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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SANDRA L. FERGUSON,

Plaintiff,

vs.

BRIAN J. WAID AND THE WAID MARITAL
COMMUNITY,

Defendants.

NO. 2:17-cv-01685-RSM

ORDER TO SHOW CAUSE RE: REMAND
FROM THE NINTH CIRCUIT

This matter comes before the Court on remand from the Ninth Circuit and in response to its January 8, 2020, Memorandum Opinion. Dkt. #224; *see also* Dkt. #226 (Mandate).

The Ninth Circuit has affirmed the majority of the Court’s prior rulings: “Ferguson fails to state a § 1983 claim;” “the district court did not err in finding Ferguson’s § 1983 claim to be frivolous;” “Ferguson did not file a timely opposition to Waid’s motion for sanctions before the district court;” “her appeal of the orders denying summary judgment in her favor on the defamation and harassment claims is foreclosed by *Ortiz v. Jordan*, 562 U.S. 180 (2011), because a district court’s orders denying summary judgment are not reviewable after a trial on the merits;” “the district court essentially granted partial summary judgment for Waid when it ‘conclude[d] as a matter of law that Ms. Ferguson made statements of fact, not opinion, when she stated that Mr. Waid engaged in fraudulent and criminal activity.... [t]hat conclusion was not in error.’” Dkt. #224.

1 However, the Ninth Circuit has also reversed two of the Court’s prior rulings: “[b]ecause
2 a state’s Anti-SLAPP statute does not apply to federal claims for relief, we reverse the district
3 court’s finding on that claim, and strike the associated \$10,000 award;” “[t]he injunction is
4 overbroad at section (a), which prohibits Ferguson generally ‘from contacting past or present
5 clients of Brian J. Waid, either in person, via telephone, or by electronic communications.’” *Id.*
6 The Ninth Circuit remanded with specific instructions to revise section (a) of the injunction to
7 add the underlined language: “Sandra Ferguson is enjoined from repeating the same or
8 effectively identical statements found to be defamatory in this case to past or present clients of
9 Brian J. Waid, either in person, via telephone, or by electronic communications.” *Id.* at 5. As to
10 the remaining sections of the injunction, the Ninth Circuit affirmed. *Id.*

11 Given all of the above, the Court has attached a proposed amended injunction order and
12 proposed amended judgment consistent with the Ninth Circuit’s specific instructions. The
13 parties are ORDERED to show cause why these should not be entered by the Court. The parties
14 have **fourteen (14) days** to respond. Such response shall not exceed six (6) pages. No
15 attachments are permitted.

16 Dated this 3 day of March 2020.

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19 RICARDO S. MARTINEZ
20 CHIEF UNITED STATES DISTRICT JUDGE