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**United States District Court
Central District of California**

DR. FARSHAD AGAHI, et al.,
Plaintiffs,
v.
RAMIN KHORRAMI,
Defendant.

Case No. 2:16-cv-04340-ODW (PJWx)

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT’S MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS [52]

I. INTRODUCTION

Plaintiffs Dr. Farshad Agahi and Margaret Agahi initiated this action against Defendant Ramin Khorrami based on allegations that Khorrami physically and emotionally abused Margaret¹ during their year-long affair and extorted \$34,000 from her to keep the affair concealed. Before the Court is Khorrami’s Motion for Partial Judgment on the Pleadings, which is fully briefed. (See Mot. J. on Pleadings (“Mot.”), ECF No. 52; Opp’n, ECF No. 55; Reply, ECF No. 57.) For the reasons that follow, the Court **GRANTS IN PART** and **DENIES IN PART** Khorrami’s Motion.²

¹ The Court respectfully refers to Plaintiffs by their first names to avoid confusion.
² Having carefully considered the papers filed in connection with the Motion, the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

1 **II. BACKGROUND**

2 **A. Factual Background**

3 Farshad and Margaret are married and live in Arizona. (Compl. ¶ 4, ECF
4 No. 1.) In 2012, Margaret met Khorrami in Los Angeles, California, and the two
5 began a consensual romantic affair. (See *id.* ¶ 6.) The relationship was initially
6 stable, but in June 2013 it began to dissolve. (*Id.* ¶ 8.) Khorrami became violent and
7 abusive toward Margaret; he spit on her, broke her nose, and threatened to kill her.
8 (*Id.*) Khorrami repeatedly threatened Margaret that he would tell Farshad about the
9 affair unless she did Khorrami’s bidding—which included forcing Margaret to fly
10 from Arizona to Los Angeles to see him; perform sexual acts under duress; and
11 consume alcohol, cocaine, and other drugs. (*Id.* ¶ 9.) In exchange for concealing the
12 affair, Khorrami demanded Margaret send him naked photographs and videos. (*Id.*
13 ¶ 11.)

14 Khorrami also demanded Margaret pay him \$40,000 and warned her that if she
15 did not make this payment, Khorrami would tell Farshad, “along with her friends,
16 family, clients, and members of the local Baha’i community” about the affair. (*Id.*
17 ¶ 14.) Margaret begged Khorrami to lower the demand to \$30,000, which he did in
18 exchange for her agreeing to travel to see him “whenever he requested to perform
19 sexual acts under threats of violence.” (*Id.*) Over the next two months, Margaret paid
20 Khorrami a total of \$30,000. (*Id.* ¶ 15.)

21 Shortly thereafter, Khorrami demanded an additional \$40,000, which Margaret
22 negotiated down to \$20,000, again in exchange for traveling to Los Angeles for forced
23 sexual acts. (*Id.* ¶ 16.) Upon arriving to Los Angeles in 2013, Margaret gave
24 Khorrami \$4,000 in cash, but Khorrami was not satisfied with the small amount, and
25 demanded the entire \$40,000. (*Id.* ¶ 17.)

26 Because Margaret could not continue to pay Khorrami additional money,
27 Khorrami informed Farshad of the affair in November 2013. (*Id.* ¶ 13.)

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1 **B. Procedural Background³**

2 In June 2015, Plaintiffs initiated a civil action against Khorrami; that case was
3 dismissed without prejudice by the United States District Court, District of Arizona
4 for lack of personal jurisdiction. (*Id.* ¶¶ 19–21.) Later that year, a criminal complaint
5 was filed against Khorrami in Maricopa County, Arizona for six felony counts of
6 fraud, theft by extortion, and theft. (*Id.* ¶ 24.) On September 23, 2015, Khorrami was
7 indicted on those six charges. (Pls.’ RJN Ex. 1.) On February 2, 2020, a jury found
8 Khorrami guilty and convicted him of felony fraud schemes and theft. (*Id.* Ex. 3.)

9 On June 16, 2016, Plaintiffs filed the operative Complaint in this case against
10 Khorrami on the basis of diversity jurisdiction, asserting twelve claims for:
11 (1) extortion; (2) intentional infliction of emotional distress; (3) civil harassment;
12 (4) loss of consortium; (5) assault; (6) battery; (7) sexual battery; (8) gender violence;
13 (9) domestic violence; (10) civil stalking; (11) negligent infliction of emotional
14 distress; and (12) distribution of film and photographs without consent. (*See* Compl.
15 ¶¶ 25–98.)

16 This proceeding was continued several times upon joint stipulation of the
17 parties. (*See* ECF Nos. 24, 29, 30, 33, 35.) Eventually, the Court ordered a stay
18 pending resolution of the Arizona state criminal action. (ECF No. 36.) On January 8,
19 2021, the Court lifted the stay pursuant to Plaintiffs’ unopposed Motion to Lift the
20 Stay, which was filed after Khorrami completed his sentence. (ECF No. 49.)

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23 ³ Khorrami requests that the Court take judicial notice of various documents filed in Arizona state
24 and federal court actions. (*See* Req. for Judicial Notice, ECF No. 53.) Plaintiffs also request that the
25 Court take judicial notice of documents filed in the Arizona criminal action. (*See* Req. for Judicial
26 Notice ISO Opp’n (“Pls.’ RJN”), ECF No. 56.) Neither party opposes the other party’s request. A
27 court may take judicial notice of court filings and other matters of public record. *Reyn’s Pasta*
28 *Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (taking judicial notice of
pleadings, memoranda, and other court filings). Here, Khorrami’s requested documents are not
pertinent to the Court’s disposition of this matter. Accordingly, the Court **DENIES as moot**
Khorrami’s request. Turning to Plaintiffs’ request, the Court **GRANTS** their Request for Judicial
Notice and takes judicial notice of Plaintiffs’ documents, but not of reasonably disputed facts
therein. *See Lee v. City of Los Angeles*, 250 F.3d 668, 688–89 (9th Cir. 2012).

1 Khorrami now moves for partial judgment on the pleadings as to ten of
2 Plaintiffs' twelve claims (Claims One through Seven and Ten through Twelve).
3 (Mot. 1–2.)

4 III. LEGAL STANDARD

5 After the pleadings are closed, but within such time as to not delay the trial, any
6 party may move for judgment on the pleadings. Fed. R. Civ P. 12(c). The standard
7 applied to a Rule 12(c) motion is essentially the same as that applied to Rule 12(b)(6)
8 motions; a judgment on the pleadings is appropriate when, even if all the allegations
9 in the complaint are true, the moving party is entitled to judgment as a matter of law.
10 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56 (2007) (“Factual allegations must
11 be enough to raise a right to relief above the speculative level . . . on the assumption
12 that all the allegations in the complaint are true (even if doubtful in fact)”
13 (citations omitted)); *Milne ex rel. Coyne v. Stephen Slesinger, Inc.*, 430 F.3d 1036,
14 1042 (9th Cir. 2005).

15 When ruling on a motion for judgment on the pleadings, a court should construe
16 the facts in the complaint in the light most favorable to the nonmoving party, and the
17 movant must clearly establish that no material issue of fact remains to be resolved.
18 *McGlinchy v. Shell Chem. Co.*, 845 F.2d 802, 810 (9th Cir. 1988). However,
19 “conclusory allegations without more are insufficient to defeat a motion [for judgment
20 on the pleadings].” *Id.* If judgment on the pleadings is appropriate, a court has
21 discretion to grant the non-moving party leave to amend, grant dismissal, or enter a
22 judgment. *See Lonberg v. City of Riverside*, 300 F. Supp. 2d 942, 945 (C.D. Cal.
23 2004). Leave to amend may be denied when “the court determines that the allegation
24 of other facts consistent with the challenged pleading could not possibly cure the
25 deficiency.” *Schreiber Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1401
26 (9th Cir. 1986). Thus, leave to amend “is properly denied . . . if amendment would be
27 futile.” *Carrico v. City & Cnty. of San Francisco*, 656 F.3d 1002, 1008 (9th Cir.
28 2011).

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IV. DISCUSSION

Khorrami moves for judgment on the pleadings on four grounds. First, he argues that eight claims are barred by the applicable statute of limitations. Second, he contends that the claim for civil harassment fails because there is no current or future harm alleged. Third, Khorrami asserts that the claim for negligent infliction of emotional distress fails because he did not owe Margaret a duty. Fourth and finally, Khorrami argues the claim for distribution of explicit films and photographs without consent fails because Plaintiffs do not allege that he distributed any materials.

The Court addresses each argument in turn.

A. Statute of Limitations

Khorrami contends that eight of Plaintiffs' claims⁴ are governed by a two-year statute of limitations for personal injury actions and are time barred because this 2016 action is based on events that happened in 2013. (Mot. 4–12 (citing Cal. Civ. Proc. Code § 335.1).) In opposition, Plaintiffs argue that these claims are governed by California Code of Civil Procedure section 340.3(a), which extends the limitations period for actions based upon the defendant's commission of a felony. (Opp'n 5–7.) Plaintiffs are correct.

“A federal court sitting in diversity jurisdiction must generally apply the law of the forum state regarding whether an action is barred by the statute of limitations.” *Hendrix v. Novartis Pharm. Corp.*, 975 F. Supp. 2d 1100, 1106 (C.D. Cal. 2003) (citing *Guaranty Trust Co. v. York*, 326 U.S. 99, 109–110 (1945)), *aff'd* 647 F. App'x 749 (9th Cir. 2016). Under California law, personal injury actions are generally subject to a two-year limitation. Cal. Civ. Proc. Code § 335.1.

However, section 340.3(a) of the California Code of Civil Procedure “extends the time to sue for damages due to commission of a felony offense until one year after conviction of the crime.” *Rasmussen v. Lazarus*, 19 Cal. App. 5th 48, 53 (2018). The

⁴ Claims One (extortion), Two (intentional infliction of emotional distress), Four (loss of consortium), Five (assault), Six (battery), Seven (sexual battery), Ten (civil stalking), and Eleven (negligent infliction of emotional distress).

1 statute was enacted to encourage felony victims to seek restitution from the
2 perpetrators after a conviction. *See id.* at 54. Consistent with that purpose,
3 section 340.3(a) “allows the victim to sue the defendant when an otherwise applicable
4 statute of limitations has expired.” *Guardian N. Bay, Inc. v. Superior Court*, 94 Cal.
5 App. 4th 963, 975 (2001). The plain language of the statute is broad; for section
6 340.3(a) to apply, the action “must meet only three requirements: (1) the action is for
7 damages; (2) the action is based upon defendant’s commission of a felony offense;
8 and (3) defendant has been convicted of that felony offense.” *Id.* at 973.

9 Here, the three requirements are met. **First**, Plaintiffs seek damages in this civil
10 action. (*See* Compl., Prayer for Relief.) **Second**, this action is based upon Khorrami’s
11 commission of a felony offense. (*Compare* Pls.’ RJN Exs. 1, 3 (listing Khorrami’s
12 criminal charges related to his actions against Plaintiffs and his felony conviction for
13 fraudulent scheme and theft), *with* Compl. ¶¶ 6–18 (describing the methods by which
14 Khorrami allegedly obtained \$34,000 from Plaintiffs through the same fraudulent
15 scheme and theft.) **Third**, a jury convicted Khorrami of two felonies—fraudulent
16 scheme and theft. (Pls.’ RJN Ex. 3.)

17 Khorrami protests that section 340.3(a) does not apply because Plaintiffs
18 initiated this action *before* his felony convictions. (Reply 3–4.) However, the
19 California Court of Appeal has held it inconsequential that a civil action was filed
20 before the defendant’s felony conviction. *See Rasmussen*, 19 Cal. App. 5th at 51
21 (affirming trial court’s conclusion that, under section 340.3(a) “the action was not
22 untimely merely because it had been filed before [the defendant’s] eventual
23 conviction.”). Indeed, the court found that “[i]n enacting section 340.3[a], the
24 Legislature already determined that—no matter what statute of limitations might
25 otherwise be applicable—the policy of compensating crime victims mandates that
26 they be permitted to civilly pursue criminal defendants following their convictions.”
27 *Id.* at 59. And thus, here too, “[t]he Legislature’s goals are furthered by allowing” a
28 civil action that was pending during the criminal trial to proceed. *See id.*

1 The Court finds that this case falls squarely under section 340.3(a) and the
2 challenged claims are timely. Accordingly, the Court **DENIES** Khorrami’s Motion as
3 to Claims One, Two, Four, Five, Six, Seven, Ten, and Eleven.

4 **B. Civil Harassment**

5 Khorrami contends that Claim Three (civil harassment) fails because Plaintiffs
6 do not demonstrate current harassment or future harassment. (Mot. 14–15.) The
7 Court agrees.

8 California Code of Civil Procedure section 527.6 provides that a victim of
9 “harassment . . . may seek a temporary restraining order and an order after hearing
10 prohibiting the harassment.” “The purpose of the statute is to provide quick relief to
11 harassed persons.” *Yost v. Forestiere*, 51 Cal. App. 5th 509, 520 (2020) (internal
12 quotation marks and brackets omitted). Moreover, “[t]he quick, injunctive relief
13 provided by section 527.6 lies only to prevent threatened injury—that is, future
14 wrongs. The injunctive relief is not intended to punish the restrained party for past
15 acts of harassment.” *Id.* (internal quotation marks, brackets, and citations omitted).

16 Here, Plaintiffs allege only that Khorrami engaged in past harassment—over
17 seven years ago. (*See generally* Compl.) Plaintiffs do not allege that Khorrami is
18 currently harassing Plaintiffs or that Khorrami is likely to harass Plaintiffs in the
19 future. And Plaintiffs fail to cite to any authority demonstrating that a civil
20 harassment claim can stand on only allegations of past harm. Therefore, this claim
21 fails.

22 Accordingly, Claim Three (civil harassment) is **DISMISSED with leave to**
23 **amend.**

24 **C. Negligent Infliction of Emotional Distress**

25 Khorrami contends that Claim Eleven (negligent infliction of emotional
26 distress) fails because it is asserted by the wrong Plaintiff in the Complaint. (*See*
27 Compl. ¶¶ 87–92 (alleging Khorrami owed Margaret a duty of reasonable care).
28 Plaintiffs concede that they drafted these allegations incorrectly and that the claim

1 “should have been brought by [Farshad].” (Opp’n 14.) Plaintiffs also include the
2 factual allegations they would submit in an amended pleading to cure this deficiency.
3 (*Id.*)

4 Accordingly, Claim Eleven (negligent infliction of emotional distress) is
5 **DISMISSED with leave to amend.**

6 **D. Distribution of Explicit Films and Photographs**

7 Khorrami’s final contention is that Claim Twelve (distribution of film and
8 photographs without consent) fails because: (1) Plaintiffs do not allege that Khorrami
9 distributed explicit photographs or videos of Margaret; and (2) Plaintiffs do not allege
10 that any distribution occurred after the statute’s operative date, July 1, 2015.
11 (Mot. 15–16.) Khorrami is correct.

12 California Civil Code section 1708.85 provides a private cause of action against
13 a person who distributes explicit photographs or videos of another without consent.
14 Plaintiffs do not allege that Khorrami distributed any explicit photographs or videos of
15 Margaret. Their allegations that Khorrami *threatened* to disclose explicit images is
16 insufficient to state a claim under this statute.

17 Accordingly, Claim Twelve (distribution of explicit photographs and videos) is
18 **DISMISSED with leave to amend.** Any amended claim should also include facts
19 demonstrating that photographs or videos were distributed after the statute’s operative
20 date of July 1, 2015.

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V. CONCLUSION

For the foregoing reasons, the Court **GRANTS in part** and **DENIES in part** Khorrami's Motion (ECF No. 52) as follows:

1. The Motion is **DENIED** as to Claims One, Two, Four, Five, Six, Seven, and Ten;
2. The Motion is **GRANTED with leave to amend** as to Claims Three, Eleven, and Twelve.

If Plaintiffs choose to amend their Complaint, they shall file a First Amended Complaint ("FAC") **within twenty-one (21) days** of the date of this order. If Plaintiffs file a FAC, Khorrami shall file a response no later than **fourteen (14) days** from the date of the amended filing.

IT IS SO ORDERED.

July 9, 2021



OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE