is one year. R.C. 2305.11(A). The statute of limitations begins to run “when the defaming words are first spoken, not when the words are subsequently published or quoted.” *Humphrey v. Garbo*, 2011-Ohio-5193, ¶ 21 (5th Dist.). *See also Friedler v. Equitable Life Assur. Soc. of the U.S.*, 86 F. App’x 50, 54 (6th Cir. 2003) (“Ohio courts have consistently rejected efforts to restart the statute of limitations in a defamation action where allegedly defamatory information, which has already been published or spoken, is republished or retransmitted to new consumers.”).

The statute of limitations expired long before Miller’s May 15, 2026 complaint filing. Since August 2024, within the year before May 15, and outside of attorney-client-privileged communications, the only times Ms. Moreno spoke about Miller’s abuse were in October 2025, with the couple’s court-appointed parenting coordinator, Ms. Koricke, and in February 2026 with the Bay Village police. E. Moreno Aff. ¶¶ 8, 11, 17. Either qualified or absolute privilege protects the statements from defamation or false-light claims. *Allen v. Pirozzoli*, 2016-Ohio-2645 (8th Dist.) (“Any communications made by private citizens to law enforcement personnel for the prevention or detection of crime are qualifiedly privileged and may not serve as the basis for a defamation action unless it is shown that the speaker was motivated by actual malice”); *M.J. DiCorpo, Inc. v. Sweeney*, 69 Ohio St.3d 497, 505 (1994) (“Under the doctrine of absolute privilege, statements made in a judicial proceeding which bear some reasonable relationship to the proceeding are not actionable.” Actual malice is absent here, as shown below. And the statements to Koricke were made in a judicial proceeding and bore a reasonable relationship to the domestic-relations proceeding,

Because Ms. Moreno made unprivileged statements more than a year before filing, and because the statute of limitations for defamation is only one year, the Court should dismiss Miller’s claims.

**2. Ms. Moreno did not cause the allegedly defamatory statements to be published.**

Despite Miller’s speculation that Ms. Moreno caused *The Daily Mail* to publish the listed statements, his accusation is false. Ms. Moreno has only been contacted by *Daily Mail* reporters once—in August 2024. See E. Moreno Aff. ¶ 15, attached as Ex. A. She did not reply to that

reporter. *Id.* She did not reach out to tell *The Daily Mail* about the abuse allegations or the letter. *Id.* ¶ 16.

Nor did she need to speak to a reporter for this information to be discovered. The allegations are part of the public record, and any intrepid journalist could have obtained copies.

As part of the couple's divorce proceedings, which, as shown above, have received plenty of media attention, Miller deposed their court-appointed parent coordinator, Deborah Koricke, Ph.D. *See* Koricke Dep. Tr. excerpts, attached as Ex. A-7. Miller's counsel publicly filed that deposition with the Domestic Relations Court. Ms. Moreno told Dr. Koricke that Plaintiff Miller threw hot water on her and showed Dr. Koricke photos of the aftermath. Koricke Dep. Tr. 14:4–24, attached as Ex. A-7; E. Moreno Aff. ¶ 8. Though Congressman Miller tried to downplay it as a joke, Dr. Koricke testified that he admitted to spraying Ms. Moreno with the sprayer from their sink. Koricke Dep. Tr. 16:6–14. Dr. Koricke testified as follows:

4       with water and being in the kitchen. He  
5       said they were fooling around, like  
6       goofing around. And that he had taken  
7       one of those sprayers from the sink and  
8       shot water at her chest. She was very  
9       disturbed by it. In fact, this was one  
10       of the ending events to their marriage.  
11       She had been very disturbed about that.  
12       She showed me the picture and it looked a  
13       little red. I don't know what the origin  
14       was. I'm not a physician.

An intrepid reporter could have also learned about the incident from public records from the Bay Village Police Department. On February 23, 2026, the Bay Village police responded to a report of child abuse concerning the couple's child. E. Moreno Aff. ¶ 11. While investigating, police spoke to Ms. Moreno about Miller throwing hot water on her and injuring her in 2024 at their home in Rocky River. E. Moreno Aff. ¶ 11, Ex. A-8.

Miller himself publicized the police reports' existence. In a March 9, 2026 filing in the couple's domestic-relations case, Miller mentioned the report multiple times. *See Miller v. Moreno*, No. 26-DV-408367, Brief in Opp. to Respondent's [Moreno's] Motion to Dismiss and Reply in Support of Motion to Extend Time Limits and for a Discovery Order, at 5, 10 (Cuyahoga Comm. Pleas Mar. 9, 2026), attached as Ex. C.

And, on April 24, 2026, about one week before *The Daily Mail's* story, *The New York Post* published an article about the child-abuse report. *See* Ryan King, *Rep. Max Miller's divorce from Sen. Bernie Moreno's daughter gets ugly over questions about 2-year-old's broken collarbone*, N.Y. Post (Apr. 24, 2026), at <https://nypost.com/2026/04/24/us-news/rep-max-millers-divorce-from-sen-bernie-morenos-daughter-gets-ugly/>, attached as Ex. B. In the article, the reporter notes that "[Miller] alleged that [Moreno] made 'repeated and unsubstantiated allegations of abuse of their daughter to local police and family services.'" *Id.* Any reporter reading that article could have easily followed up with local police to obtain the underlying reports Miller *himself* discussed.

And news reporters likely already secured this report. A CNN reporter called Ms. Moreno's acquaintances, indicating that the network soon plans to run a story on Miller's alleged abuse. E. Moreno Aff. ¶ 13. This wasn't some secret that only Ms. Moreno and Miller knew about; anyone submitting a public-records request or checking a docket would have known.

Miller subjected himself to the Streisand effect.<sup>2</sup> He shared with the world information about his abuse—yet plays the victim when the media are interested in that matter of public concern.

Because Ms. Moreno did not cause the statements at issue to be published, the Court should find Miller failed to state a claim for which relief could be granted and should grant her motion for expedited relief.

**3. Ms. Moreno’s alleged statement that Miller threw water on her is true and thus is not actionable as defamation.**

The first element of defamation is that the statement must be a false statement of fact. *Am Chem. Soc. v. Leadscope, Inc.*, 2012-Ohio-4193, ¶ 77. Truth is an **absolute defense** to defamation. *Maddox Def., Inc. v. GeoData Sys. Mgmt., Inc.*, 2019-Ohio-1778, ¶ 53 (8th Dist.) (citing *Stohlmann v. WJW TV, Inc.*, 2006-Ohio-6408, ¶ 13 (8th Dist.)). “In a case involving a private person who was allegedly defamed in a statement about a matter of public concern, the plaintiff ‘has the burden of proving both that the statement is false and [that] the defendant was at least negligent in publishing it.’” *Anderson v. WBNS-TV, Inc.*, 2019-Ohio-5196, ¶ 8 (quoting *Dale v. Ohio Civ. Serv. Emps. Ass’n*, 57 Ohio St.3d 112, 114 (1991)).

And a speaker need not be 100 percent factual. “It is sufficient ... to show that the imputation is substantially true, or as it is often put, to justify the ‘gist,’ the ‘sting,’ or the substantial truth of the defamation.” *Bruss v. Vindicator Printing Co.*, 109 Ohio App. 3d 396, 400 (7th Dist. 1996); see also *Hartman v. Kerch*, 2023-Ohio-1972, ¶ 37 (8th Dist.).

---

<sup>2</sup> Eldridge, Alison, *Streisand effect*, Britannica (Apr. 1, 2026), at <https://www.britannica.com/topic/Streisand-effect>.

Here, both statements Miller identified as defamatory are true or substantially true. First, Miller *did* throw hot water on Ms. Moreno. E. Moreno Aff. ¶ 4. On June 9, 2024, Ms. Moreno told Miller she planned to leave him. *Id.* Miller, who was making breakfast, was upset when she left. Miller poured water from a hot pan he was cooking eggs in and threw it on her. *Id.* And then, while Ms. Moreno was on the ground, he sprayed her with the sink hose. *Id.*

Miller admitted as much to the court-appointed parent coordinator in the couple's domestic-relations case. *See* Koricke Dep. Tr. 16:6–14. Though Miller did not say that the water was boiling, he **admitted** to spraying Ms. Moreno with water, and the incident seriously disturbed Ms. Moreno and led to the end of the pair's marriage. *Id.* Attached to Ms. Moreno's affidavit are images of the red marks the water left. *See* E. Moreno Aff. Ex. A-2–6. Allegations that Miller threw—or at least sprayed—water on Ms. Moreno are true or substantially true, per Miller's own admissions.

Ms. Moreno is not, as Congressman Miller alleges, making up these allegations now to pressure him into caving in their custody dispute or to harm his re-election campaign. Compl. ¶ 78. Ms. Moreno has reported Congressman Miller's abuse for months, including in the February 2026 report to the Bay Village police department discussed above. E. Moreno Aff. Ex. A-8. Ms. Moreno reported that, among other domestic-violence instances, but declined to go to Rocky River to file a full report because she feared no one would believe her over her congressman ex-husband. *Id.* And during a heated custody exchange in March 2025, when the Westlake police department responded to a call about alleged abuse occurring in front of the parties' daughter, Ms. Moreno declined to press charges or provide any public statement. This is not the conduct of someone seeking to weaponize allegations against a political opponent; it is the conduct of a victim who repeatedly shielded her abuser from public consequence, even at her

own expense.

As for the second statement Plaintiff Miller claims is defamatory—that he wrote a handwritten letter apologizing to Ms. Moreno for failing to protect her—that statement, too, is true. E. Moreno Aff. Ex. A-1. Miller wrote, “I do know you love me, protect me, and care for me. I failed to do that for you.” *Id.* He added, “I’m sorry I failed you and [daughter]. ...I’m so sorry.” *Id.* Miller did write a handwritten letter to Ms. Moreno stating that he failed to protect her and apologizing for his failure. So any purported statement by Ms. Moreno is true.

Because both statements are true or substantially true, and truth is an absolute defense to defamation, this Court should hold that Miller failed to state a claim on which relief may be granted. Thus, the Court should grant Ms. Moreno’s motion for expedited relief.

**4. Ms. Moreno did not cause *The Daily Mail* to publish information she knew or should have known to be false, and thus, Miller cannot show actual malice.**

When it comes to proving defamation or false light liability, the U.S. Supreme Court has placed a stricter burden on public officials like Plaintiff Congressman Max Miller. *See Monitor Patriot Co. v. Roy*, 401 U.S. 265, 271 (1971). “Where a position in government has such apparent importance that the public has an independent interest in the qualifications and performance of the person who holds it, beyond the general public interest in the qualifications and performance of all government employees, both elements we identified in *New York Times* are present and the *New York Times* malice standards apply.” *Rosenblatt v. Baer*, 383 U.S. 75, 86 (1966).

Under the standard set in *New York Times v. Sullivan*, Plaintiff Miller must show that Ms. Moreno’s statements were made with “actual malice.” *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964). A plaintiff shows actual malice if that plaintiff can show a defendant spoke

“with knowledge that it was false or with reckless disregard of whether it was false or not.” *Id.* at 280. A public official can only recover upon clear and convincing proof of actual malice. *Scott v. News Herald*, 25 Ohio St.3d 243, 248 (1986) (citing *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 342 (1974)).

“Actual malice may not be inferred from evidence of personal spite, ill-will or intention to injure on the part of the writer.” *Scott v. News Herald*, 25 Ohio St.3d 243, 248 (1986) (citing *Beckley Newspapers Corp. v. Hanks*, 389 U.S. 81, 82 (1967)). Instead, there “must be a showing that false statements were made with a ‘high degree of awareness of their probable falsity.’” *Id.* (citing *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964)). There must be evidence that defendants entertained serious doubts as to the truth of their publication. *Id.* (citing *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968)). When considering defendants’ states of mind, the Court should look to their subjective awareness of probable falsity or actual intent to publish falsely. *McKimm v. Ohio Elections Comm.*, 89 Ohio St.3d 139, 147–48 (2000).

As discussed above, at the very least, the “gist” or “sting” of Ms. Moreno’s purported statements about Miller are true; Miller *did* throw hot or boiling water onto her (or, at least, sprayed her with hot water), and Miller *did* handwrite a *mea culpa* letter to Ms. Moreno shortly after. Even if her alleged statements were false—and, as Miller admits, at least, the “gist” or “sting” was true—Ms. Moreno had no intent for *The Daily Mail* to publish her statements at all, let alone intent for *The Daily Mail* to publish a false statement.

Because her statements were true or substantially true, Ms. Moreno didn’t and had no intent to publish them, and Ms. Moreno knew them to be true, Congressman Miller cannot meet the actual-malice standard required of someone in his position as a public official.

5. The statement about the handwritten letter in which Miller apologizes for failing to protect Ms. Moreno is subject to multiple interpretations—some innocent—and thus is not defamatory.

The second allegedly defamatory statement Miller identified—that “a handwritten letter allegedly written by Miller to Moreno, the same day as the boiling water incident, shows the Congressman apologizing to his then-wife for failing to protect her, though he does not admit to any physical abuse”—is subject to multiple interpretations, some innocent.<sup>3</sup> When judging defamatory statements, Ohio follows the innocent-construction rule. *Hartman v. Kerch*, 2023-Ohio-1972, ¶ 58 (8th Dist.). If allegedly defamatory words are “susceptible to two meanings, one defamatory and one innocent, the defamatory meaning should be rejected, and the innocent meaning adopted.” *Id.* (citing *Yeager v. Loc. Union 20*, 6 Ohio St.3d 369, 372 (1983)). “It matters not that the defamatory meaning is the more obvious one. So long as the statement may reasonably be read to have an innocent meaning, the innocent construction rule commands that the statement be deemed non-defamatory.” *Boulger v. Woods*, 917 F.3d 471, 483 (6th Cir. 2019) (cited by *Hartman*, ¶ 58.). If a statement is “reasonably susceptible to an innocent construction, the statement cannot be defamatory *per se*.” *Hartman*, ¶ 58.

Miller asserted claims for defamation *per se* against Ms. Moreno. A statement that is defamation *per se* “reflects upon the character of such person by bringing him into ridicule, hatred, or contempt, or affects him injuriously in his trade or profession.” *Becker v. Toulmin*, 165 Ohio St. 549, 553 (1956) (citing *Cleveland Leader Printing Co. v. Nethersole*, 84 Ohio St. 118, 125 (1911)). If a statement is not defamatory on its face—and instead is subject to

---

<sup>3</sup> Miller previously falsely claimed that the letter didn't exist. See Hailey Fuches, *Max Miller sues ex-wife and her legal team for domestic abuse allegations*, POLITICO (May 14, 2026), at <https://www.politico.com/news/2026/05/14/max-miller-lawsuit-abuse-moreno-00920440>.

interpretation—it cannot be defamation *per se*. *Hartman*, ¶ 57. Defamation *per se* “consist[s] of words which import an indictable criminal offense involving moral turpitude or infamous punishment, imputes some loathsome or contagious disease which excludes one from society or tends to injure one in his trade or occupation.” *Id.* (citing *McCartney v. Oblates of St. Francis Del. Sales*, 80 Ohio App.3d 345, 609 (6th Dist. 1992)).

In his letter, Miller wrote, “I do know you love me, protect me, and care for me. I failed to do that for you.” E. Moreno Aff. Ex. A-1. He doesn’t explicitly state from what he failed to protect Ms. Moreno; his meaning is subject to interpretation, and thus it cannot be defamation *per se*. Failing to protect someone can have multiple meanings. Sure, one could fail to protect someone from one’s own abuse. But one could also fail to protect someone from an everyday slight, like a rude family member. And one could fail to protect someone from a small inconvenience, like being stung by a bee.

Not every possible interpretation of “failing to protect” someone injures one’s reputation. Because this phrase is subject to innocent constructions, and it’s not clear on its face what it means, the statement attributed to Ms. Moreno isn’t defamation *per se* and, indeed, is not defamatory at all. It’s his own written statement. So, regarding that comment, the Court should hold Miller fails to state a claim upon which relief can be granted.

**6. Miller cannot succeed on his false-light claim because *The Daily Mail* statements are true and Ms. Moreno did not publish them.**

Miller also states a claim for false light invasion of privacy against Ms. Moreno. He states that “[t]his false light in which Plaintiff was placed, as a man who beats his wife and abuses his daughter, would be highly offensive to a reasonable person.” Compl. ¶ 108. But Ms. Moreno’s purported statements, as outlined in Miller’s own complaint, include no statements about him

beating his wife. *See* Compl. ¶ 56. Miller only alleges that Ms. Moreno caused *The Daily Mail* to publish a story stating that Miller hurled boiling water at her and that he wrote her a letter stating he failed to protect her. *Id.*

In any case, to make a successful false-light claim, Miller would have to show that the statement published was untrue. *Welling v. Weinfeld*, 113 Ohio St.3d 464, 471–72 (2007). He would also have to show that the information was publicized, meaning that “the matter was made public by communicating to the public at large, or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge.” *Id.* Finally, Miller would have to show that the misrepresentation made is serious enough to be highly offensive to the reasonable person. *Id.*

As explained above, the allegations in *The Daily Mail’s* article are true. And Ms. Moreno didn’t publish them; she only told a handful of people (including law enforcement) about what happened, and she gave no information to *The Daily Mail*. *E. Moreno Aff.* ¶¶ 16. Thus, Miller cannot succeed on his false-light claim.

**D. This Court should order Miller to pay Ms. Moreno’s attorney fees, costs, and other expenses as UPEPA mandates because Ms. Moreno has met her burden.**

Under UPEPA, if a court grants a motion for expedited relief, it **must** dismiss the action **and** award reasonable attorney fees, court costs, and other reasonable litigation expenses to the moving party. R.C. 2747.05(A). As shown above, Ms. Moreno’s speech falls within the Act’s scope, and Miller asserts no claim for which relief can be granted. Thus, Ms. Moreno requests that this Court order that Miller pay her fees, costs, and other expenses. Ms. Moreno will submit a fee petition with an accounting of these fees and expenses after the Court grants the UPEPA motion for expedited relief. She respectfully requests 30 days from the Court’s ruling.

V. CONCLUSION

Plaintiff Max Miller brings this action not to vindicate any genuine legal injury, but to wield his wealth as a weapon—imposing the costs and burdens of litigation to punish Defendant Moreno for allegedly exercising her First Amendment rights and to deter others from doing the same. Ms. Moreno did not cause *The Daily Mail* to publish the alleged statements. And even if the Court doesn't consider that fact, Ms. Moreno's alleged speech cannot in any event support a defamation claim. The statute of limitations has expired. What she purportedly said is also true or substantially true, and Miller himself admitted that to a court-appointed parent coordinator.

Because Ms. Moreno's alleged speech is inside the Act's ambit of protection and Plaintiff Miller fails to state a claim for which relief can be granted, this Court should grant Ms. Moreno's motion for expedited relief—and order Miller to pay all attorney fees and costs associated with this lawsuit.

Counsel respectfully requests 30 days to submit Ms. Moreno's attorney-fees-and-costs petition after the Court grants her motion for expedited relief.

**Dated:** May 27, 2026

Respectfully submitted,

/s/ Subodh Chandra  
Subodh Chandra (0069233)  
Emily Bohatch (0106217)  
THE CHANDRA LAW FIRM LLC  
The Chandra Law Building  
1265 West 6th Street, Suite 400  
Cleveland, Ohio 44113  
Phone: 888.500.5025  
Subodh.Chandra@ChandraLaw.com  
Emily.Bohatch@ChandraLaw.com

*Attorneys for Defendant Emily Moreno*

### Certificate of Service

I certify that on May 27, 2026, our office filed the above document electronically with the Clerk of Court, which is serving all counsel of record through its electronic-filing system, and sent courtesy copies by email to all counsel of record. Our office also manually filed a courtesy color copy for the Court to improve clarity of the photos of Ms. Moreno's injuries at the hands of Plaintiff Congressman Max Miller.

*/s/ Subodh Chandra*  
\_\_\_\_\_  
*One of the attorneys for Defendant Emily Moreno*

**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

<p><b>MAX MILLER</b></p> <p><i>Plaintiff,</i></p> <p>v.</p> <p><b>EMILY MORENO, ET AL.</b></p> <p><i>Defendants</i></p>	<p>Case No. CV-26-138810</p> <p>Judge Joy Kennedy</p>
<p><b>AFFIDAVIT OF EMILY MORENO</b></p>	

I, Emily Moreno, being duly sworn according to law, testify as follows:

1. I am over the age of 18. I have personal knowledge of and am competent to testify regarding the matters discussed below.
2. I am a defendant in *Max Miller v. Emily Moreno et al.*, Cuyahoga County Common Pleas Case No. CV-26-138810.
3. I was married to Plaintiff Congressman Max Miller from August 2022 until June 2025.
4. On Saturday, June 8, 2024, I told Congressman Miller that I was planning to leave him. He got extremely upset. He took hot water from a pan he had just cooked eggs in and threw it at me. Shocked, I fell to the floor and lay there in a fetal position. Congressman Miller took the sprayer from the sink and continued to spray me with hot water.
5. This was extremely upsetting and was one of the final straws in our marriage. After, I took our daughter and fled to my parents' house.
6. After, Congressman Miller handwrote a letter to me, in which he said that he failed to protect me. I took photos of the note, true and correct copies of which

are attached as Ex. A-1. I attest that the images truthfully and accurately depict the note Congressman Miller wrote.

7. I did not report this incident to the police at the time because I didn't think anyone would believe me. Congressman Miller, my toddler, and I were the only people present, and it would be his word against mine.
8. In October 2025, I spoke to our court-appointed parent coordinator, Deborah Koricke, as required by the court in our domestic-relations case. I told her about how Congressman Miller had flung hot water on me and sprayed me with the sink hose. I showed her pictures of my injuries, which are attached here as Ex. A-2, A-3, A-4, A-5, and A-6. These images truthfully and accurately depict my injuries after Congressman Miller threw the hot water on me and sprayed me with the sink hose.
9. On May 12, 2026, as part of our domestic-relations case, Congressman Miller's attorney Pamela J. McAdams deposed Koricke. A true and accurate excerpt from the deposition transcript is attached as Ex. A-7. During that deposition, McAdams asked Koricki about whether I accused Congressman Miller of harming our child or me. Koricki explained what I told her about Congressman Miller throwing water on me and said that Congressman Miller confirmed that he sprayed me with the sink hose.
10. This deposition was filed with the Cuyahoga County Domestic Relations Court and is a public record. Ex. A-7.
11. On February 23, 2026, Bay Village police interviewed me as part of an investigation into my daughter's broken collarbone. During the investigation, I mentioned that Congressman Miller had abused me in the past. I told the officer about the 2024 incident where Congressman Miller threw hot water on me. The officer recorded what I told him in his report, attached as Ex. A-8. This exhibit is a true and accurate copy of the report, of which I obtained a copy.
12. This report is a public record.
13. Around May 18, 2026, I heard from a friend that CNN was contacting my acquaintances to confirm that Miller threw hot water on me. The reporter indicated that they learned about the incident from a public-record police report. A reporter told my friend they plan to run a story about the alleged abuse soon. I

have never spoken with this reporter.

14. I have never spoken to a reporter from the publication *The Daily Mail*. Nor have I directed anyone to leak to the publication on my behalf any information about my marriage.
15. A reporter from *The Daily Mail*, Kelly Laco, reached out to me on August 29, 2024. See text, attached as Ex. A-9. This is a true and accurate copy of the text I received. I did not respond to that message. That is the only time I have ever had contact with a reporter at *The Daily Mail*.
16. I did not tell *The Daily Mail* about the incident where Congressman Miller flung hot water on me. I did not direct anyone to reach out on my behalf to *The Daily Mail* to relay that information.
17. Since August 2024, outside of any attorney-client-privileged communications, I have not spoken to anyone about the incident except the Bay Village police and our court-appointed parenting coordinator, Ms. Koricke.

I affirm the above to be true to the best of my knowledge under penalty of perjury.

Emily Moreno  
Emily Moreno

Sworn to and subscribed before me this 26 day of May, 2026 in Cuyahoga County, Ohio.

Dominique Corvey

Notary Public, State of  
Ohio

My commission expires:  
5/24/2027



Dominique Corvey  
Notary Public, State of Ohio  
My Commission Expires 05-24-2027

MY ENTIRE LIFE I HAVE STRUGGLED WITH PERSONAL RELATIONSHIPS. I SEEM TO ALWAYS DO WELL PROFESSIONALLY, BUT THEN MY PERSONAL LIFE IS IN SHREDS.

I HAVE ALWAYS WANTED A FAMILY. I USE TO TALK ABOUT HOW I WOULD LOVE MY FUTURE WIFE AND KIDS. I WANT YOU TO KNOW I REALLY DO WANT THAT FOR US.

LOVE YOU FEEL, I'M SCARED AND CRUSHED. THERE IS NOTHING MORE IMPORTANT IN MY LIFE THAN YOU AND OUR DAUGHTER RUTH. I FAILED TO DO THAT AND I NOW HAVE TO LIVE WITH THAT.

I DON'T KNOW WHAT TO DO. I DO KNOW YOU LOVE ME, PROTECT ME, AND CARE FOR ME. I FAILED TO DO THAT FOR YOU.

I'M JUST WRITING DOWN MY THOUGHTS, BUT I REALLY WANT YOU TO KNOW I LOVE YOU. -  
EMILY, I LOVE YOU SO MUCH. I LOVE THE

EXHIBIT

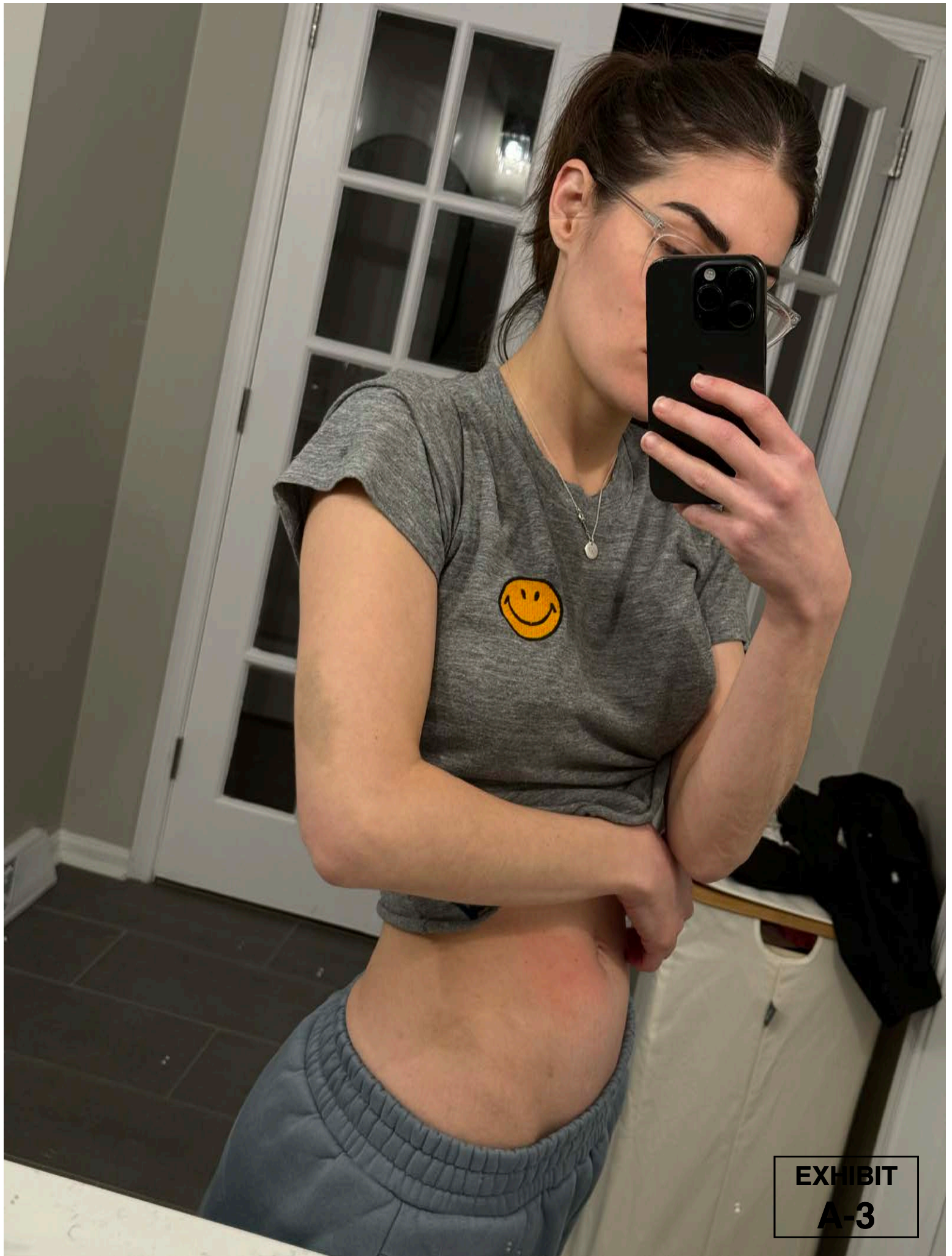
A-1

WAY YOU CARE FOR OUR FAMILY. HOW YOU  
ARE ALWAYS THERE FOR FAMILY. I LOVE HOW  
STRONG WILLED YOU ARE AND INDEPENDENT. I  
LOVE HOW YOU WILL ALWAYS PUT OTHERS  
BEFORE YOURSELF.

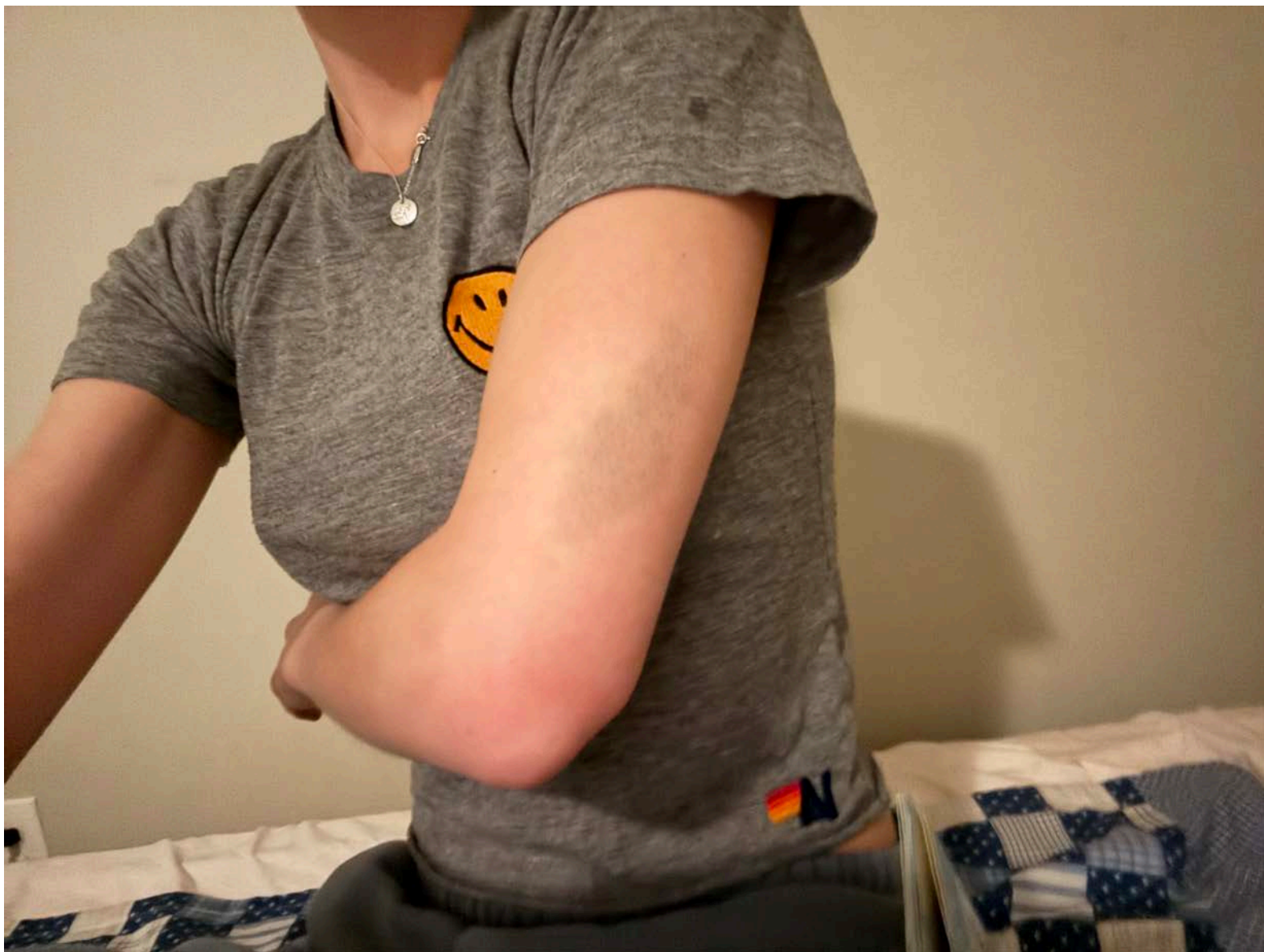
I MISS YOU RIGHT NOW AND IT HURTS,  
I'M SORRY AND I JUST WANT TO CLOSE MY  
EYES AND WAKE UP AND EVERYTHING BE  
NORMAL. I KNOW THAT WON'T HAPPEN. I'M  
SORRY I FAILED YOU AND RUTHIE. IT'S  
EATING ME ALIVE. I LOVE YOU, EVEN  
IF YOU THINK I DON'T. I LOVE YOU SO  
MUCH. I'M SO SORRY. I'M JUST A FUCK UP  
AND WORTHLESS.

**EXHIBIT  
A-2**





**EXHIBIT  
A-3**



**EXHIBIT  
A-4**



**EXHIBIT  
A-5**



**EXHIBIT  
A-6**

IN THE COURT OF COMMON PLEAS  
DIVISION OF DOMESTIC RELATIONS  
CUYAHOGA COUNTY, OHIO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MAX L. MILLER,

Plaintiff,

vs.

Case No. 24 DR 401120

Judge Debra L. Boros

EMILY MORENO MILLER,

Defendant.

- - - - -  
DEPOSITION OF DEBORAH KORICKE, PH.D.  
Tuesday, May 12, 2026  
- - - - -

Deposition of DEBORAH KORICKE, PH.D.,  
called by the Plaintiff for examination under  
the Ohio Rules of Civil Procedure, taken  
before me, the undersigned, Lisa A. Stropko,  
Notary Public, in and for the State of Ohio,  
at Morganstern, MacAdams & Brewer Co., LPA,  
623 West St. Clair Avenue, Cleveland, Ohio,  
44113, commencing at 1:30 p.m, the day and  
date above set forth.

- - - - -

Page 2

1 APPEARANCES:

2 On Behalf of the Plaintiff:

3 Pamela J. MacAdams, Esq.  
4 Morganstern, MacAdams & Brewer  
5 623 W. St. Clair Avenue  
6 Cleveland, OH 44113  
7 Pamatty@gmail.com

8 Larry W. Zukerman, Esq.  
9 Zukerman, Lear, Murray & Brown  
10 North Point Tower  
11 3912 Prospect Avenue  
12 Cleveland, OH 44115  
13 Lwz@zukerman-law.com

14 On Behalf of the Defendant:

15 Andrew A. Zashin, Esq.  
16 Donovan J. DeLuca, Esq.  
17 Zashin Law  
18 5900 Landerbrook Drive, Suite 280  
19 Cleveland, OH 44124  
20 Aaz@zashinlaw.com  
21 Djz@zashinlaw.com

22  
23  
24  
25

Page 4

1 DEBORAH KORICKE, PH.D.  
2 a witness, called for examination by  
3 the Plaintiff, as provided by the Ohio  
4 Rules of Civil Procedure, being first  
5 duly sworn, was examined and testified as  
6 follows:  
7 -----  
8 MS. MACADAMS: We are here  
9 today for the deposition of Dr. Deborah  
10 Koricke who is the parent coordinator in this  
11 case. Mr. Zashin, do we have a waiver of any  
12 Notice of Service deficiencies?  
13 MR. ZASHIN: Yes. And  
14 that's what I was trying to get to in my  
15 email.  
16 MS. MACADAMS: And I  
17 understand we will get back to that on the  
18 others.  
19 -----  
20 EXAMINATION  
21 BY MS. MACADAMS:  
22 Q Dr. Koricke, would you please state your  
23 full name?  
24 A Yes. Deborah Koricke.  
25 Q Spell your last name.

Page 3

1 EXAMINATION INDEX

2

3 DEBORAH KORICKE, PH.D

4 BY MS. MACADAMS 4

5 BY MR. ZASHIN 57

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page 5

1 A K-O-R-I-C-K-E,  
2 Q What are your credentials please?  
3 A I'm a psychologist in the State of Ohio  
4 and I have been since 1983.  
5 Q And what area of your practice is devoted  
6 to family law approximately?  
7 A Probably 30 percent, 25 to 30 percent.  
8 Q And what else do you do?  
9 A I do Workers' Compensation evaluations.  
10 I do regular counseling and therapy and  
11 psychological evaluations.  
12 Q You were appointed on the Miller versus  
13 Moreno case as parent coordinator?  
14 A Yes.  
15 Q Do you recall when that was?  
16 A It was early in 2025.  
17 Q When did you first meet with the parents?  
18 A Well, I had actually met with them. I  
19 met with mom first which was actually in  
20 2024 because I started out as a custody  
21 evaluator and never finished the  
22 evaluation because they settled. And so  
23 I met with mom then. I met with dad  
24 early 2025. I talked to him a few times,  
25 but when I officially sat down with him

Page 14

1 support her accusations?  
2 A Yes.  
3 Q What did you offer to her?  
4 A Well, I asked her if she had been to the  
5 police or a doctor about these situations  
6 where she claimed he had abused her or  
7 the child. The last time it officially  
8 came up in front of me was months ago.  
9 Officially is maybe not the right word.  
10 She had accused him of throwing water  
11 at her at some point when they were still  
12 married and together. I call it the  
13 water incident. It was a pretty critical  
14 incident. She had shown me pictures, not  
15 that day, but later where there was like  
16 part of her chest with like sort of a red  
17 mark. Well, sort of a red mark. She had  
18 said that she also accused more recently  
19 that he had done something or someone  
20 else, such as the nanny, Kasey, who  
21 worked for him had done something to hurt  
22 Ruth when she had a broken collarbone.  
23 That was within the last couple of  
24 months.  
25 Q All right. Whatever opportunity you

Page 15

1 provided Emily to support her accusations  
2 of abuse at any point in what she  
3 provided, were you convinced that Max  
4 abused she or their daughter?  
5 A No.  
6 Q Okay. If you had been so convinced, you  
7 are a mandatory reporter, right?  
8 A Yes.  
9 Q And you would have reported had you been  
10 convinced, correct?  
11 A Yes. If anyone, it had to be the child.  
12 I would be a mandatory reporter for the  
13 child so I would have reported it.  
14 Q And you made no report, correct?  
15 A No, I have never made a report about  
16 anybody hurting Ruth.  
17 Q Did you find Emily's, quote, unquote,  
18 "evidence" that she offered you to be  
19 consistent with her assertions of abuse?  
20 MR. ZASHIN: Which incident  
21 are we talking about?  
22 Q Well let's start with the water incident.  
23 A The water incident, because that's the  
24 time only one I saw any pictures of it  
25 was one picture that I saw, and he had

Page 16

1 admitted that -- what he said about the  
2 incident was very different than what she  
3 said, but they both agreed it had to do  
4 with water and being in the kitchen. He  
5 said they were fooling around, like  
6 goofing around. And that he had taken  
7 one of those sprayers from the sink and  
8 shot water at her chest. She was very  
9 disturbed by it. In fact, this was one  
10 of the ending events to their marriage.  
11 She had been very disturbed about that.  
12 She showed me the picture and it looked a  
13 little red. I don't know what the origin  
14 was. I'm not a physician.  
15 Q And no physician examined her as a  
16 consequence of that?  
17 A That's the other thing. There was no  
18 physician's report about any of these  
19 things. I said to her did you seek  
20 medical attention and she said no. I  
21 feel like her mother knew a nurse or a  
22 doctor and talked to them, but she never  
23 went in anywhere.  
24 Q No physical visit with a medical staff?  
25 A Not, not even a virtual one on Emily's

Page 17

1 part.  
2 Q Max, in fact, had shared with you a  
3 recording where Emily stated that Max  
4 never did or would harm she or Ruth.  
5 Isn't that a fact?  
6 A Yes, I remember hearing that.  
7 Q Okay.  
8 MR. ZASHIN: Excuse me. Do  
9 we have a copy of this recording?  
10 MS. MACADAMS: I don't know  
11 that at this moment. I will go ahead and  
12 address it when I finish my deposition, okay?  
13 MR. ZASHIN: I just want to  
14 put a pin in this recording which I know  
15 nothing about, but I'd like to know what we  
16 are talking about and when this was because I  
17 don't have such a recording. Would you  
18 inquire about when exactly this was?  
19 Q Do you know?  
20 A When the recording was made?  
21 Q When the statement was made by Emily if  
22 you know?  
23 A I don't know off the top of my head, but  
24 I remember hearing something to that  
25 effect. Very brief. A few seconds



# BAY VILLAGE POLICE DEPARTMENT

BAY VILLAGE  
POLICE DEPARTMENT  
28000 WOLF ROAD  
BAY VILLAGE, OH 44140  
Phone: (440)871-1234  
Fax: (440)899-3478

## Incident Report

Incident #: 2614368

Report Date:

Monday, February 23, 2026

### Incident Information

Call Type: CHILD ABUSE/CONTRIB DELINQ

Location: [REDACTED] Zone: B02

Occurred Between: 02/14/2026 12:00:00 And 02/23/2026 17:10:00

Supervisor: SBC Scott Chase Unit on Scene: 1104

Officer Report: ISM Ian Moore Officer Assigned: ISM Ian Moore

Boards: D, C or J: Copies To:

Approved By: Scott Chase Approved Date: 02/23/2026

Clearance Code: J - CLOSED

### Dispatch Times

Received: 16:18 Dispatched: 16:20 Arrived: 16:21 Cleared: 17:10 Total: 0:51

### Incident Names

Entry Type	Name: [REDACTED]	SSN: [REDACTED]	DOB: [REDACTED]
PRP	Address: [REDACTED]	[REDACTED]	Phone1: [REDACTED]
	Sex: [REDACTED] Race: [REDACTED] Hgt: [REDACTED] Wgt: [REDACTED] Hair: [REDACTED] Eyes: [REDACTED]		Phone2: [REDACTED]

---

Entry Type	Name: [REDACTED]	SSN: [REDACTED]	DOB: [REDACTED]
SUB	Address: [REDACTED]	[REDACTED]	Phone1: [REDACTED]
	Sex: [REDACTED] Race: [REDACTED] Hgt: [REDACTED] Wgt: [REDACTED] Hair: [REDACTED] Eyes: [REDACTED]		Phone2: [REDACTED]

---

Entry Type	Name: [REDACTED]	SSN: [REDACTED]	DOB: [REDACTED]
SUB	Address: [REDACTED]	[REDACTED]	Phone1: [REDACTED]
	Sex: [REDACTED] Race: [REDACTED] Hgt: [REDACTED] Wgt: [REDACTED] Hair: [REDACTED] Eyes: [REDACTED]		Phone2: [REDACTED]

---

Entry Type	Name: [REDACTED]	SSN: [REDACTED]	DOB: [REDACTED]
SUB	Address: [REDACTED]	[REDACTED]	Phone1: [REDACTED]
	Sex: [REDACTED] Race: [REDACTED] Hgt: [REDACTED] Wgt: [REDACTED] Hair: [REDACTED] Eyes: [REDACTED]		Phone2: [REDACTED]

---

Entry Type	Name: [REDACTED]	SSN: [REDACTED]	DOB: [REDACTED]
SUB	Address: [REDACTED]	[REDACTED]	Phone1: [REDACTED]
	Sex: [REDACTED] Race: [REDACTED] Hgt: [REDACTED] Wgt: [REDACTED] Hair: BLK Eyes: [REDACTED]		Phone2: [REDACTED]

### Narrative Report

On 02/23/2026 at approximately 1620 HRS, I was dispatched to the lobby to speak with a Child Protection Specialist from the Cuyahoga County Division of Children and Family Services about suspected child abuse. See report.

Reporting Officer: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT  
A-8**



# BAY VILLAGE POLICE DEPARTMENT

BAY VILLAGE  
POLICE DEPARTMENT  
28000 WOLF ROAD  
BAY VILLAGE, OH 44140  
Phone: (440)871-1234  
Fax: (440)899-3478

## Investigative Report Supplement

Date: 02/23/2026

Reporting Officer: ISM Ian Moore

INC#: 2614368

CFS#: 2614368

Supplement Title: Initial

On 02/23/2026 at approximately 1620 HRS, I was dispatched to the lobby to speak with a Child Protection Specialist from the Cuyahoga County Division of Children and Family Services about suspected child abuse.

I spoke with Child Protection Specialist, [REDACTED], about a series of events involving, [REDACTED] (2 YOA), father [REDACTED], and mother [REDACTED]. [REDACTED] stated last week [REDACTED] was taken to Cleveland Clinic Main Campus and was diagnosed with a mid-right clavicle fracture. [REDACTED] was assessed by the Child Protection Team to include [REDACTED] whom stated while this injury is common among children, but there is a bruise that accompanies the injury that appears to be in a handprint and appears to have been inflicted. [REDACTED] stated [REDACTED] was with [REDACTED], whom resides at [REDACTED], at the time the injury was sustained. [REDACTED] stated [REDACTED] and [REDACTED] are divorced so once [REDACTED] had [REDACTED] back in her care, she observed the injury and sought medical care.

[REDACTED] stated she initiated her case on Friday (2/20/26), [REDACTED] disclosed there was also a Domestic Violence incident that occurred around the end of January (2026) or early this month. [REDACTED] stated [REDACTED] stated she had a picture taken 02/01/2026, from when she went to pick up [REDACTED] at [REDACTED] home and [REDACTED] grabbed [REDACTED] and threw her against the wall, which resulted in an obvious grab mark on her upper arm and bruising to her stomach and side where she hit the wall. [REDACTED] stated [REDACTED] also said this incident occurred in front of [REDACTED]. [REDACTED] stated [REDACTED] further disclosed another Domestic Violence incident that occurred when she went to pick up [REDACTED] in March of 2025, and also stated [REDACTED] has previously held a gun to her head as well.

I spoke further with [REDACTED] about the timeline of the above events and [REDACTED] stated this actually began the weekend of 2/14-15/2026.

[REDACTED] stated [REDACTED] had [REDACTED] in his custody over the aforementioned weekend, and per their custody agreement, [REDACTED] has [REDACTED] normally Thursdays-Sundays and each parents gets FaceTime with [REDACTED] at 0900am when [REDACTED] is with the other parent. [REDACTED] stated [REDACTED] stated she saw [REDACTED] and [REDACTED] on 2/14/26 at a dance group for [REDACTED] that they both attended. On 2/15/25, [REDACTED] and [REDACTED] FaceTimed [REDACTED] and [REDACTED] was inconsolable and [REDACTED] stated it was the worst night he has ever had with her, [REDACTED] had an anxiety attack. [REDACTED] stated [REDACTED] stated she offered to come over to [REDACTED] house, which she did, was able to calm [REDACTED] down and left. Later, [REDACTED] stated while [REDACTED] was with [REDACTED], [REDACTED] stated [REDACTED] said "Daddy kill you."

On 2/16/26, when [REDACTED] got to [REDACTED] residence, a doctor came directly to her residence to see [REDACTED] and did a strep test, to which [REDACTED] was diagnosed with strep. [REDACTED] noted later, there were no injuries reported by the doctor on Monday but [REDACTED] reported noticing [REDACTED] was favoring her right side (injured side). [REDACTED] also later advised, [REDACTED] stated [REDACTED] said "Daddy kill you", at which time [REDACTED] emailed [REDACTED] due to this being concerning to ask him about it. [REDACTED] stated

████ said in the email █████ did say that but denied █████ would have heard anything like that from him.

████ then went back to █████ residence on 2/17/26 at 1700 HRS and then back to █████ residence on 2/18/26 by way of █████ Nanny at 0900 HRS. █████ stated █████ gave █████ a bath around 1500 HRS, and this was the first time she had seen █████ fully undressed and observed the bruising in the injured area. █████ stated █████ followed up with █████ Primary Care Physician (PCP) whom told █████ to have █████ seen. █████ stated █████ took █████ to the Urgent Care and █████ had an inconclusive x-ray done, at which time the PCP advised █████ to take █████ to Cleveland Clinic Main Campus on 2/19/26.

████ stated █████ was then diagnosed with the fracture and what appeared to be a hand print bruise. █████ stated █████ took pictures of █████ injury on 2/18/26 and █████ also took pictures during her visit with █████ and █████ on 2/20/26. I was able to review the photos which will be sent over with DCFS's full investigative report. In the pictures I observed █████ to have bruising in her right upper clavicle and shoulder area. █████ stated in regards to the pictures, █████ determined the injury appeared consistent with someone sitting behind the child, grabbing the child's right shoulder, with their left hand, because there appears to be a thumbprint mark on the back of her shoulder. █████ stated at this time, █████ reached out to DCFS at which time, █████ initiated her case.

████ has been in █████ custody since and is scheduled to return to █████ on 2/26/26. █████ stated she interviewed █████ on 2/20/26 at 1530 HRS and has not yet talked to █████. █████ stated she does not believe █████ is aware she will be reaching out but plans to try and reach him tomorrow 2/24/26.

████ stated she will be sending her DCFS case file with the pictures to my email. At the time this report was completed I have not received the report.

████ and I spoke about follow up. █████ and I spoke about the aforementioned alleged Domestic Violence incidents, a previous BVPD incident (ref 25-00944) and an incident █████ stated occurred in Rocky River in 2024 in which █████ threw hot water on █████ and █████ sustained injuries. To be noted █████ stated she saw the photograph of the bruising █████ reported from the incident on 2/1/26 but █████ would not give it to her. █████ stated █████ didn't really want to share after she found out █████ would have to make a report.

████ and I concluded our interview talking about █████ medical records. █████ stated █████ signed off on the release of █████ medical records. █████ also stated the Child Protection Social Worker would also be able to release █████ assessment. Lastly, █████ stated due to the nature of this assessment that was obtained by DCFS late on 2/20/26, she was mandatory reporting to law enforcement today. I asked █████ if she thought █████ was planning on coming to BVPD and she stated she did not believe so.

Det. Sgt. Chapman was advised of the incident immediately following my interview with █████.

Case forwarded to the Detective Bureau.

Investigation Pending.

TRENDING NOW IN US NEWS



YMCA in liberal haven makes stunning move after fallout over...



Terrified West Coast neighborhood builds massive barricade...



'Hell o  
boast  
sicke

POLITICS

## Rep. Max Miller's divorce from Sen. Bernie Moreno's daughter gets ugly over questions about 2-year-old's broken collarbone

By [Ryan King](#)

Published April 24, 2026, 7:00 a.m. ET

89



See more of our coverage in your search results.

 [Add The New York Post on Google](#)

WASHINGTON — **US Rep. Max Miller** (R-Ohio) is mired in a messy custody battle with his ex-wife that has involved a police investigation into their 2-year-old's **broken collarbone**, court documents reveal.

The former President Trump aide had filed for divorce from Emily Moreno in 2024, not long after the birth of their daughter, and initially agreed to an arrangement where the congressman ponied up \$2,500 in child support each month.

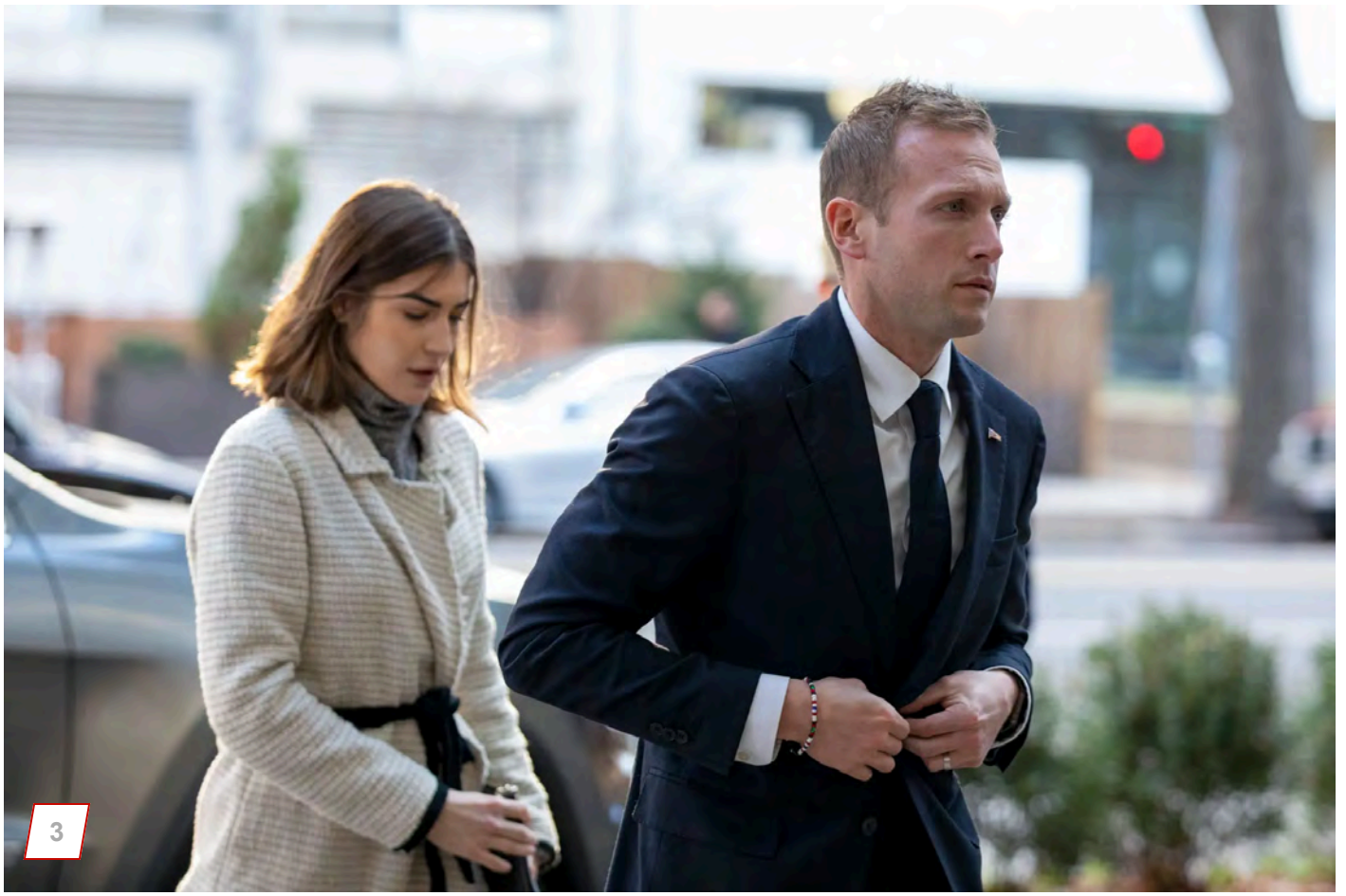
But last month, Emily, who is the daughter of US Sen. Bernie Moreno (R-Ohio), moved to overhaul their shared parenting agreement, citing concerns about his behavior.

Miller “regularly speaks to me in an inappropriate, aggressive and demeaning manner, which is not in the best interest of our child,” she wrote in court documents **first reported by TMZ**.



Rep. Max Miller previously faced abuse accusations from Stephanie Grisham.

AP



Revelations about the abuse accusations come amid a reckoning in Congress over lawmakers' behavior.

AP

“[Miller] has conducted dangerous physical behavior in the child’s presence,” she added. “I do not believe it is in our child’s best interest for [Miller] and me to jointly make a decision for her.”

“I fear that attempting to make joint decisions — and the lack of cooperation from [Miller] in doing so — will cause direct harm to” their daughter.

That drew the congressman’s legal wrath. Miller countered that his ex-wife’s conduct has “become increasingly confrontational, irrational and somewhat bizarre.”

## **EXPLORE MORE**



**Dad of Mamdani-backed ‘Abolish ICE’ Dem rakes in cash for firm securing Texas border**



**Trump admin live updates: President receives his physical exam at Walter Reed**



**Rep. Ilhan Omar shrugs off Nancy Mace bill to ban her, other foreign-born pols from Congress**

He alleged that she made “repeated and unsubstantiated allegations of abuse of” their daughter to local police and family services.

Specifically, police looked into concerns about their daughter’s broken collarbone and bruised shoulder while the congressman was watching her.

The Ohio rep claimed that local authorities investigated the matter and “apparently cleared” him, but made sure he had a booster seat installed properly in his vehicle.

But an investigation into possible child abuse is technically still listed as active by local police. And the police have not publicly divulged any conclusions from the probe.

Miller pushed the court to mandate that both he and his ex-wife undergo psychological evaluations to determine custody.

”If Mr. Miller is looking for an individual with abusive behavior, he should look in the mirror and past the veneers,” Emily’s attorney Andrew Zashin said in a statement.



Max Miller has sought to subpoena information from Sen. Bernie Moreno as part of the messy custody fight.

AP

More recently, Miller moved to subpoena his ex-father-in-law, Bernie, a populist ally of Vice President JD Vance and former luxury auto mogul.

“Mr. Miller has already lost in court,” Zashin added. “His desperate and entirely false allegations against his ex-wife concerning their daughter were thrown out of court.”

“These baseless claims are nothing more than a cynical attempt by Mr. Miller to weaponize the legal system against his ex-wife, a strong, loving mother who refuses to submit to his coercive control.”

Miller, who was elected to the House in 2022, did multiple stints in the first Trump administration, including a Treasury Department role, serving as an associate director of the Presidential Personnel Office, and as a special assistant to the president.

The second-term congressman previously had a nasty defamation battle with former White House press secretary Stephanie Grisham, his ex-girlfriend, over her book detailing their allegedly toxic relationship.

She publicly **alleged** that her relationship with an unnamed White House staffer “turned abusive” and “had become violent.” Miller voluntarily dismissed that suit in 2023.

When asked for a comment, Miller's team referred The Post to his attorney's statement.

---

89 **What do you think? [Post a comment.](#)**

---

"The only person who has been granted a restraining order by a court of law is Rep. Max Miller," an attorney for the congressman said in a statement first given to TMZ.

"The evidence brought against his ex-wife Ms. Moreno was enough to convince a judge that she was a threat to the Congressman."

Restraining orders are often given in divorce or custody battles, requiring the ex-spouses to stay away from each other until there's additional consideration by the courts.

**FILED UNDER** [CONGRESS](#), [DIVORCE](#), [OHIO](#), [REPUBLICANS](#), [US HOUSE OF REPRESENTATIVES](#), [4/24/26](#)

---

**READ NEXT** [Suozzi bill bars harassment outside of synagogues, houses ...](#)

---

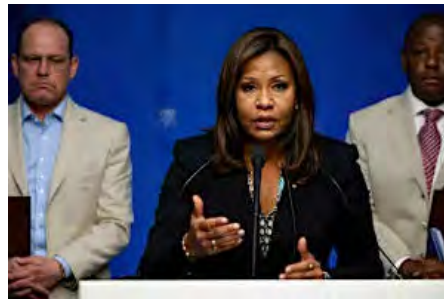
## SPONSORED STORIES



### Honey: The Greatest Enemy of Memory Loss (See How to U...

Memory Loss Begins When a Person Eats This Breakfast...

[wisetio.com](#)



### Ohio: Millions in Credit Card Debt Relief Still Available...

If you have more than \$15,000 in credit card debt you may b...

[Finance Trend Watch](#)



### Dermatologist: The 1 Vitamin You Need If You Have Wrinkles

She stopped using her moisturizer and tried this...

[Anti-Aging Center](#)

IN THE COURT OF COMMON PLEAS  
DOMESTIC RELATIONS DIVISION  
CUYAHOGA COUNTY, OHIO

1			
2			
3			
4	MAX LEONARD MILLER	:	CASE NO.: 26-DV-408367
5		:	
6	Petitioner,	:	JUDGE DEBRA L. BOROS
7		:	MAGISTRATE JESSICA BARTOLOZZI
8		:	
9	-vs-	:	<u>BRIEF IN OPPOSITION TO</u>
10		:	<u>RESPONDENT'S MOTION TO</u>
11	EMILY MORENO	:	<u>DISMISS AND REPLY IN SUPPORT</u>
12		:	<u>OF MOTION TO EXTEND TIME</u>
13	Respondent.	:	<u>LIMITS AND FOR A DISCOVERY</u>
14		:	<u>ORDER</u>

11 Now comes Petitioner, Max L. Miller ("Petitioner"), by and through undersigned counsel,  
 12 and hereby submits his Brief in Opposition to Respondent Emily Moreno's ("Respondent")  
 13 *"Motion to Dismiss Petition or, in the alternative, Respondent's Brief in Opposition to*  
 14 *Petitioner's Motion to Extend Time Limits on Presentation of Testimony, Motion for*  
 15 *Continuance, and Motion for Discovery Order."* Petitioner further submits his Reply in support  
 16 of his previously filed *Motion to Extend Time Limits on Presentation of Testimony Motion to*  
 17 *Continue, and Motion for Discovery Order Pursuant to Civ.R.65.1(D).*

18 Respondent's *Motion* should be denied and the arguments set forth in her *Brief in*  
 19 *Opposition* to Petitioner's *Motions* must be rejected. This Honorable Court's *sua sponte*  
 20 continuance of the March 10, 2026 full hearing is premised upon good cause shown and thus  
 21 complied with R.C. 3113.31(D). Further, Petitioner's petition sufficiently alleges domestic  
 22 violence against Respondent, on his own behalf and that of his minor daughter, R.M., pursuant to  
 23 R.C. 3113.31, and a full hearing under R.C. 3113.31 is the appropriate mechanism to temporarily  
 24 allocate parental rights and responsibilities concerning R.M. as a result of domestic violence.  
 25  
 26  
 27  
 28

Respectfully submitted,

/s/ Larry W. Zukerman, Esq.

LARRY W. ZUKERMAN, Esq.

Reg. No. 0029498

ADAM M. BROWN, Esq.

Reg. No. 0092209

Zukerman, Lear, Murray & Brown Co., L.P.A.

3912 Prospect Avenue

Cleveland, Ohio 44115

(216) 696-0900

Fax (216) 696-8800

lwz@zukerman-law.com

amb@zukerman-law.com

*Counsel for Max L. Miller*

/s/ Pamela J. MacAdams, Esq. (per consent)

PAMELA J. MacADAMS (0023278)

Morganstern MacAdams & DeVito Co., LPA

623 West Saint Clair Avenue

Cleveland, Ohio 44113

(216) 621-4244

Fax (216) 621-2951

pamatty@gmail.com

*Co-Counsel for Max L. Miller*

**BRIEF IN OPPOSITION TO RESPONDENT'S MOTION TO DISMISS AND REPLY IN  
SUPPORT OF PETITIONER'S MOTION TO EXTEND TIME LIMITS ON  
PRESENTATION OF TESTIMONY, MOTION FOR CONTINUANCE, AND MOTION  
FOR DISCOVERY ORDER.**

**I. PROCEDURAL BACKGROUND**

On February 27, 2026, Petitioner filed a Petition for an *ex parte* DVCPO against Respondent on behalf of himself and the parties' minor child, R.M. The Magistrate granted an *ex parte* DVCPO protecting Petitioner (but not the minor child R.M.) and scheduled the full hearing for March 10, 2026. The Magistrate's DVCPO Order limited each party to one hour total for presentation, including cross-examination.

On March 3, 2026, Petitioner filed his *Witness List*, wherein he identified sixteen (16) named witnesses, as well as his *Motion to Extend Time Limits on Presentation of Testimony* (March 3, 2026), explaining the inadequacy of the one-hour limit given the pattern-of-conduct allegations, documentary evidence (videos, audio, texts, photos, witness statements), need for multiple witnesses, and cross-examination of Respondent. Petitioner also filed a *Motion for*

*Discovery Order Pursuant to Civ.R. 65.1(D)* (March 4, 2026), seeking limited discovery (e.g., Respondent's deposition, child's medical records from February 16, 2026 house call and subsequent treatment) to address nondisclosure and prepare rebuttal.

Thereafter, this Honorable Court *sua sponte*, continued the March 10, 2026 full hearing and advised counsel that March 10, 2026, will instead be a status conference to address Petitioner's *Motion to Extend Time Limits*.

## II. LAW AND ARGUMENT

### A. The Court's *Sua Sponte* Continuance of the Full Hearing Complies with R.C. 3113.31 and Respondent's Motion to Dismiss Must be Denied

This Honorable Court's *sua sponte* conversion of the March 10, 2026 to a status hearing regarding Petitioner's *Motion* complies with R.C. 3113.31(D)(2)(a)(iv), which provides:

Under any of the following circumstances or for any of the following reasons, the court may grant a continuance of the full hearing to a reasonable time determined by the court:

- (i) Prior to the date scheduled for the full hearing under this division, the respondent has not been served with the petition filed pursuant to this section and notice of the full hearing.
- (ii) The parties consent to the continuance.
- (iii) The continuance is needed to allow a party to obtain counsel.
- (iv) *The continuance is needed for other good cause.*

*See* R.C. 3113.31(D)(2)(a) (emphasis added).

Here, good cause exists for the Court's issuance of a continuance in light of Petitioner's pattern-of-conduct allegations against Respondent, and his intent to present documentary evidence (videos, audio, texts, photos, witness statements) during the full hearing (including items which he must obtain during discovery), the need for testimony from multiple witnesses, and his anticipated cross-examination of Respondent. Under the circumstances, and in light of Petitioner's allegations, it was reasonable for the Court to convert the March 10, 2026 full hearing date to a status conference to review Petitioner's pending *Motions* and the procedural logistics with the parties.

Furthermore, it is well established that a court has supervisory control over its own docket and has the inherent authority to manage its own proceedings and grant continuances. *See RJJ v. KR*, 2019 Ohio 3667 (8th Dist. 2019) citing *See State ex rel. Buck v. McCabe*, 140 Ohio St. 535, 537, 45 N.E.2d 763 (1942). The decision to grant or deny a continuance is a matter entrusted to the broad discretion of the trial court. *State v. Unger*, 67 Ohio St.2d 65, 67, 423 N.E.2d 1078 (1981). Accordingly, Respondent's *Motion to Dismiss* must be denied.

**B. The Petition States a Valid Claim Under R.C. 3113.31**

Respondent argues the Petition lacks merit on its face, that it does not allege acts of domestic violence and, therefore, it should be dismissed. In so arguing, Respondent's counsel attempts to mislead this Honorable Court by citing only *part* of the definition of domestic violence under R.C. § 3113.31(A). Respondent's *Motion* provides:

“Domestic violence is defined by the statute as (a) the occurrence of one or more of the following acts against a family or household member:

- (i) Attempting to cause or recklessly causing bodily injury;
  - (ii) Placing another person by the threat of force in fear of imminent serious physical harm...
  - (iii) Committing any act with respect to a child that would result in the child being an abused child...
  - (iv) Committing a sexually oriented offense.
- R.C. 3113.31(A)(1)(a).”

*See Respondent's Motion to Dismiss*, at 3.

In reality, however, R.C. § 3113.31(A) defines domestic violence as follows:

(A) As used in this section:

(1) "Domestic violence" means any of the following:

(a) The occurrence of one or more of the following acts against a family or household member:

(i) Attempting to cause or recklessly causing bodily injury;

- (ii) Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code;
- (iii) Committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code;
- (iv) Committing a sexually oriented offense.

*See* R.C. § 3113.31(A).

Respondent's *Motion* omitted that R.C. 3113.31(A)(1)(a) defines "domestic violence" to include committing a violation of R.C. 2903.211, Ohio's menacing by stalking statute. R.C. 2903.211, entitled Menacing by Stalking, provides:

(A)(1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

*See* R.C. 2903.211.

As to Petitioner, the Petition alleges menacing by stalking under R.C. 2903.211(A)(1): a pattern of conduct (two or more closely related incidents) knowingly causing mental distress. The pattern includes, but is not limited to Respondent's January 2025 false CPS report of abuse against Petitioner (which was unsubstantiated against Petitioner, and the child daycare facility was held be responsible) and Respondent's February 2026 false reports to CPS and law enforcement of abuse against Petitioner (collarbone abuse attribution as well as the delayed February 1 shoving allegation bundled opportunistically). These acts, driven by Respondent's vindictiveness, untreated bipolar disorder, impulsivity, and revenge following Petitioner obtaining shared parenting, caused Petitioner significant ongoing mental distress, fear, anxiety, emotional harm, and

fear for safety, reputation, and parental rights. "Mental distress" includes conditions involving temporary substantial incapacity or requiring mental health services, "whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services." *See* R.C. 2903.211(D)(2)).

Petitioner's sworn, notarized statement in his petition provided:

Respondent's repeated pattern of falsely accusing me of abusing her and C—to ruin my reputation, gain an edge in custody and litigation matters, and seek revenge—has caused me significant and ongoing mental distress, fear, anxiety, and emotional harm. I fear for my own safety from Respondent due to her vindictive and unpredictable behavior. I also fear, based on her pattern of conduct, that Respondent will continue to cause me harm and mental distress, and that she will cause physical or other harm to C if not restrained by this Court.

*See Petition*, Petitioner's Sworn Statement.

Further, Petitioner testified as to his mental distress during the *ex parte* hearing. As expert testimony is not required to establish mental distress, Petitioner's sworn statement and testimony concerning Respondent's pattern of conduct and his resulting mental distress is sufficient to establish menacing by stalking and thus domestic violence under R.C. § 3113.31. *See LMW v. BA*, 191 N.E.3d 1240 (8th Dist. 2022); *R.R. v. J.H.*, 2021-Ohio-706 (8th Dist.)).

As to the child R.M., the Petition alleges Respondent's acts under R.C. 3113.31(A)(1)(a)(iii) that would result in R.M. being an abused child under R.C. 2151.031, including acts of endangerment (R.C. 2919.22) (driving recklessly with R.M. in the vehicle), physical injury at variance with history (reckless driving resulting in injury to R.M.) and acts threatening the health and welfare of R.M. (reckless driving, false reports of the origins of R.M. injuries while under her care, and Respondent's failure to disclose material details to DCFS or authorities regarding R.M.'s recent medical care.).

Ohio courts determine future danger by examining the parties' history, including past acts of violence or threatening conduct. "To determine whether a petitioner is in danger of future harm

in the domestic violence context, courts routinely look to the petitioner's and respondent's history, including whether any past acts of violence had ever occurred." *MP v. TP*, 2024-Ohio-542, ¶ 9 (9th Dist.), citing *In re E.P.*, 2011-Ohio-5829, ¶ 33 (8th Dist.); *Reynolds v. White*, 8th Dist. No. 74506 (Sept. 23, 1999) (victim's history with perpetrator may cause reasonable fear); *Solomon v. Solomon*, 157 Ohio App.3d 807, 2004-Ohio-2486, ¶ 23 (7th Dist.) ("petitioner may rely on past acts to establish a genuine fear of violence in the present situation"); *EA v. AA*, 2024-Ohio-2807 (8th Dist.).

Here, Respondent's history of repeated false allegations and Respondent's reckless, dangerous, deceptive, and unpredictable behavior—causing mental distress and reasonable fear of escalation including reasonable fear of further harm to R.M.—supports the Petition as to both himself and R.M. Thus, Respondent's *Motion to Dismiss* must be denied, and this Honorable Court must permit Petitioner to present evidence and testimony during the full hearing of Respondent's acts of domestic violence as to him, as well as R.M.

**C. R.C. § 3113.31 Authorizes This Honorable Court to Issue a DVCPO as to R.M. Even Though This Honorable Court Denied *Ex Parte* Relief**

In her *Motion*, Respondent incorrectly claims:

As a threshold matter, it is important to note that although Petitioner requested the protection of the parties' minor child, R.M., in addition to himself, in his February 26, 2026 Petition, the *Ex Parte Order* did not include R.M. as a party to this action. Consequently, the currently scheduled March 10, 2025 trial will be limited to the presentation of testimony and evidence related to the alleged need for Petitioner's protection *only*.

*See Respondent's Motion to Dismiss*, at 2 (emphasis in original).

However, contrary to Respondent's claims, R.C. 3113.31(D)(3) provides:

(D)(3) If a person who files a petition pursuant to this section does not request an ex parte order, or if a person requests an ex parte order but the court does not issue an ex parte order after an ex parte hearing, the court shall proceed as in a normal civil action and grant a full hearing on the matter.

See R.C. 3113.31(D)(3) (emphasis added).

Thus, even though the Court initially denied *ex parte* relief as to R.M., “the court shall proceed as in a normal civil action and grant a full hearing on the matter.” Significantly, R.C. 3113.31(E)(1) specifically permits relief protecting family members, including children, and temporary custody and the allocation of parental rights and responsibilities for safety. Thus, Petitioner’s allegations of domestic violence and the corresponding full hearing pursuant to R.C. 3113.31 constitute a statutory danger assessment, not a domestic relations custody substitute.

Accordingly, the evidence at the full hearing must consist of the presentation of testimony and evidence as to both Respondent’s domestic violence against Petitioner and R.M., and the full hearing under R.C. 3113.31 is the appropriate mechanism to temporarily allocate parental rights and responsibilities concerning R.M. as a result of domestic violence.

**D. Limited Discovery Under Civ.R. 65.1(D) Is Appropriate and Necessary to Protect Petitioner's Due Process Rights**

Civ.R. 65.1(D) expressly authorizes discovery in civil protection order proceedings upon entry of a court order that includes appropriate safeguards for time, place, persons present (including any victim advocate), and terms/conditions necessary to assure the Petitioner's safety (e.g., confidentiality of address/contact information).

Ohio appellate courts have repeatedly upheld and applied discovery in protection order proceedings, treating them as civil actions governed by the Rules of Civil Procedure. See *Walker v. Walker*, 2011-Ohio-3933 (5th Dist.) ("proceedings involving the determination of whether to grant a protection order are civil" in nature); *Caito v. Zucallo*, 2011-Ohio-8881 (11th Dist.) (recognizing discovery, including depositions, in civil stalking protection order cases under analogous R.C. 2903.214, and noting continuance may be sought if discovery is needed to

prepare); *Clark v. Ellinwood*, 2011-Ohio-145 (6th Dist.) (respondent took depositions of petitioner and petitioner's employer in preparation for full hearing); *Bryant v. Spear-Hardy*, 2010-Ohio-1903 (2d Dist.) (trial court granted continuance to allow depositions); *Gussler v. Morris*, 2006-Ohio-6627 (4th Dist.) (trial court continued full hearing to permit interrogatories, requests for admission, and depositions; denied objection to being deposed).

The Due Process Clauses of the United States and Ohio Constitutions guarantee Petitioner a meaningful opportunity to be heard including the right to present evidence and confront opposing evidence. See *Cleveland Bd. of Edn. v. Loudermill*, 470 U.S. 532, 542, 105 S. Ct. 1487, 84 L. Ed. 2d 494 (1985). "It is equally fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner." (Internal quotations and citations omitted.) *Fuentes v. Shevin*, 407 U.S. 67, 80, 92 S. Ct. 1983, 32 L. Ed. 2d 556 (1972). The right to a hearing includes the right to present evidence. See *Gonzales v. United States*, 348 U.S. 407, 414, 75 S. Ct. 409, 99 L. Ed. 467 (1955), fn. 5.

Although the term "full hearing" is not statutorily defined, in general, a full hearing on a CPO petition "is one in which ample opportunity is afforded to all parties to make, by evidence and argument, a showing fairly adequate to establish the propriety or impropriety of the step asked to be taken." *J.W. v. D.W.*, 2019 Ohio 4018, ¶¶25, 32 (10th Dist. 2023) citing *D.M.W. v. E.W.*, 2018-Ohio-821, ¶ 12, (10th Dist. 2018). "[W]here the issuance of a protection order is contested, the court must, at the very least, allow for presentation of evidence, both direct and rebuttal, as well as arguments." *Id.*

Here, limited, targeted discovery is essential to vindicate these due process rights, particularly where Respondent's pattern of false allegations and nondisclosure of material facts (including the child's medical treatment and custody timeline) directly implicates Petitioner's

ability to rebut claims and meet his preponderance burden. In this case, discovery is both necessary and critical due to the complexity and credibility-driven nature of the Petition. Respondent has engaged in a persistent pattern of false abuse allegations against Petitioner and the minor child, including the January 2025 unsubstantiated CPS report and the February 2026 bundled false reports (collarbone abuse and delayed February 1 shoving claim).

As noted, these allegations have caused Petitioner significant mental distress, fear, anxiety, and emotional harm, and have directly implicated the child's welfare through potential endangerment and risk of unwarranted removal. Key issues requiring discovery to protect Petitioner's due process rights include:

- Respondent's repeated false reports to CPS, medical professionals, law enforcement, and others;
- Respondent's failure to disclose material details about the child's recent medical treatment (including the absence of any observations of injury during the February 16, 2026 house call for strep throat and specifics concerning R.M.'s subsequent evaluations);
- Respondent's attempted restriction of Petitioner's access to the child's medical records, despite joint decision-making obligations under the shared parenting plan;
- The timeline and circumstances surrounding the child's collarbone injury (which occurred during Respondent's predominant custody period);
- Credibility and motive evidence, including Respondent's history of abandoning prior claims when confronted with contradictory evidence (e.g., recorded denials) and her failure to produce evidence of abuse when requested to do so).

Petitioner's requested discovery is narrowly tailored and directly relevant: depositions of Respondent and key third-party witnesses (Christina Greco Walsh, treating physicians Dr. Meghan Lynch-Ljubi and Dr. Eva Kubiczek-Love, and DCFS caseworker Shannon Fraser), plus limited document production (medical records, CPS files, and related materials). This is not broad or harassing discovery but targeted impeachment and fact-development tools essential to establish Respondent's pattern of nondisclosure and false accusations at the full hearing. Given the Court's

conversion of the March 10, 2026 date to a status on time limits (rather than the full evidentiary hearing), there is now sufficient procedural time to permit limited discovery under Civ.R. 65.1(D) with appropriate safeguards. Petitioner submits that the denial of this targeted discovery would prejudice Petitioner's due process right to a meaningful opportunity to prepare and present his case. The Court should therefore grant the requested discovery order and continue the full hearing as needed to accommodate completion of discovery.

### III. CONCLUSION

WHEREFORE, Petitioner, by and through undersigned counsel, respectfully submits his *Brief in Opposition to Respondent's Motion to Dismiss* and requests this Honorable Court to deny the same. In addition, for the reasons set forth herein, this Honorable Court should issue an Order granting Petitioner's *Motion to Extend Time Limits* and *Motion for Discovery Order* approved with safeguards, and any necessary continuance ordered to facilitate the completion of discovery.

Respectfully submitted,

/s/ Larry W. Zukerman, Esq.  
LARRY W. ZUKERMAN, Esq.  
Reg. No. 0029498  
ADAM M. BROWN, Esq.  
Reg. No. 0092209  
Zukerman, Lear, Murray & Brown Co., L.P.A.  
3912 Prospect Avenue  
Cleveland, Ohio 44115  
(216) 696-0900  
Fax (216) 696-8800  
lwz@zukerman-law.com  
amb@zukerman-law.com  
*Counsel for Max L. Miller*

/s/ Pamela J. MacAdams, Esq. (per consent)  
PAMELA J. MacADAMS (0023278)  
Morganstern MacAdams & DeVito Co., LPA  
623 West Saint Clair Avenue  
Cleveland, Ohio 44113  
(216) 621-4244  
Fax (216) 621-2951  
pamatty@gmail.com  
*Co-Counsel for Max L. Miller*

**CERTIFICATE OF SERVICE**

On this this 9th day of March 2026, a copy of the foregoing was served via email upon the following:

ANDREW A. ZASHIN (0062033)

[aaz@zashinlaw.com](mailto:aaz@zashinlaw.com)

AMY M. KEATING (0081338)

[amk@zashinlaw.com](mailto:amk@zashinlaw.com)

DONOVAN J. DELUCA (0091035)

[djd@zashinlaw.com](mailto:djd@zashinlaw.com)

5900 Landerbrook Drive, Ste. 280

Landerbrook Corporate Center 1

Cleveland, Ohio 44124

P: 216-480-3001

F: 216-480-3002

*Counsel for Respondent*

/s/ Larry W. Zukerman, Esq.

LARRY W. ZUKERMAN, Esq.

# Max Miller sues ex-wife and her legal team for domestic abuse allegations

The Ohio Republican is alleging defamation and seeking no less than \$25,000 in damages.



Rep. Max Miller (R-Ohio) speaks with reporters as he departs a meeting at the U.S. Capitol in Washington, on Oct. 12, 2023. | Francis Chung/POLITICO

By HAILEY FUCHS

05/14/2026 11:28 AM EDT

Updated: 05/14/2026 12:58 PM EDT



Rep. Max Miller, who has been accused of abusing his ex-wife, is now suing her for defamation — a major escalation in an ongoing public dispute between the two-term Ohio Republican and the daughter of Ohio GOP Sen. Bernie Moreno.

In a copy of the complaint filed Wednesday evening in Cuyahoga County, Ohio and reviewed by POLITICO, Miller claims that his ex-wife, Emily Moreno, and her legal team made “false, malicious, and defamatory statements wrongly accusing [him] of being a violent and abusive husband and father.”

**EXHIBIT  
D**

Miller, who shares a child with Emily Moreno, is also suing her legal team and maintained that conflicts with his former partner were, in part, the result of what the complaint describes as her mental health challenges. The lawmaker is seeking no less than \$25,000 in damages.

According to Miller's complaint, Emily Moreno and her legal team "engaged in a defamatory campaign against [Miller] to malign his character, undermine his odds at re-election to Congress, and falsely portray him as a violent and abusive father and husband" during the course of custody proceedings around the former couple's daughter.

Earlier this month, the [Daily Mail reported](#) that Miller was battling domestic violence allegations from his now ex-wife. The article included accusations that Miller threw boiling water at Emily Moreno in front of their child and published photographs of what appeared to be injuries that she sustained from the alleged abuse. Other news outlets have also written about these allegations.

Miller [quickly took to social media](#), calling the Daily Mail reports "nothing but lies." He also [accused](#) first-term Sen. Moreno of funding "his daughter's malicious campaign to ruin [his] life despite his knowledge of her mental health issues."

Now, Miller is insisting the allegations of misconduct have cost him "actual damages in the form of lost business opportunities, reduced campaign

contributions to aid his reelection campaign to Congress, and other pecuniary harms that will be quantified in an amount to be proven at trial,” according to the complaint.

“Congressman Miller is seeking to hold those responsible accountable and to obtain damages for the significant personal, professional, and political harm that he has suffered,” said a Miller spokesperson in a statement, adding that the lawmaker was pursuing the lawsuit to “defend his reputation.”

Stefan Mychajliw, a spokesperson for Emily Moreno, said in a statement Thursday that “Mr. Miller is upset because he’s tried to silence Emily Moreno the same way he silenced Stephanie Grisham — and Emily won’t let him.” It was a reference to a [separate accusation](#) that Miller slapped Grisham, the former White House press secretary and his ex-girlfriend. Miller has denied this claim through an attorney.

Miller, Mychajliw continued, “sued Grisham in 2021 on materially identical facts, quietly dropped it in 2023, then put a million-dollar chokehold on her; now he’s running the same playbook against a woman with photographs of her bruises and burns ... Mr. Miller will not silence Ms. Moreno.”

---

**WATCH: THE CONVERSATION**



Mychajliw also asserted that his client has a copy of “a letter in [Miller’s] own handwriting calling himself ‘worthless’ with guilt ‘eating me alive’” for having allegedly assaulted Emily Moreno, as well as “a sworn declaration [Miller’s] lawyers were forced to retract after admitting the witness was never there.”

Miller, who has insisted he wrote no such letter as an apology for the boiling water accusation, also recently called out his former father-in-law on social media, writing on X that the dispute “must be distracting from your job and “these antics harm your own grandchild. Anytime you want to put a stop to this, you can.”

Andrew Zashin, an attorney for Emily Moreno, declined to comment and referred the matter to his own lawyer; that lawyer did not immediately return a request for comment. A spokesperson for the senator also had no comment.

Miller is coming under the microscope amid a renewed reckoning on Capitol Hill over lawmakers’ unethical behavior, which has put significant pressure on members of both parties to quickly root out bad actors inside their ranks.

In the House, it has led to the resignation of three members over the course of five weeks. Former Reps. Eric Swalwell (D-Calif.) and Tony Gonzales (R-Texas)

resigned over [accusations of sexual assault](#) and an inappropriate relationship with a staffer, respectively. Swalwell has publicly apologized for his “mistakes in judgment” but vowed to fight what he called “false allegations” and Gonzales had [denied wrongdoing](#) but ultimately [admitted](#) to the affair.

Former Rep. Sheila Cherfilus-McCormick (D-Fla.), meanwhile, [stepped down](#) rather than face a likely expulsion vote after the House Ethics Committee found she illicitly funneled money to support her campaign — charges she has refuted.

Other lawmakers under scrutiny include Rep. Cory Mills (R-Fla.) who is accused of various misdeeds including threatening to release a former girlfriend’s explicit videos. In an apparent effort to show they were taking the case seriously, leadership of the bipartisan Ethics Committee announced Monday in a [highly unusual statement](#) that it had already pursued several steps to aggressively investigate the allegations, including approving 20 subpoenas. He has denied wrongdoing.

The Ethics panel is also pursuing a case against Rep. Chuck Edwards over allegations of sexual harassment and an improper relationship with staff. The North Carolina Republican has said the “baseless allegations [are] designed to impact the campaign driven by those who want to settle old political scores.” But some of his [Republican peers](#) who helped force Swalwell and Gonzales out of Congress have indicated they could try to force accountability in Edwards’ case, too.

**FILED UNDER: CONGRESS**

## Speaker Mike Johnson responds to domestic abuse allegations against a GOP congressman: ‘He’s got to work that out’

Rep. Max Miller, R-Ohio, has vehemently denied the allegations of his ex-wife, Emily Moreno, the daughter of a U.S. senator, and has sued her alleging defamation.

▶ Listen to this article with a free account

00:00

04:40

1x



— Rep. Max Miller, R-Ohio, at the U.S. Capitol in 2023.

Tom Williams / CQ-Roll Call via Getty Images file

**EXHIBIT  
E**

**By Frank Thorp V and Scott Wong**

WASHINGTON – House Speaker Mike Johnson, R-La., weighed in Friday on domestic abuse allegations Rep. Max Miller’s ex-wife has made against the Ohio Republican, saying “he’s got to work that out.”



**Subscribe to read this story ad-free**

**Get unlimited access to ad-free articles and exclusive content.**



---

“I don’t get involved in the personal lives of members and those things. You know, he’s refuted some of these allegations, and he’s got to work that out,” Johnson said when asked by NBC News about the allegations.

It’s a complicated situation for Republicans. Miller, who is in his second term in Congress, is in a bitter divorce fight with his ex-wife, Emily Moreno, the daughter of Sen. Bernie Moreno, another Ohio Republican. Miller has vehemently denied the allegations and is [suing her alleging defamation](#).

“The false allegations against me come amidst a personal custody dispute and are simply an attempt to destroy my personal and professional reputation. I look forward to bringing the truth to light in court,” Miller [posted on X](#).

Miller, a Donald Trump ally, and Emily Moreno were married in 2022 at the Trump National Golf Club in New Jersey. They had a daughter in 2023. Their divorce was finalized in June, according to The Associated Press.

Earlier this month, the [Daily Mail](#) reported that Miller was facing domestic abuse allegations from his ex-wife and published photos of what she alleged were injuries she sustained from Miller’s physical abuse.

On May 8, Miller took aim at his former father-in-law, accusing Bernie Moreno on X of continuing “to fund and enable his daughter’s malicious campaign to ruin my life despite his knowledge of her mental health issues.”

“Bernie, this must be distracting from your job. These antics harm your own grandchild. Anytime you want to put a stop to this, you can,” Miller [wrote on X](#).

The senator has not publicly responded, and on Friday his office declined to comment.

Things escalated on Wednesday, when Miller filed a defamation lawsuit against Emily Moreno in Cleveland, citing “the considerable reputational and financial harm” caused to him by her abuse allegations, according to The Associated Press.

Miller, who is running for a third term this November, alleged that his ex-wife, her attorney Andrew Zashin and his law firm have engaged in a defamatory campaign by spreading knowingly false information about him to the Daily Mail, the New York Post and other media outlets, the AP said.

Emily Moreno’s spokesperson, Stefan Mychajliw, told the AP on Thursday: “Mr. Miller is upset because he’s tried to silence Emily Moreno the same way he silenced Stephanie Grisham – and Emily won’t let him.”

Mychajliw was referencing the former White House press secretary who accused Miller of domestic abuse while they were dating during Trump’s first term. Miller [sued](#) Grisham over that allegation, included in her post-White House book, and he voluntarily dismissed the suit with prejudice in 2023 while denying the claims, the AP reported.

Miller is “running the same playbook against a woman with photographs of her bruises and burns,” Mychajliw told the AP, adding: “Mr. Miller will not silence Ms. Moreno.”

Neither Mychajliw nor Zashin Law immediately responded to NBC News’ requests for comment on Friday.

Allegations of domestic and child abuse raised by Emily Moreno in court filings in the divorce proceedings, which were [reported locally](#) in late April, haven’t appeared to hurt Miller’s standing with Trump. The president endorsed Miller for re-election on May 5, noting he served in the Marines and in his first presidential administration.

“Max Miller has my Complete and Total Endorsement – HE WILL NOT LET YOU DOWN!” Trump [posted on Truth Social](#).

An incident report from the Bay Village Police Department showed that an officer was dispatched to the Miller home on Feb. 23 to speak with a child protection specialist from the Cuyahoga County Division of Children and Family Services about “suspected child abuse.” The report, obtained by NBC News, did not name either Miller or Emily Moreno.

Police told NBC News that investigation is ongoing and provided no other details. Miller’s lawyer told [News 5 Cleveland](#) in April that the county informed Miller it had found no evidence of “child

abuse or neglect,” adding that “neither Ms. Moreno, nor anyone else has demonstrated any evidence against Congressman Miller.”

---



Frank Thorp V

Frank Thorp V is a coordinating producer and off-air reporter covering Congress for NBC News, managing coverage of the Senate.

---

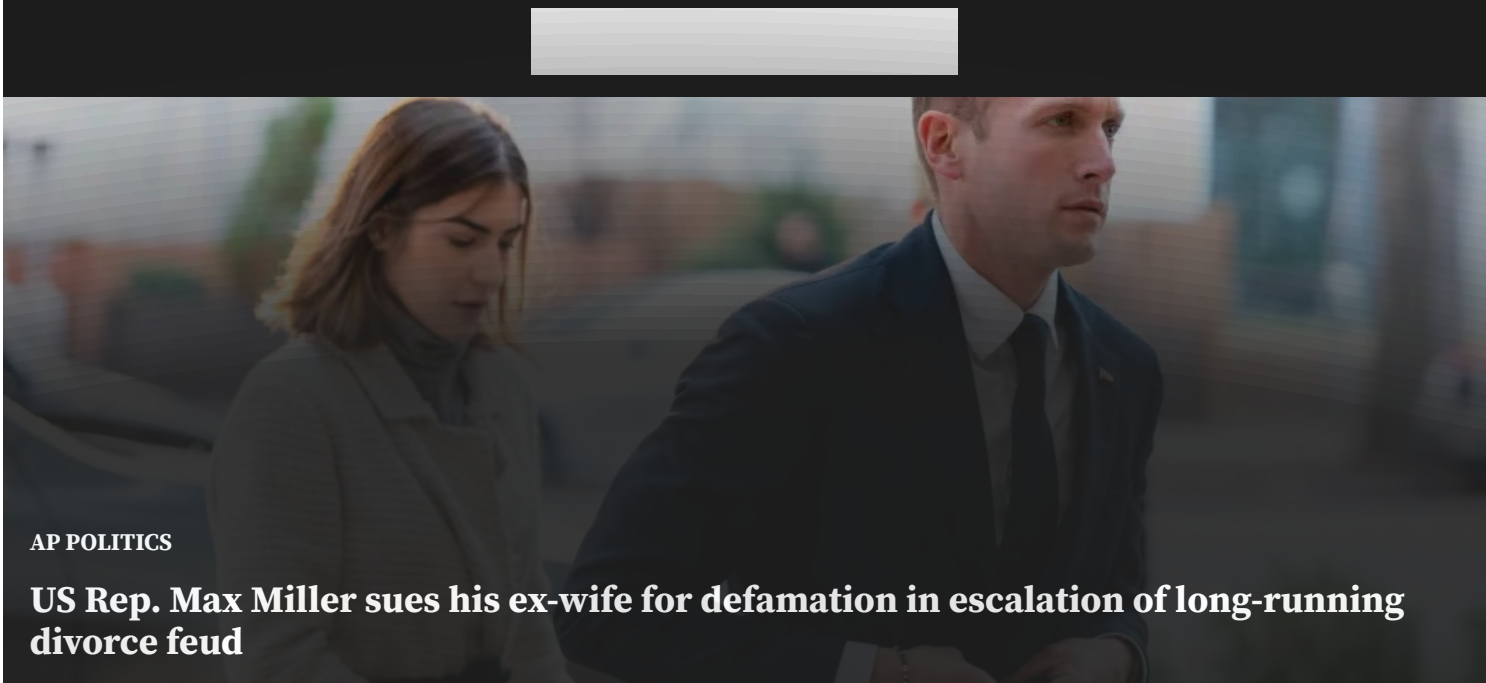


Scott Wong

Scott Wong is a senior congressional reporter for NBC News.

---

LIVE NOW Watch Day to Day with Mariah!



AP POLITICS

# US Rep. Max Miller sues his ex-wife for defamation in escalation of long-running divorce feud

FILE - Rep.-elect Max Miller, R-Ohio, arrives for new member orientation check-in and program registration with Emily Moreno in Washington, Nov. 13, 2022. (AP Photo/Amanda Andrade-Rhoades, File)

by: JULIE CARR SMYTH, Associated Press  
Posted: May 14, 2026 / 04:59 PM CDT  
Updated: May 14, 2026 / 04:59 PM CDT

SHARE    

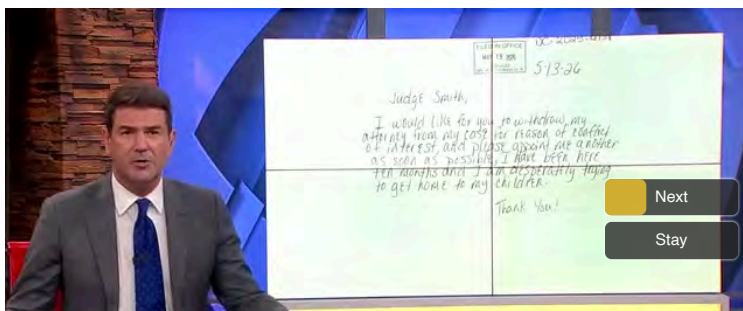
COLUMBUS, Ohio (AP) — The bitter divorce between an Ohio congressman and his former wife, the daughter of one of the state’s U.S. senators, has escalated into new legal action.

Republican U.S. Rep. Max Miller filed a defamation lawsuit against Emily Moreno, his one-time spouse, on Wednesday in Cleveland, citing “the considerable reputational and financial harm” caused to him by her accusations that he was “a violent and abusive husband and father.”

Miller, a two-term congressman up for reelection this fall, alleges that Moreno, her attorney Andrew Zashin and his law firm have engaged in a defamatory campaign against him by spreading knowingly false information about him to media outlets including The Daily Mail, a British tabloid, and the New York Post. The action contends that the resulting damage to his reputation undermines his chances of reelection.

Those outlets have “circulation measured in the tens of millions of print and online readership,” the complaint states, and their articles have been read, viewed or discussed by Miller’s constituents, his congressional colleagues, “his political supporters and donors, the media, and the general public.”

ADVERTISEMENT



Judge Smith,  
I would like for you to withdraw my  
attorney from my case for reason of conflict  
of interest and please appoint me another  
as soon as possible. I have been here  
for months and I am desperately trying  
to get home to my children.  
Thank You!

5/13/26

Next  
Stay

EXHIBIT  
F



The suit seeks compensatory damages in excess of \$25,000, punitive damages sufficient to deter future similar conduct and attorney’s fees.

“Congressman Miller is seeking to hold those responsible accountable and to obtain damages for the significant personal, professional, and political harm that he has suffered,” his spokesman said in a statement.

ADVERTISEMENT

Zashin declined comment.

The incident brings to mind a similar situation that played out as Miller, a White House aide to President Donald Trump during the Republican’s first term, made his first run for Congress in 2021.

Miller’s former girlfriend, one-time White House press secretary Stephanie Grisham, raised allegations in her book and in a Washington Post op-ed at the time that a former White House staffer later identified as Miller had physically abused her while they were dating. Miller responded by filing a defamation lawsuit against her. He voluntarily dismissed the suit with prejudice in August 2023, just before the case was set to go to trial.

Moreno’s spokesperson, Stefan Mychajliw, cited the earlier lawsuit in a statement Thursday.

ADVERTISEMENT

“Mr. Miller is upset because he’s tried to silence Emily Moreno the same way he silenced Stephanie Grisham — and Emily won’t let him,” he said,

READ NEXT >

**Trump will see doctors again on Tuesday**



READ NEXT >

Next story in 5

Cancel

Miller's spokesperson provided documentation that several allegations that he had abused his daughter were investigated by the Cuyahoga County Division of Children and Family Services and deemed unsubstantiated.

CONTENT CONTINUES BELOW SURVEY

Amid the drama, Democrat Brian Poindexter, a five-term local councilman and union ironworker, is looking to oust Miller and flip Ohio's 7th Congressional District in November.

ADD AS PREFERRED SOURCE ON GOOGLE 

[Suggest a Correction](#)

Copyright 2026 Nexstar Media Inc. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

#### SPONSORED CONTENT

[Privacy Policy](#)

### Cardiologists Stunned By How Quickly Weight Falls Off With This Morning Swap

VITALITY CLUB

[Learn More](#)

### Amazon Nightmare Comes True: Shoppers Canceling Prime For This Clever Hack

Online Shopping Tools

[Learn More](#)

### If You Have Mouth Wrinkles, Add 3 Drops Of This And Wait 30 Seconds

Mouth Wrinkles Info

[Learn More](#)

### Dermatologists: The 1 Vitamin You Need If You Have Wrinkles

Anti-Aging Center

[Read More](#)

### The Real Reason Your Hair Keeps Thinning—No One Talks About This Hormone

Noor

[Learn More](#)

### Edema Is Not From Salty Food. Meet The Real Enemy Of Swollen Legs

RejuvaCare

### The Must-Have Hummingbird House for Bird Lovers Everywhere

GekkoGifts

[Learn More](#)

### When Neuropathy Hits, Try This Immediately (It's Brilliant!)

The Healthier Way

[Learn More](#)

### Side Sleepers Get Achy Shoulders, Few Know This "Side Sleeper" Trick

[READ NEXT >](#)

## Trump will see doctors again on Tuesday



[READ NEXT >](#)

Next story in 5

# MAGA Rep Accused of Brutally Beating GOP Senator's Daughter

**FAMILY TRAUMA**

Rep. Max Miller was elected in 2022 and previously served in the Trump administration.



Catherine Bouris  
Reporter

Updated May 8 2026 7:08PM EDT  
Published May 8 2026 3:54AM EDT

57 Comments



MaxMillerOH/X

**Sign Up for The Swamp Newsletter**

Must-know stories (and glorious gossip) from the D.C. mire.

Enter your email

SIGN UP

By clicking "Sign Up" you agree to our [Terms of Use](#) and [Privacy Policy](#).

A MAGA congressman has been accused of years of physical abuse against his ex-wife, the daughter of a prominent Republican senator.

Rep. Max Miller, who strenuously denies the allegations, was elected to represent Ohio's 7th District in 2022, with Donald Trump's endorsement. He had previously worked on Trump's 2016 presidential campaign and was appointed to several roles during the first Trump administration before working on Trump's failed 2020 re-election campaign.

According to court filings obtained by the [Daily Mail](#) and three sources who spoke to the outlet, Miller's ex-wife, Emily Moreno—daughter of Ohio Sen. Bernie Moreno—has sought changes to their custody arrangement as a result of her growing concerns about his “dangerous physical behavior” in their daughter's presence.

ADVERTISEMENT

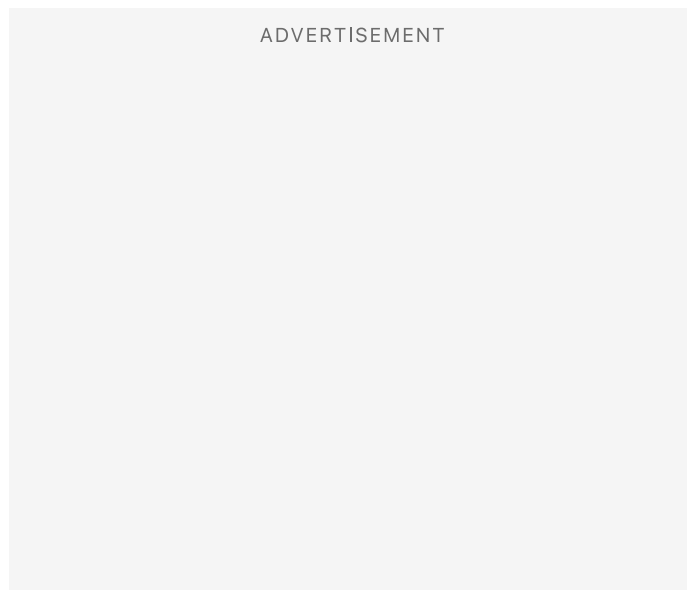
According to the newspaper, the latest incident took place on Feb. 1 of this year. Moreno, 32, alleges that Miller, 37, struck her during a custody exchange

at his home in full view of the couple's 2-year-old daughter, leaving bruises on her arm, elbow, and torso.



Miller was elected to Congress in 2023 with President Donald Trump's endorsement.  
Tom Williams/CQ-Roll Call, Inc via Getty Images

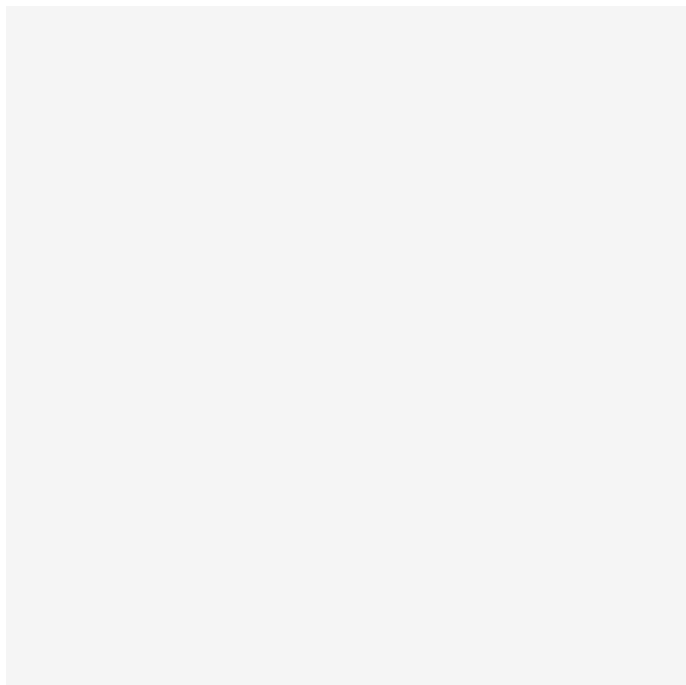
The Daily Mail obtained photos that show redness and bruising on Emily's body after the alleged incident.



The Bay Village Police Department confirmed to the Daily Beast that it responded to a report of child abuse on that day and that an investigation

remains open.

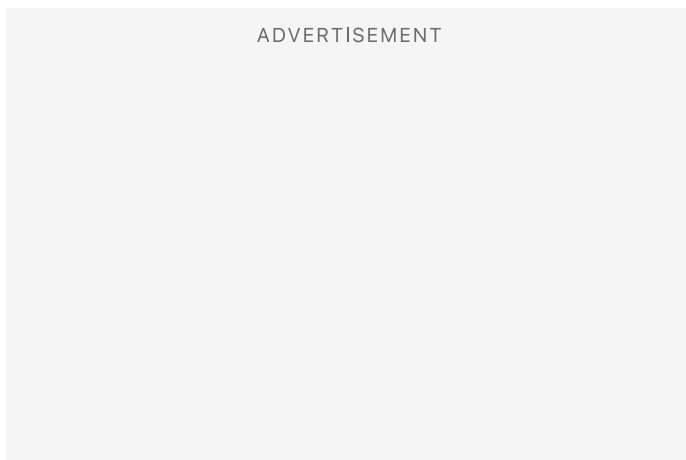
In an earlier incident that Moreno claims took place in June 2024, Miller allegedly threw a pot of boiling water at her, some of it hitting her chest, while their daughter was present. Photos obtained by the Daily Mail show redness on Moreno's chest.



After separating in 2024, the pair reached a divorce settlement in June 2025, agreeing to share joint custody of their daughter. Miller is required to pay \$2,500 per month in child support.

In court documents obtained by [TMZ](#) in April, Moreno claimed that Miller “regularly speaks to me in an inappropriate, aggressive and demeaning manner, which is not in the best interest of our child.”

ADVERTISEMENT



She continued, alleging that Miller “has conducted dangerous physical behavior in the child’s presence.”



Max Miller and ex-wife Emily Moreno Miller.  
MaxMillerOH/X

“I do not believe it is in our child’s best interest for [Miller] and me to jointly make a decision for her,” expressing concern that attempting to make joint decisions would “cause direct harm” to their daughter.

ADVERTISEMENT

# MAGA Congressman's Wife Accuses Him of Being on Drugs

| BITTER SPLIT |

Owen Lavine, Martha Mercer



Miller is the grandson of businessman Samuel Henry Miller, a multimillionaire Cleveland property tycoon, and his grandmother previously ran for Congress. Moreno's father, Bernie, 59, is a multimillionaire car salesman born in Colombia. He was elected to the U.S. Senate in 2024.

In a letter Miller reportedly wrote to Emily Moreno on the same day as the alleged boiling water incident, the congressman apologized for failing to protect Moreno, but did not admit to any abuse.

ADVERTISEMENT

In the letter, reviewed by the Daily Mail, the 37-year-old calls himself worthless, says his guilt is “eating him alive,” and repeatedly tells Moreno that he loves her.

“I don't know what to do. I do know you love me, protect me, and care for me. I failed to do that for you,” Miller allegedly wrote in the letter. “I'm sorry and I just want to close my eyes and wake up and everything be normal.”

ADVERTISEMENT

“I know that won’t happen,” it continues. “I’m sorry I failed you and Ruth. It’s eating me alive. I love you, even if you think I don’t. I love you so much. I’m so sorry. I’m just a f--- up and worthless.”

Moreno’s attorney, Andrew Zashin, told the Daily Mail that his client stands by her account of Miller’s assault and that the evidence speaks for itself.

ADVERTISEMENT



Miller and Moreno finalized their divorce in June 2025.  
Andrew Harnik/Getty Images

“These images, combined with the documented history in court filings, directly contradict years of Mr. Miller’s denial,” he said. “Any claim that Ms. Moreno fabricated these allegations collapses in the face of contemporaneous physical evidence.”

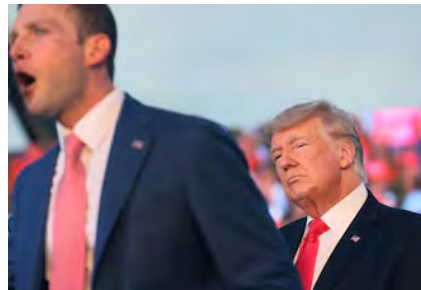
“It is unfortunate that these matters have become public when Ms. Moreno has made every effort to keep them private and out of court for the sake of their daughter,” he continued. “But the ongoing pattern of behavior, coupled with the continued denials, has made silence no longer possible.”

ADVERTISEMENT

## Trumpy Congressional Candidate Among Latest Jan. 6 Subpoenas

| WIDE NET |

Corbin Bolies, Danika Fears, Rachel Olding



Zashin declined to comment when contacted by the Daily Beast.

The Daily Beast has contacted Miller's legal representatives for comment. When contacted by the Daily Mail, Miller's attorney, Adam Brown, denied the allegations, telling the outlet he would provide evidence responding to Moreno's claims. It was not provided prior to publication.

ADVERTISEMENT

Miller published a lengthy thread on X on Thursday evening, rejecting the claims detailed in the Daily Mail’s report. He accused the outlet of being “stenographers for someone who truly needs help.”



Trump appeared at a rally in support of Miller's congressional campaign in 2021.  
Scott Olson/Getty Images

His evidence included an email sent by his lawyers to the Daily Mail, transcripts of audio recordings of conversations between Miller and Moreno, and footage of Moreno leaving Miller’s home after the alleged incident on Feb. 1. He also accused Moreno of extortion.

ADVERTISEMENT

“The moral of the story is this,” Miller wrote. “My ex-wife needs help. She is more focused on hurting me than loving our child.”

Miller married Moreno in 2022 at a ceremony at the Trump National Golf Club Bedminster in New Jersey. Trump was among the guests.

Moreno’s father is a Trump critic turned vocal supporter, who advocated for the president to receive a Nobel Peace Prize for his work on brokering a ceasefire between Israel and Iran last year.

During Moreno and Miller’s bitter divorce battle, Miller accused Moreno of stalling their divorce so that financial documents involving her father, including documents that allegedly proved he provided her financial support, would not be produced before Election Day. Miller subsequently subpoenaed his in-laws, seeking documentation of said financial support.

## MAGA Rep: Wife Stalling Divorce to Protect Dad Bernie Moreno

| **GOP FAMILY FEUD** |

Sean Craig



A document filed by Miller’s lawyer in October 2024 read, “Defendant has displayed more concern about how this case may impact her father’s election than about the best interests of [the couple’s daughter] and allowing this litigation to proceed expeditiously.”

The Daily Beast has contacted Sen. Moreno’s office for comment.



Bernie Moreno, Emily's father, has served as senator for Ohio since January 2025.  
Tom Williams/CQ-Roll Call, Inc via Getty Images

Miller has faced similar accusations in the past. His ex-girlfriend, former White House Press Secretary Stephanie Grisham, 49, alleged that he pushed her against a wall and slapped her after she accused him of cheating in 2020.

His lawyer denied that the incident ever occurred. A court denied Miller's application for a restraining order against Grisham, and Miller voluntarily dropped his defamation suit against Grisham in 2023.

## Trump Fave Allegedly Slapped Former White House Spokesperson

**| ANGER ISSUES |**

Corbin Bolies, Danika Fears, Rachel Olding



In a 2021 opinion piece for the Washington Post, Grisham alleged that the Trumps were aware that her relationship with Miller had turned abusive, but that they did not care.

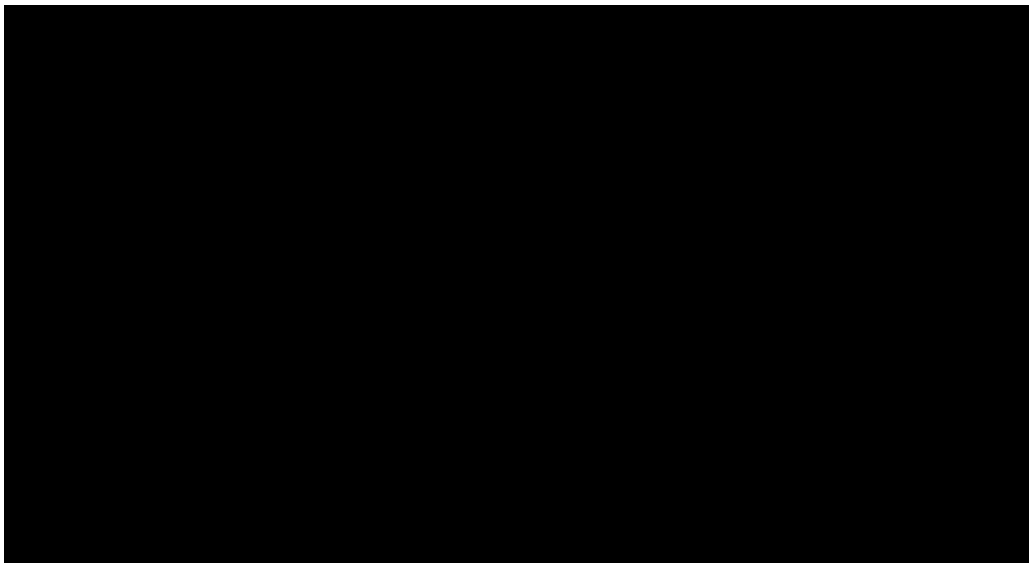
“I felt that Mrs. Trump believed my story,” Grisham wrote. “I suspected the president, long invested in the view that women usually make up allegations of assault, didn’t want to believe it.”



Stephanie Grisham resigned following the events of January 6, 2021, and became a critic of the Trump administration, later speaking at the 2024 Democratic National Convention.

Chip Somodevilla/Getty Images

“The point is that the president and first lady seemed totally unfazed about whether there was an abuser—another abuser—in their workplace,” she added, referring to White House staffers Rob Porter and David Sorensen, both of whom resigned in 2018 after their ex-wives accused them of abuse.



---

In a post on Thursday after the Daily Mail report was published, Grisham re-shared an older post of hers on X. “Re-upping this,” she noted.

The post read, “Today I feel broken over what so many men with money & power get away with. Over & over & over 💔 Almost worse is those of you who know & do/say nothing as it happens time & again.”



**Catherine Bouris**

Reporter  
catherinebouris

---

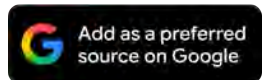
Got a tip? Send it to The Daily Beast [here](#).

REP. MAX MILLER

POLICE

INVESTIGATE CHILD  
NEGLECT CLAIMS IN  
NASTY CUSTODY  
BATTLE

**EXCLUSIVE**



By *TMZ STAFF*

Published *April 22, 2026 11:39 AM PDT*

EXHIBIT

H



Getty Composite

Ohio Congressman **Max Miller** is in the middle of a nasty divorce with **Emily Moreno** ... and TMZ DC has learned police are investigating a severe injury to their child.

According to the publicly filed court docs obtained by TMZ DC, Miller -- who's been in Congress since 2023 -- filed for divorce from Emily in August 2024, ending their 2-year marriage. The exes have a 2-year-old daughter.



Getty

According to the divorce settlement, Max and Emily -- daughter of freshman Senator **Bernie Moreno** -- have joint custody, and he was ordered to pay her \$2,500 per month in child support.

Things took a turn on March 4 when Emily filed docs requesting a change in the custody arrangement, because, as she puts it ... Max "regularly speaks to me in an inappropriate, aggressive and demeaning manner, which is not in the best interest of our child."

She adds, "[Max] has conducted dangerous physical behavior in the child's presence. I do not believe it is in our child's best interest for [Max] and me to

jointly make a decision for her. I fear that attempting to make joint decisions -- and the lack of cooperation from [Max] in doing so -- will cause direct harm to [their child]."



In response, Max asked the judge to order psychological evaluations for Emily and himself ... in order to help the court determine who should have custody -- and claimed Emily's behavior has "become increasingly confrontational, irrational and somewhat bizarre."

In the docs, he accuses his ex of making false accusations against him to the Bay Village Police Department and to the Cuyahoga County Department of

Children and Family Services. He claims Emily "repeated and unsubstantiated allegations of abuse of the parties' minor child against [him]."

Miller detailed that alleged abuse in a March 13 declaration, in which he informed the court their daughter suffered a broken collarbone and bruised shoulder, which prompted a DCFS investigation. Miller says he was "apparently cleared" in that investigation ... which he says included police making sure he had properly installed a child car seat.



Rep. Miller is also claiming their child suffered an injury to her hand while in Emily's care, which was not disclosed to him ... and that Emily falsely accused him of physically attacking her during a custody exchange.

For her part, Emily insists their child suffered the broken collarbone while in Max's custody ... and she "unequivocally" stands by the claim Max got physical with her during that parenting transfer.

The judge has yet to rule on changing their custody arrangement, and the Bay Village PD says it has an active investigation regarding "suspected child abuse."

Emily's attorney, **Andrew Zashin**, tells TMZ ... Miller's "entirely false allegations against his ex-wife concerning their daughter were thrown out of court. These baseless claims are nothing more than a cynical attempt by Mr. Miller to weaponize the legal system against his ex-wife, a strong, loving mother who refuses to submit to his coercive control."

He adds, "Mr. Miller lives off a trust fund and has a well-documented history of using his wealth, lawyers, and the courts to bully his enemies. Ms. Moreno will not be intimidated or silenced. She is fighting back aggressively and has already prevailed. Mr. Miller's self-described army of lawyers were forced to walk back sworn statements he made under oath, further proof that his attacks were reckless and unfounded."



Most biting, he says, "If Mr. Miller is looking for an individual with abusive behavior, he should look in the mirror and past the veneers."

Rep. Miller's attorney says, "The only person who has been granted a restraining order by a court of law is Rep. Max Miller. The evidence brought against his ex-wife Ms. Moreno was enough to convince a judge that she was a threat to the Congressman. Ms. Moreno is unfortunately using TMZ's new position as journalists on the Hill to force the Congressman out of his seat. These allegations are false, and neither Ms. Moreno, nor anyone else, has been able to bring forward any evidence against Congressman Miller."

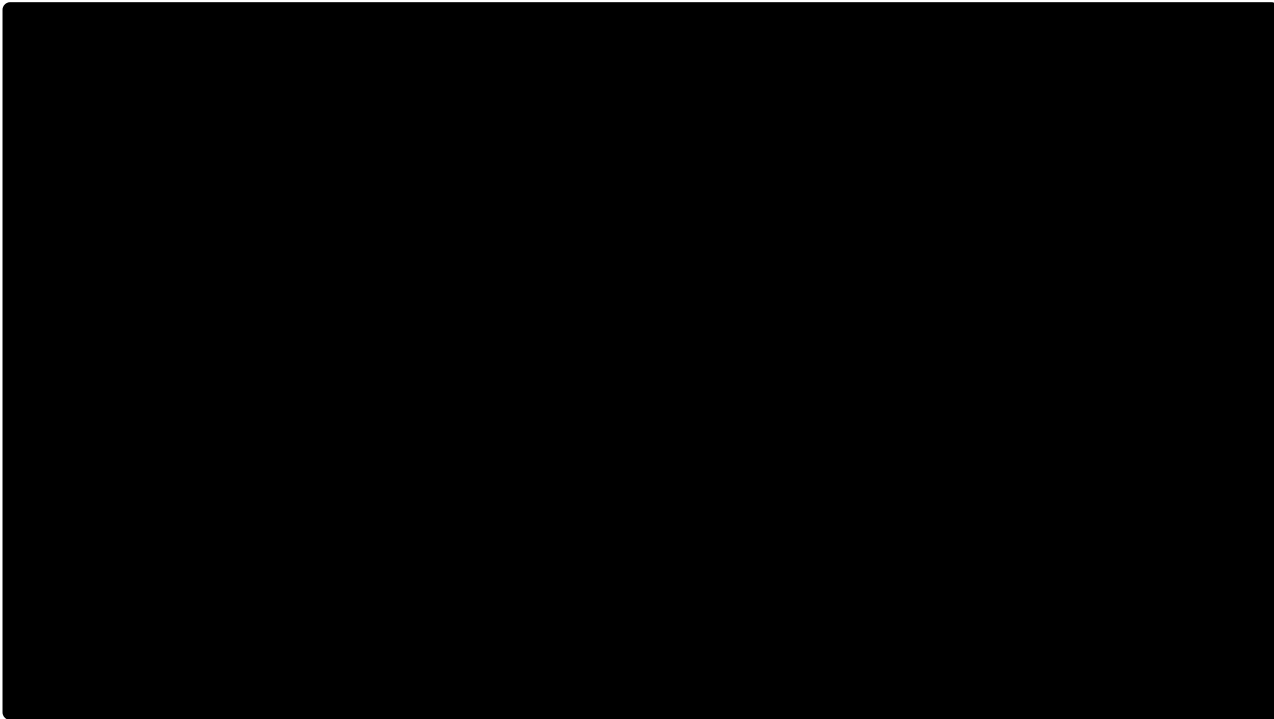
The statement goes on to say 2 false allegations against the Congressman were made to Child Protective Services ... with one resulting in a settlement by the child's daycare facility, after video showed a daycare staffer caused the child's injury.

The second allegation, filed by a hospital, resulted in the judge issuing a restraining order against Moreno because of "proven false allegations."

Miller's lawyer says, "It is very sad the Congressman's ex-wife is still battling her demons and using TMZ as an outlet."

# Police: 'open investigation' into abuse allegations of Max Miller's child

Congressman's attorney says allegations unfounded



Bay Village police are investigating claims of suspected child abuse involving the daughter of Congressman Max Miller.



 By: Scott Noll

*Posted 10:16 PM, Apr 23, 2026 and last updated 4:31 PM, Apr 24, 2026*

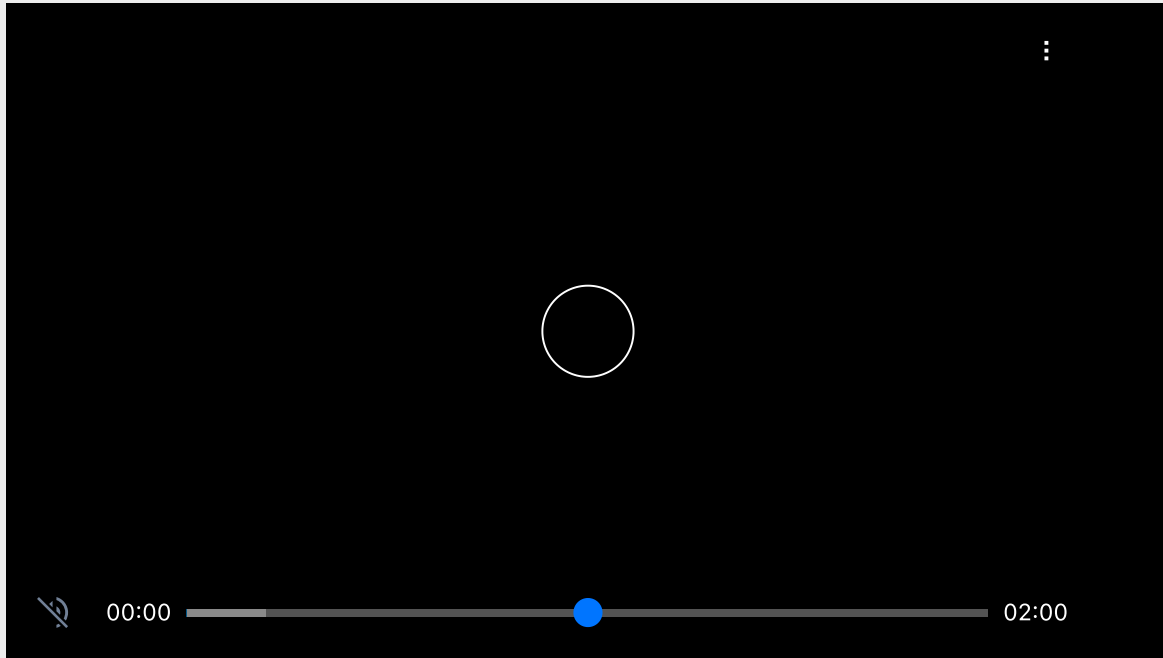
**BAY VILLAGE, OH** — Bay Village police are investigating claims of suspected child abuse involving the daughter of Congressman Max Miller.

According to a police report, the allegations date back to February.

<b>EXHIBIT</b> <b>I</b>
----------------------------

The few details listed in the report said a county child protective specialist from the Division of Children and Family Services came to the police department to speak with an officer about “suspected child abuse.”

Police said no other details will be released, citing an open investigation by the department’s detective bureau.



But court records showed that days later, Miller’s ex-wife, Emily Moreno, filed a motion in the couple’s contentious divorce case asking a judge to make Moreno the sole custodian of the couple’s two-year-old daughter.

In the filing, Moreno claimed Miller regularly spoke to her in an “inappropriate, aggressive and demeaning manner,” and claimed the congressman “has conducted dangerous physical behavior in the child’s presence.”

A Cuyahoga County spokesperson said she could not confirm if Miller was part of a DCFS investigation, citing confidentiality mandates.

But Miller’s attorney, Larry Zukerman, provided a document he said came from the county, which said an investigation of alleged physical abuse of Miller’s daughter was

reported Feb. 19 and listed Max Miller as the perpetrator.

It also said the findings were “unsubstantiated,” meaning “there is no evidence that child abuse or neglect occurred,” according to the letter.

In a statement, Zukerman called the allegations against Miller false and wrote in part, “neither Ms. Moreno, nor anyone else has demonstrated any evidence against Congressman Miller.”

Court records show Miller wants a judge to order psychological evaluations in the couple’s child custody battle, citing what he called his ex-wife’s “increasingly confrontational, irrational, and somewhat bizarre” behavior since the couple’s divorce.

In his filing, Miller said that it included repeated and unsubstantiated allegations of abuse of the couple’s child.

His attorney wrote, “Max’s priorities revolve around his daughter,” and blamed Moreno for trying to use the media to force the congressman out of his seat.

Meanwhile, Moreno, in a statement provided by her attorneys with Zashin Law, said her ex-husband “lives off a trust fund and has a well-documented history of using his wealth, lawyers, and the courts to bully his enemies.”

Moreno wrote that she “categorically rejects” all of Miller’s claims, and called herself a “strong, loving mother.”

“If Mr. Miller is looking for an individual with abusive behavior, he should look in the mirror and past the veneers,” Moreno wrote.

Both sides are scheduled to return to court in two weeks for a hearing.