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DRAFT

SENT BY EMAIL
TO RECIPIENTS
ON ATTACHED
LIST

This office represents Janet for Justice, a Wisconsin campaign committee. It has come to our attention that your outlets have displayed and are continuing to display two false and misleading video ads against Wisconsin Supreme Candidate Janet Protasiewicz. We demand that your outlets immediately cease displaying these ads and issue appropriate, accurate retractions of their false and misleading statements, placed in substantially similar time, place, manner, and contexts to the ads.

The following is one ad, which we believe was paid for by Wisconsin Manufacturers & Commerce Issues Mobilization CouncilMC: <https://host2.adimpact.com/admo/viewer/2bab0f60-aab1-4c28-930e-7eb900a608ba>. It states:

"He brutally raped her repeatedly. 'I spent endless nights plagued by nightmares. My bedroom door was barricaded. I was so afraid.' But Judge Protasiewicz ignored her. Protasiewicz let the rapist off easy. And now he's back on the streets. When you don't know where your attacker is, then he is everywhere. He has every sound in the night. Tell Judge Protasiewicz, stop failing victims and stop protecting criminals."

This ad is false. Judge Protasiewicz did not ignore or fail the victim. In fact, the victim requested that the court remove its no-contact order for the purpose of restorative justice, with which Judge Protasiewicz complied. Moreover, Judge Protasiewicz did not let the defendant off easy. The victim stated in her impact statement that she would support any sentence that the court decided to hand down. While Judge Protasiewicz indicated that she made her own sentencing decision, she also stated that she took into account the victim being quite understanding and caring

about the defendant and his family. The court sentenced the defendant to a maximum term of imprisonment of 60 months, with credit for 52 days time served. Defendant was sentenced to an initial term of confinement of 30 months, with a maximum term of supervision of 30 months with conditions.

Today's *Journal/Sentinel* confirmed the falsity of the ad in the article, "Rape victim says Supreme Court ads about her case are traumatizing and inaccurate," which confirms the falsity of the above ad and the devastating impact it has had and continues to have on the victim. The article states in relevant part, using "Emily" as a pseudonym for the victim:

The victim at the center of a rape case featured in state Supreme Court attack ads says she is being retraumatized and revictimized by the media blitz.

"It immediately took my breath away," the woman told the *Journal Sentinel*. "To see it in action. I wondered if there was any thought put into the human beings behind the cases. I am a human being who wants peace."

The woman, who asked to be identified by her first name Emily, said she did not want to participate in the ads and did not want her case to be featured. (The *Journal Sentinel* does not name sexual assault victims without their consent). The ads are aimed at criticizing the judicial record of Janet Protasiewicz, the Milwaukee County circuit judge who handled the case and is running in the April 4 election for Wisconsin Supreme Court.

But Emily said she had no problem with the sentence handed down by Protasiewicz — 2 1/2 years in prison followed by 2 1/2 years of community supervision — and said that in addition to being traumatizing, the ads contain inaccuracies.

The article later states:

Emily said she received a call at work on March 8 that instantly transported her back to the aftermath of her assault.

The female caller said her name was Courtney and asked questions about Emily's interactions with Protasiewicz.

"She said there was a team that was putting a lot of research into my case," Emily said. After some back and forth, Emily learned the team was putting together a commercial about her 2019 rape case.

Emily was told she could participate if she wanted — to have some control of the narrative in the ad — but it was going to run whether she approved or not.

Between March 8 and March 20, Emily received 10 more calls. She answered on March 20 and told the caller she was not interested in talking about her case or participating in the making of the ad.

Then she received a text message of the first commercial.

"I have readjusted my life," Emily said. "I have taken all ad streaming services from my TV at home. My employer has had to accommodate what we have, so I don't have to see anything. I just can't wait for this election to be over."

The article further states:

Emily did not ask for Guzinski to go to prison.

"If it were up to me, the only resolution I would seek is that of restorative justice," she said.

Restorative justice is a model of bringing crime victims and perpetrators together for conversation and healing.

Emily closed by wishing Guzinski well.

The following is another ad, which we believe was created by Fair Courts America: <https://host2.adimpact.com/admo/viewer/548636f3-bca6-49a2-99fb-16d8a7dd64e8>. It states:

"A man brutally attacked and sexually assaulted a woman. The victim spent endless nights, unable to sleep plagued by nightmares. Judge Janet Protasiewicz called the offender, many females worst nightmare, but she cut his sentence to only 2.5 years in prison. Judge Janet's dangerous judgment puts our families at risk. That's why sheriffs throughout Wisconsin support Dan Kelly. He's the only candidate we can trust to keep violent felons off our street on April 4th vote. Justice Dan Kelly Fair Courts, America is responsible for the content of this."

This ad is also false. Judge Protasiewicz did not "cut" the defendant's sentence, to 2.5 years or any other time. He was given a maximum term of imprisonment, of 60 months (with credit for time served). The initial term of confinement was 30 months, with a maximum term of extended supervision of 30 months with conditions. The defendant's sentence was for 60 months, half of which was in prison and half under extended supervision.

Both of these ads are defamatory as a matter of law. Their false statements, communicated to the public at large, are not privileged and concretely harm Judge Protasiewicz's reputation, so as to lower her in the estimation of the community and to deter the public from associating and dealing with her—voting for her. The falsities were made and communicated with both actual malice, knowing the above statements to be false and/or recklessly disregarding their falsity, and express malice. They warrant compensatory and punitive damages.

In addition, the first ad above could lead to invasion of privacy liability as against the victim under Wis. Stat. § 995.50.

Your publishing of defamatory content is particularly inappropriate given that, unlike candidates, independent political organizations like WMC and Fair Courts America do not have a right to command the use of broadcast facilities. Because you need not air this ad, you bear particular responsibility for its content when you choose to do so. As you well know, you have a duty to protect the public from false, misleading or deceptive advertising. Failing to prevent the airing of false and misleading advertising may be probative of an underlying abdication of licensee responsibility that could jeopardize your station's license.

Demand is made upon you to immediately stop running the above ads and to retract the false statements in them at the first appropriate opportunity. Otherwise, we stand ready to obtain all available judicial remedies.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew W. O'Neill", written in a cursive style.

MATTHEW W. O'NEILL

MWO:ljc