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13 PI-LIEN KUO, AND ASSIGNEE GEORGE KU

14 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA**  
15 **UNLIMITED JURISDICTION**

16 **WEICHIAO KU and PI-LIEN KUO,** )

17 **Plaintiffs,** )

18 **v.** )

19 **HARALD HERCHEN, et al.** )

20 **Defendants.** )

**Case No. 21CV376210**

**DECLARATION OF ANDREW G.  
WATTERS IN OPPOSITION TO  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

**Dept.: 20  
Judge: Hon. Socrates Manoukian**

**Hearing Date: December 8, 2022  
Hearing Time: 9 a.m.**

1 I, Andrew G. Watters, declare:

2 1. I am over the age of eighteen years and I have personal knowledge of the matters stated herein.

3 If called as a witness, I would competently attest thereto.  
4

5 **Summary of Qualifications and Experience**

6 2. I am a lawyer licensed in California (#237990) with my own litigation law firm of three  
7 attorneys, one paralegal, and one legal assistant. We are based in Redwood City and we focus  
8 on general civil litigation as well as complex, aggressively litigated family law matters. I have  
9 attached my c.v. as Exhibit A, which accurately reflects my experience and qualifications.  
10

11 3. I also offer private investigation under Business and Professions Code sec. 7522(e) and  
12 7582.2(e), which statutes exempt attorneys from the private investigator licensing law to the  
13 extent investigations are conducted in relation to a contemplated or pending lawsuit. The  
14 general intention of my investigative services is to offer clients the starting option of pre-lawsuit  
15 investigation (or investigation once a lawsuit is pending) before filing a case.  
16

17 4. My investigative services specialize in cyber-related matters due to my technical experience  
18 with e-mail communications and web applications and associated programming over the last 22  
19 years. I have administered my own web servers since 2004 and email servers since 2017. I also  
20 work on web applications and an innovative behavioral science computer vision system based  
21 on the use of stereoscopic high resolution industrial cameras to observe patterns of movement on  
22 a person's face and body to detect when the subject is being deceitful. I have a broad base of  
23 experience in a variety of legal matters, and I tend to skew toward the technical aspects of my  
24 cases due to my interests. My email experience is particularly relevant to this case.  
25

26 //

27 //  
28

1 **Email-Specific Expertise**

- 2 5. While running my own email servers, I have become significantly experienced in email log files  
3 and email headers, which are used for email communications forensics analysis. Based on email  
4 logs and headers, it is possible to develop and infer substantial information about emails as well  
5 as the senders and recipients. Most importantly, the unique IP address of the network that a  
6 sender used to send a particular email is logged and can be discovered (through basic reporting  
7 from the email service, in this case Google), without any inference. Other email information and  
8 data include (1) timestamp of submission from the sender’s computer, (2) timestamp of  
9 transmission from the sender’s email server to the receiver’s email server, (3) size of data  
10 transmission, (4) anti-spam and other diagnostic information, (5) time zone setting of the sender  
11 and recipient, (6) the software used to send the email, (7) whether there are intermediate email  
12 servers or steps in the transmission, (8) whether emails are encrypted and/or signed by the  
13 sender, (9) timestamp of acceptance by the receiving server.
- 14 6. One of the main focal points of this case is an email that the Defendant claims was sent by the  
15 Decedent. The Defendant claims that the Decedent had sent the email after the Decedent’s  
16 arrival at her intended destination. In effect, this email serves as a “proof of life”<sup>1</sup>, which the  
17 Defendant claims was sent by the Decedent, and which the Defendant is using to claim that the  
18 Decedent arrived safely at her parents’ house after the Defendant dropped the Decedent off at a  
19 train station. The intention of this declaration is to do a deep dive into the investigation and  
20 leave to expert witness Dr. Tal Lavian the technical data and telemetry of the “proof of life”  
21 email message, while I discuss the document production from Google in the context of that  
22  
23  
24  
25  
26

27  
28 <sup>1</sup> I started referring to the email as the “proof of life” email early on in the case, and that is simply how we have been referring to it since then.

1 message as well as the Decedent's login/logout history, and the deposition of the Defendant as it  
2 relates to the digital evidence. In summary, the electronic evidence produced by unbiased 3<sup>rd</sup>  
3 party sources, primarily by Google and its email service Gmail, and the Defendant's own  
4 testimony shows the following facts:  
5

- 6 a. The proof of life email was sent from the Decedent's account on Gmail, using the web  
7 interface of Gmail on a device from which the Decedent was still logged into Gmail.
  - 8 b. As reported by Google, the IP address of the email is that of the hotel Wifi in Hualien,  
9 which is where the Decedent's email account was logged in, as discussed below.
  - 10 c. The Defendant testified he was staying at the hotel at the time when the email was sent.
  - 11 d. Further, the Defendant testified that he was alone at the hotel at the time when the email  
12 was sent.
  - 13 e. The Defendant claims that he dropped off the Decedent at the local train station before  
14 returning to the hotel.
  - 15 f. The timestamp of the proof of life email is consistent with some of the other emails that  
16 the Decedent sent from Taiwan, in that the device that sent the email was on the Pacific  
17 time zone (UTC-8) instead of the Taiwan time zone (UTC+8), as confirmed by the email  
18 headers and the Google-produced mailbox file for the Decedent's email account.
  - 19 g. There was no subsequent Gmail logout from the device that sent the proof of life email.
- 20  
21  
22  
23 7. Based on email communication telemetry and the Defendant's own testimony provided while  
24 under oath, one can only conclude that the proof of life email was sent by the Defendant because  
25 (1) the proof of life email was sent at a time and place when the Defendant testified to have  
26 stayed alone, (2) the proof of life email has an unique IP address that corresponds to the  
27 Defendant's location at the time when the email was sent, (3) the IP address of the email is  
28

1 unique and cannot be replicated or otherwise altered, (4) the parents' IP address is not the IP  
2 address of the email, (5) the Decedent had not, in fact, arrived at her parents' house, (6) the  
3 parents' house is several hours away from the hotel by train or car on the other side of Taiwan.  
4 This in addition to the fact that the parents had no idea the Decedent was in Taiwan and were not  
5 expecting her. Accordingly, the Defendant, who was staying alone at the hotel from which the  
6 email originated (as triple-confirmed by the login/logout history, email IP address, and Taiwan  
7 law enforcement) is the only person who could have sent the proof of life email.  
8

### 9 **The Investigative Background**

- 10
- 11 8. In December 2019, I was hired by the family of Alice Ku to investigate her disappearance in  
12 Taiwan.
- 13 9. In the course of that investigation, I prepared a significant amount of investigative materials and  
14 related matter through a combination of technical analysis, document production, witness  
15 interviews, as well as a brief street interview with Defendant himself early in the case. The  
16 following summarizes the information gained in the investigation:  
17

### 18 **Introduction**

- 19 10. Ms. Ku (the "Decedent", "Alice Ku", or "Alice") was a tutor in the Bay Area who  
20 worked with students and parents in the Cupertino-Mountain View-Sunnyvale area. On  
21 November 29, 2019 at approximately 8 a.m. local time, she went missing from Hualien, Taiwan,  
22 ROC. Over the following several days, concerned students and their parents started to notify the  
23 tutoring agency and Ms. Ku's family that Alice had missed several tutoring appointments  
24 without notice, which is unusual. Meanwhile, Ms. Ku's family stopped receiving any  
25 communication from her, which is also unusual. From November 26, 2019 to the date of this  
26 declaration, there has been no contact between Ms. Ku and her family (two years and eleven  
27  
28

1 months), despite numerous attempts to communicate via phone, email, and SMS text. On  
2 December 10, 2019, George Ku, Ms. Ku's brother, filed a missing person report with the  
3 Sunnyvale Department of Public Safety due to Ms. Ku's last-known address being in Sunnyvale.  
4 The case was transferred to the Mountain View Police Department.  
5

6 11. Ms. Ku was married to Defendant, Dr. Harald Herchen (or "Defendant"), a 62 year-old  
7 man with whom she shared an apartment in Mountain View from December 2017 to September  
8 2020, when the Defendant vacated the apartment and put all of Ms. Ku's belongings in storage.  
9 The Defendant was not previously known to Ms. Ku's family, as Ms. Ku had never mentioned  
10 him in conversation with her family and had concealed the marriage in October 2017 from her  
11 family.  
12

13 12. Ms. Ku's family has made substantial efforts in the U.S. and in Taiwan to locate Alice.  
14 In addition to retaining two attorneys, myself and Todd Davis, a missing person flyer was posted  
15 on multiple social media websites on December 11, 2019 and was shared or re-posted over  
16 1,000 times. To date, there have been no leads in response to the missing person flyer, though  
17 several of Ms. Ku's clients (parents of her students) have called to express concern and offer  
18 assistance. Ms. Ku's family has offered \$1,000,000 Taiwan Dollars as reward for any news on  
19 Alice. Additionally, Alice's disappearance was reported in major news channels in Taiwan. Ms.  
20 Ku's family contacted the American Institute in Taiwan, the *de facto* U.S. embassy, and the  
21 offices of U.S. Representative Jackie Speier, to determine options for U.S. citizens missing  
22 abroad.  
23  
24

25 13. Meanwhile, the Defendant recently testified under oath that he has taken no steps to  
26 locate his wife, contrary to an email the Defendant sent to George Ku on January 9, 2020  
27  
28

1 (shortly after Ms. Ku was known to be missing), in which the Defendant falsely represented that  
2 he “spent considerable sums in getting Alice to come back” in searching for the Decedent.

3 14. At his deposition, Defendant claimed that Ms. Ku left his side to visit her parents in  
4 Taiwan, and that she sent him an email message stating she arrived safely at her parents’ place.  
5 However, digital evidence produced by Google revealed that the email was actually sent from  
6 Defendant’s hotel on the evening when he states he was alone at the hotel – and not from where  
7 Ms. Ku purportedly arrived. In any case, as will be discussed herein as well as Dr. Tal Lavian’s  
8 declaration, Defendant is the only person who could have sent the “proof of life” email.  
9  
10

11 **Document Production**

12 15. A number of third parties were subpoenaed for documents.

13 16. Apple’s production showed that there were no successful iCloud logins from any of Ms.  
14 Ku’s devices after her disappearance. Chase produced bank records showing there was no  
15 activity in Ms. Ku’s bank accounts after her disappearance. Copy Factory produced information  
16 showing that Defendant paid for an order with Ms. Ku’s credit card after Ms. Ku’s  
17 disappearance.  
18

19 17. Google produced Ms. Ku’s login/logout history for Gmail, which shows the last logins were on  
20 November 28, 2019 and the last logout was on November 29, 2019 after which Ms. Ku never  
21 logged in again (there was one login still active at that point). The logins and logouts during the  
22 trip were as follows:  
23

24 //

25 //

26 //

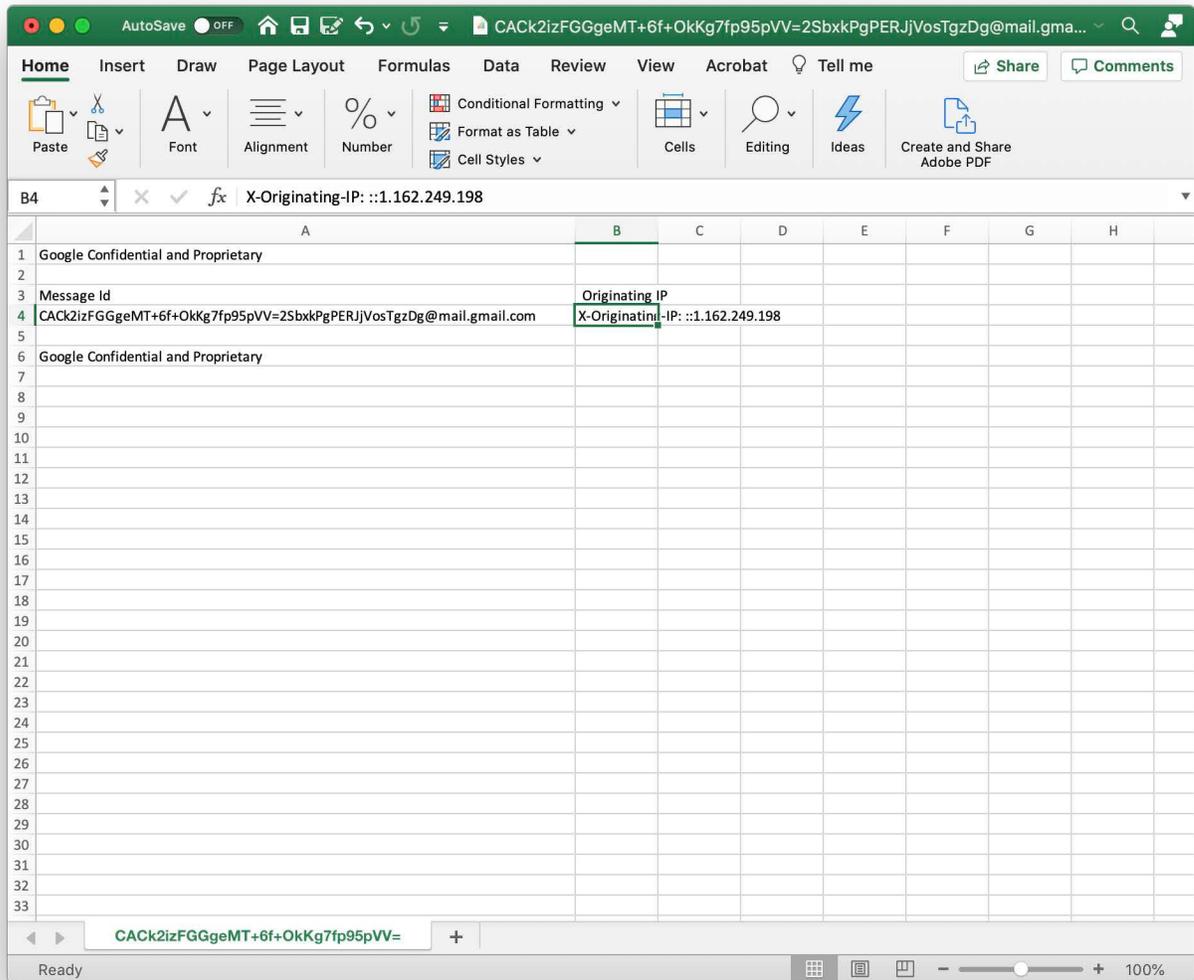
27 //  
28

Time	IP Address	Type
2019/11/29-02:51:38-UTC	1.162.249.198	Logout
2019/11/28-23:10:00-UTC	1.162.249.198	Login
2019/11/28-22:53:59-UTC	1.162.249.198	Login
2019/11/28-00:48:45-UTC	218.164.49.174	Logout
2019/11/28-00:07:17-UTC	218.164.49.174	Login
2019/11/26-00:37:47-UTC	220.134.173.80	Logout
2019/11/26-00:26:32-UTC	220.134.173.80	Login
2019/11/25-21:49:51-UTC	59.127.149.47	Login
[five consecutive logins from 114.35.248.209]		
2019/11/25-21:40:19-UTC	114.35.248.209	Login
2019/11/25-11:41:43-UTC	220.134.173.80	Logout
2019/11/25-05:06:25-UTC	60.250.199.217	Login
2019/11/25-05:02:31-UTC	60.250.199.217	Logout
2019/11/25-03:53:15-UTC	125.227.14.51	Login
2019/11/24-23:32:53-UTC	125.227.14.51	Logout
2019/11/24-22:13:47-UTC	125.227.14.51	Login
2019/11/24-20:53:52-UTC	125.227.14.51	Login
2019/11/24-14:41:54-UTC	125.227.14.51	Logout
2019/11/24-00:18:49-UTC	38.98.37.135	Login
[snip]		

18. The IP address **1.162.249.198** is the hotel WiFi of the hotel in Hualien where the parties stayed on the 28th and Defendant stayed on the night of the 29th: 麗霽大飯店有限公司 which apparently translates to the Radisson (the hotel may be a subsidiary or affiliate). This IP address traces to the network of HiNet, which is a Taiwanese internet service provider.

19. In response to a subpoena, Google produced the originating IP address of the proof of life email, as shown in this screenshot:

//  
//  
//  
//



20. The public IP address of the device that sent the proof of life message was **1.162.249.198**. This means the device that sent the message was on that Wifi network at the time the message was sent. As indicated, this is the IP address of the hotel Wifi in Hualien, which also matches Ms. Ku's Google login/logout history for the two days preceding her disappearance. In other words, the message could not have come from the other side of Taiwan where Ms. Ku supposedly was, and it could not have come from anyone except Defendant, who was staying at the hotel that night and apparently was still logged into Ms. Ku's Gmail account on his computer. There is no

1 corresponding logout for one of the final Google logins. Dr. Lavian's declaration goes into  
2 greater detail of the technical aspects of the proof of life email.

3 21. Google also produced email headers showing metadata and subject lines for messages in  
4 Ms. Ku's Gmail account. Those messages show that the proof of life email was sent from a  
5 device that was not on the Taiwan time zone.  
6

7 22. There are other emails in the Google production that were sent from devices that were on  
8 the Taiwan time zone. From this, we conclude that Ms. Ku's phone sent those emails, but that  
9 the proof of life email was sent from Defendant's laptop computer-- if his testimony claiming  
10 that Ms. Ku did not bring her laptop to Taiwan is to be believed.  
11

12 23. Defendant produced a number of documents at his deposition, including the complete  
13 proof of life email with all headers and contents. He also produced photos from the Taiwan trip.  
14 The last photo of Ms. Ku was a self-portrait at 11:17 a.m. local time, in which she was applying  
15 makeup in a hotel room. I attach a copy with metadata as Exhibit B.  
16

17 24. United Airlines produced flight information showing that Defendant changed Ms. Ku's  
18 return flight from Taiwan at the ticket counter at the Taipei airport on the morning of December  
19 1, 2019 just before he left Taiwan.

20 25. Verizon produced call metadata showing Ms. Ku's call history from the Samsung Galaxy  
21 around the time of her disappearance. She made her last two phone calls the evening of  
22 November 28, 2019 from a Wifi network. The calls were to tutoring clients, whom we spoke  
23 with and who noticed nothing unusual. After the disappearance on November 29, 2019, there  
24 was a single voicemail from Defendant on December 7, 2019 but no other calls from him. There  
25 were no outgoing calls from Ms. Ku's phone after her disappearance.  
26  
27  
28

1 26. Wells Fargo produced bank records showing no activity in Ms. Ku's bank accounts after  
2 her disappearance.

3 27. Wright Apartments in Mountain View produced lease information showing Defendant's  
4 personal references and financial information around the time the apartment was acquired in  
5 December 2017. In September 2020, Defendant vacated the apartment and placed all of Ms.  
6 Ku's belongings in storage.  
7

8 **Melissa Yu**

9 28. Defendant's previous wife, Melissa Yu, died on June 3, 2017. The autopsy report shows  
10 that Ms. Yu had several unexplained injuries on her body, however, an informal review of the  
11 report by a local expert physician indicated that the death appears to have been of natural causes,  
12 specifically sleep apnea.  
13

14 29. Defendant testified at his second deposition that there was some overlap between his  
15 marriage with Melissa Yu and his relationship with Ms. Ku. By November 2017 Defendant had  
16 married Ms. Ku and a month later moved into the Mountain View apartment with her in  
17 December 2017.  
18

19 **Neighborhood Investigations**

20 30. On September 23, 2020, my assistant investigators and I attempted to interview Dr.  
21 Manoj Pillai and Dr. Tad Armstrong at Bloom Energy. These individuals were listed as  
22 longtime personal references of Defendant in his rental application for the Wright Avenue  
23 apartment in Mountain View, and they are also co-inventors on several patents with Defendant.  
24 Dr. Pillai never responded to the interview request. Dr. Armstrong ultimately spoke with us on  
25 October 16, 2020, and he related that Defendant claimed to have broken his arm in Mexico  
26 while rough-housing with his brothers. He also told us that Ms. Yu died in her sleep, which led  
27  
28

1 to us obtaining the death certificate and autopsy report. Dr. Armstrong had no idea that  
2 Defendant was married to Ms. Ku because Defendant does not talk about his personal life.

3 31. On October 20, 2020, my assistants and I conducted neighborhood investigations in Palo  
4 Alto and Los Altos.

5  
6 32. In Palo Alto, neighbors were aware of the missing person investigation but had no  
7 information for us.

8 33. In Los Altos, a neighbor stated that Defendant already has a new girlfriend who is a  
9 petite Vietnamese woman<sup>2</sup>, and he had been with her for at least several months. The other  
10 neighbors either had no information or were unaware of Ms. Ku's disappearance. Defendant's  
11 tenants at the Lundy Lane property did not have any relevant information.  
12

### 13 **The Storage Unit**

14 34. In September 2020, Defendant placed all of Ms. Ku's personal belongings in a storage  
15 unit that he rented in Sunnyvale. When I opened the storage unit with family member Monica  
16 Ku on October 3, 2020, there were several envelopes waiting for us containing electronic media  
17 and personal documents. I went through the electronic media in the envelopes. The media,  
18 consisting of a memory card and two DVD's, were private sexual pictures of Ms. Ku in the 2013  
19 time frame, possibly with the Defendant; a professionally produced adult video from the 2002  
20 time frame; and a pirated copy of Microsoft Office from approximately 2003. The other  
21 envelopes contained a car registration and similar papers for Ms. Ku's vehicle, which the family  
22 took possession of.  
23  
24  
25  
26  
27

28 <sup>2</sup> Later determined to be Ms. Kim Ngo, whose deposition was taken in this matter.

1 35. On November 29, 2020, Monica Ku retrieved clothing and personal effects at the request  
2 of the Taiwanese CIB, to be used by cadaver dogs in Taiwan. Monica also retrieved Ms. Ku's  
3 Apple laptop.  
4

5 **Harald Herchen**

6 36. The investigation started with no awareness of Defendant or his contact information.  
7 Defendant was found through a visit to the Wright Avenue Apartments in Mountain View,  
8 which were located through a search of utility company service records under Ms. Ku's name.  
9 Neighbors provided Defendant's name and also discussed his and Ms. Ku's relationship.  
10 Defendant reportedly lived at the apartment part-time.  
11

12 37. Ms. Ku and Defendant married in late 2017, shortly after Defendant's previous wife's  
13 death. Ms. Ku started a LLC in California in December 2017 using the name "Alice Herchen,"  
14 which was about two months after she married Defendant.  
15

16 38. **I briefly interviewed Defendant on December 18, 2019 when I had a chance**  
17 **encounter with him outside the Mountain View apartment as I was serving a subpoena on**  
18 **the rental office.** Defendant was loading a few small items into his van. He stated he was  
19 Defendant. I identified myself as an attorney investigating his wife's disappearance and  
20 provided my business card. He agreed to answer a few questions.  
21

22 39. One note is that Defendant stated that he and Ms. Ku stayed at the Sol Hotel, but he left  
23 out the fact that they only stayed there one night (and he did not say where else they stayed).  
24 Defendant also left out the fact, since confirmed by the local police in Taiwan, that he returned  
25 to Taiwan on December 7, 2019 for one night. The local police confirmed that Defendant  
26 entered Taiwan on December 7, 2019 with a broken arm. I did not notice a sling or cast on  
27 Defendant's arm on December 18, contrary to neighbor reports that he broke his arm (see  
28

1 below). However, it is possible that the long-sleeved jacket he was wearing covered up any cast  
2 he may have had. In any event, he was not in a sling and appeared to have the use of both of his  
3 arms. **Defendant stated that there was activity on Ms. Ku’s credit cards after her**  
4 **disappearance. However, subsequent document production revealed that only a charge**  
5 **from Copy Factory for some promotional materials was made—and Defendant made that**  
6 **payment using Ms. Ku’s credit card.**  
7

8 40. On December 19, 2019, Defendant emailed Mr. Ku and referred all further inquiries to  
9 his criminal defense attorney, Jim Reilly, Esq. Defendant indicated that Mr. Reilly is his  
10 “longtime family attorney.” Mr. Reilly did not respond to my initial inquiry attempting to  
11 establish contact with him. Mr. Reilly played a cat-and-mouse game for the first three to four  
12 weeks, and only spoke with my co-counsel Todd Davis, Esq. on one occasion without revealing  
13 anything new.  
14

#### 15 **Apartment Manager**

16 41. On December 18, 2019, I served a subpoena on the Wright Avenue Apartments rental  
17 office seeking production of the lease and other materials for Defendant and Ms. Ku’s  
18 apartment. I also tried to interview the apartment manager, Bruce Trott. He stated essentially  
19 that he could not confirm or deny anything pending the response to the subpoena, due to privacy  
20 concerns. However, he invited me to interview Glenn Dodd in #70, who he indicated was a  
21 retiree who was enthusiastic about this matter and may also have security camera footage from  
22 his front door. Mr. Trott stated that he did not have security footage beyond two weeks,  
23 therefore it was unlikely that Ms. Ku and Defendant would have been captured on video around  
24 the time of Ms. Ku’s disappearance. Mr. Trott provided his phone number and his business  
25 card.  
26  
27  
28

1 42. I tried to interview Mr. Dodd, but there was no answer at the door when I tried  
2 (December 18, 2019). However, Mr. George Ku has spoken with Mr. Dodd and relates that  
3 discussion in his own declaration.  
4

5 43. Ms. Ku's car, a dark red Honda Civic (CA tag no. 6HGU542), was still parked in its stall  
6 at the complex when I visited in December 2019, and it was caked with a thick layer of dust.  
7 The windshield had a thinner layer of dust, but still thick enough that the car had not been  
8 moved in at least a couple of months. Tutoring books were visible in the back seat, and the  
9 brakes appeared rusty from lack of use.  
10

11 **III. Document Production**

12 44. As previously indicated, Google produced a login/logout history as well as a data file showing  
13 the IP address from which the proof of life message originated.

14 45. The login/logout history shows the following:  
15

```
16 +-----+-----+-----+-----+
17 | Time | IP Address | Type |
18 +-----+-----+-----+-----+
19 | 2019/11/29-02:51:38-UTC | 1.162.249.198 | Logout |
20 | 2019/11/28-23:10:00-UTC | 1.162.249.198 | Login |
21 | 2019/11/28-22:53:59-UTC | 1.162.249.198 | Login |
22 | 2019/11/28-00:48:45-UTC | 218.164.49.174 | Logout |
23 | 2019/11/28-00:07:17-UTC | 218.164.49.174 | Login |
24 | 2019/11/26-00:37:47-UTC | 220.134.173.80 | Logout |
25 | 2019/11/26-00:26:32-UTC | 220.134.173.80 | Login |
26 | 2019/11/25-21:49:51-UTC | 59.127.149.47 | Login |
27 [five consecutive logins from 114.35.248.209]
28 | 2019/11/25-21:40:19-UTC | 114.35.248.209 | Login |
| 2019/11/25-11:41:43-UTC | 220.134.173.80 | Logout |
| 2019/11/25-05:06:25-UTC | 60.250.199.217 | Login |
| 2019/11/25-05:02:31-UTC | 60.250.199.217 | Logout |
| 2019/11/25-03:53:15-UTC | 125.227.14.51 | Login |
| 2019/11/24-23:32:53-UTC | 125.227.14.51 | Logout |
| 2019/11/24-22:13:47-UTC | 125.227.14.51 | Login |
| 2019/11/24-20:53:52-UTC | 125.227.14.51 | Login |
| 2019/11/24-14:41:54-UTC | 125.227.14.51 | Logout |
| 2019/11/24-00:18:49-UTC | 38.98.37.135 | Login |
[snip]
```

1 The top three lines are the most important. They show two logins and one logout on the hotel  
2 Wifi IP address. Thus, one login remained active at the hotel and one login did not. The last  
3 logout was at 10:51:38 a.m. local time, which is shortly before the Decedent's final self-portrait  
4 at 11:17 a.m. Defendant testified at deposition regarding the dates the couple were at the hotel.  
5 The dates line up exactly. There is no subsequent login from the parents' IP address (or any  
6 other IP address). So even without the Google-provided originating IP address, we have strong  
7 evidence that the proof of life email could only have come from the hotel Wifi. **But Google did**  
8 **produce the originating IP address of the proof of life message, which is that of the hotel**  
9 **Wifi and which matches the login/logout history.** Dr. Lavian explains further.

10  
11  
12 46. United Airlines produced flight information showing that Defendant changed Ms. Ku's return  
13 flight from Taiwan at the ticket counter at the Taipei airport on the morning of December 1,  
14 2019 just before he left Taiwan.

15  
16 47. Verizon produced call metadata showing Ms. Ku's call history from the Samsung Galaxy  
17 around the time of her disappearance. She made her last two phone calls the evening of  
18 November 28, 2019 from a Wifi network (the production does not indicate the actual IP address  
19 of the network, only that it was a Wifi call). The calls were to tutoring clients, whom we spoke  
20 with and who noticed nothing unusual. After the disappearance on November 29, 2019, there  
21 was a single voicemail from Defendant on December 7, 2019 but no other calls from him. There  
22 were no outgoing calls from Ms. Ku's phone after her disappearance.

23  
24 48. Wells Fargo produced bank records showing no activity in Ms. Ku's bank accounts after her  
25 disappearance.

26  
27 49. Wright Apartments in Mountain View produced lease information showing Defendant's  
28 personal references and financial information around the time the apartment was acquired in

1 December 2017. In September 2020, Defendant vacated the apartment and placed all of Ms.  
2 Ku's belongings in storage. The electronic media in the storage unit contained a number of  
3 intimate images of the Decedent and an unidentified male in the 2013 time frame, which is  
4 consistent with what we now know about Defendant's relationship with her.  
5

#### 6 **IV. Depositions of Defendant**

7 50. Defendant was deposed in the missing person conservatorship matter as well as this civil case.

8 In the first deposition, he confirmed that he was alone by himself on the night of the 29<sup>th</sup> of  
9 November 2019 at the same hotel where he and Ms. Ku had stayed the previous night. The  
10 depositions were relevant to other aspects of the case, but since I do not believe most of  
11 Defendant's testimony, the depositions were mainly valuable for impeachment and  
12 inconsistencies rather than proof of what actually happened. **In the second deposition,**  
13 **Defendant admitted having perjured himself** at the first deposition in several areas, (1)  
14 purportedly to "protect" Ms. Ku's family from the truth that his wife was (according to him) an  
15 escort who he met on Backpage or Craigslist years earlier during his marriage to Melissa Yu,  
16 and (2) to come up with a fake explanation for not attending his sister's wedding in Mexico  
17 because he was afraid of cartel violence—even though he really did break his wrist, according to  
18 video evidence and neighbor interviews that confirmed Defendant was at one point in a cast  
19 when he re-entered Taiwan on December 7, 2019. **The perjury and revelation significantly**  
20 **alters Defendant's relationship with Ms. Ku** from one that formed organically to one formed  
21 based on convenience. As well, the ease which Defendant lied while under oath further  
22 reinforced the notion that all of Defendant's testimony is dubious at best, and is best used for  
23 impeachment and inconsistency.  
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1 51. In any event, the deposition testimony as provided by the Defendant himself confirmed our  
2 understanding of the facts, which is that Defendant was alone at the hotel on the night of the 29<sup>th</sup>  
3 when the proof of life email was sent, the proof of life email originated from the hotel where the  
4 Defendant was staying, and Defendant was the only person who could have sent the proof of life  
5 email. Defendant's explanation at deposition for his wife's disappearance was that she ran off  
6 with a young Taiwanese man who was driving them around on a tour because she took a liking  
7 to him. It made no sense to us why Ms. Ku, who was reportedly highly concerned about money,  
8 would leave her wealthy, successful, engineer husband in the Bay Area for a random low-level  
9 driver in Taiwan.  
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#### 12 **V. Conclusion**

13 52. From the totality of the evidence developed in the investigation, especially **the proof of life**  
14 **email and the supporting Google-provided evidence**, I have concluded that Defendant either  
15 killed the Decedent, or was directly involved in her untimely death in some sinister but as-yet-  
16 uncertain manner. There is no other reason for the proof of life email. The Decedent's time of  
17 death is narrowed to between the final self-portrait at 11:17 a.m. on the 29<sup>th</sup> and the initial email  
18 from Defendant at 9:11 p.m. on the 29<sup>th</sup> that he sent and then replied to himself. We are seeking  
19 to proceed with this wrongful death case now that we have overcome the presumption of life  
20 prior to the time that would have to pass for the presumption of death. I am calling for some  
21 measure of justice for the Decedent's family in recognition of the fact that the criminal case may  
22 take substantially longer, and we need our day in court to achieve that measure of justice.  
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: November 22, 2022

*Andrew G. Watters*

\_\_\_\_\_  
Andrew G. Watters

# Exhibit A

**ANDREW G. WATTERS**

555 Twin Dolphin Dr., Ste. 135, Redwood City, CA 94065

+1 (415) 261-8527 · [andrew@andrewwatters.com](mailto:andrew@andrewwatters.com)

<https://www.andrewwatters.com>

**EDUCATION**

University of California, Hastings College of the Law, San Francisco, J.D., 2005.

University of California, Los Angeles, B.A., 2002.

**EXPERIENCE**

**Andrew G. Watters, Esq., Redwood City, CA**

*Litigation Attorney* (July 2012 to present) (F/T)

Manage a small law firm (three attorneys, one paralegal, one legal assistant) of general civil litigation and complex family law matters. Also assist other attorneys on a contract basis in their own cases. Handle multiple trials, numerous depositions, and all manner of litigation proceedings independently, and also on an Of Counsel basis for three law firms. Attorneys served: Coddington, Hicks & Danforth, P.C., Redwood City, CA (A/V) (June 2016 to January 2017; May 2022 to present)—work on insurance defense cases; SAC Attorneys, LLP, San Jose, CA (July 2013 to May 2016)—handle all of the firm’s civil litigation, including multiple trials, and supervise two associate attorneys and support staff; Law Offices of Parviz Darabi, Burlingame, CA (March 2013 to January 2017)—work on plaintiffs’ consumer fraud and employment cases.

**WealthPLAN LLP, San Jose, CA (A/V)**

*Litigation Attorney* (January 2011 to July 2012) (F/T)

Handled general civil and estate and trust litigation matters, including creditors’ claim lawsuits, that arose from firm’s specialized estate planning and trust administration practice. Took depositions of adverse parties and witnesses. Presented probate and trust-related petitions. Investigated and developed matters for trial, including extensive review of financial and other records, coordination with expert witnesses such as accountants and appraisers, client interviews, and written discovery. In March 2011, second-chaired \$7 million two-day court trial, including trial direct and cross examination of opposing party. Supervised by Francis B. Doyle, Esq. (A/V).

**Robinson & Wood, Inc., San Jose, CA (A/V)**

*Litigation Attorney* (April 2010 to December 2010) (F/T)

Assisted in the handling of insurance defense matters (70%), plaintiffs’ personal injury/wrongful death matters (15%), and commercial litigation (15%). Took depositions of fact witnesses, including parties. Investigated and developed matters for trial. Conducted all necessary law and motion work and discovery, including Motions for Summary Adjudication. Supervised by Joseph C. Balestrieri, Esq. (A/V). Note: my time there was brief due to the firm’s downsizing/layoffs.

**O’Brien Watters & Davis LLP, Santa Rosa, CA (A/V)**

*Litigation Attorney* (February 2006 to May 2009) (F/T)

Handled general civil litigation (50%) and high-asset family law matters (50%). Worked up and tried (second chair) plaintiffs’ fraud/financial elder abuse matter from client intake in Fall 2006 to

fifteen day jury trial in April 2009. Presented three days of trial direct and re-direct examinations of two expert witnesses. For the petitioner/plaintiff, worked up an aggressively litigated \$56 million Dissolution of Marriage involving extensive financial irregularities, partnership valuation issues, a forty-three year marriage with a sixteen year separation, reverse-*Pereira* claims, stipulated distributions of multiple millions of dollars of property, and numerous motions, from client intake in February 2006 to departure from firm in May 2009. In October and November 2008, presented (first chair) five-day *Feldman* motion, conducted substantially as a trial, seeking \$933,000 in attorney fees and sanctions under Family Code sec. 271 and sec. 2107. In June 2006, tried (second chair) ten day jury trial for defendant general contractor in construction defect matter. In 2008, tried (first chair) and prevailed in court trial in dispute between firm and former client over professional fees. Assisted in dividing \$25 million in assets and resolving other issues at five day mediation. Prepared ninety-page “property narrative” from public records and aerial photography, proving community characterization by tracing property transactions and construction activities over a sixty year period (1948-2008). Took and defended thirty-two depositions; eight party or party-affiliated depositions defended. Prepared, filed, and argued all types of motions and orders to show cause. Handled all written discovery and filed or opposed all discovery motions. Interviewed, hired, and interfaced with expert witnesses. Supervised legal secretary and law clerk. Argued before First District Court of Appeal in free speech matter. Analyzed outpatient imaging center and ambulatory surgery center program model for 45-physician medical group under Federal “Stark II” regulation in 2007. Supervised by Michael G. Watters, Esq. (A/V) (2/23/2006-12/31/2008); by Joseph A. Piasta, Esq. (A/V) (1/1/2009-5/29/2009). Published case: *Bonfigli v. Strachan* (2011) 192 Cal. App. 4th 1302 (trial counsel).

### TRIAL RECORD

Case and Venue	Result	Notes
27. Zada v. El Shami, San Mateo Co., 3-day divorce trial, 2022		Decision expected December 2022.
26. Javanmard v. Asgari, Santa Clara Co., half-day domestic violence trial, 2022	☺	DVRO denied after trial.
25. Galan v. Pada, Santa Clara County, half-day domestic violence trial, 2022	☹	Unsuccessful defense of DVRO.
24. In re Marriage of Forrester, San Mateo County, 5-day divorce trial, 2021	☺	Client substantially prevailed.
23. Acosta v. Acosta, San Mateo County, 3-day domestic violence trial, 2021	☹	Unsuccessful defense of DVRO.
22. In re Marriage of Shirname, Contra Costa County, 2-day divorce trial, 2021	☹	Opposing party substantially prevailed.
21. Reyes v. Lopez, San Mateo County, 3-day domestic violence trial, 2020	☺	DVRO denied after trial.
20. Petty-Eifert v. Aviano Enterprises, Inc., San Francisco County, 3-day JAMS arbitration, 2020	☹	Real estate arbitration.
19. Wang v. Alipay, Santa Clara County, 5-day JAMS arbitration, 2019	☹	Employment arbitration over sham performance reviews.
18. In re Marriage of Sarkar, San Mateo County, 2-day trial on date of separation, 2019	☺	Date of separation was as stated by my client.
17. Kingsdale v. Chan, U.S. Bankruptcy Court, 1-day court trial, 2019	☺	80% discharged and the judgment was less than we were willing to settle for; counting as a win.

Case and Venue	Result	Notes
16. In re Marriage of Diloy, San Mateo County, 2-day enforcement trial, 2019	☹	Enforcement of judgment/MSA
15. Esposito v. Esposito, Santa Clara County, 3-day domestic violence trial, 2017	☹	Unsuccessful defense of DVRO.
14. Frazer v. Chan, Contra Costa County, 5-day court trial, 2017	☹	Real estate fraud case.
13. Hoda Globe v. Cai, Santa Clara County, 5-day court trial, 2016	☹	Settled before final decision.
12. Jiang v. IvyMax, Inc., San Mateo County, 5-day jury trial, 2016	☺	Defense verdict in fraud case.
11. Fong v. Intero Realty, Santa Clara County, 3-day JAMS arbitration, 2016	☹	Real estate arbitration.
10. IvyMax v. Chan, Alameda County, 1-day court trial, 2015	☹	Former employee competed with client's business.
9. Andaya v. Cassara, Alameda County, 3-day jury trial, 2015	☺	Small jury verdict in personal injury case.
8. Buckley v. Control Line Electric, Inc., Santa Clara County, 5-day court trial, 2015	☺	\$410,000 judgment for Plaintiff, including \$200,000 in punitive damages.
7. Wang v. Wang, Santa Clara County, 3-day court trial, 2014	☺	Small judgment for Plaintiff in a fraud case.
6. Ponce v. Ponce, one-day domestic violence trial, 2014	☹	Unsuccessful defense of DVRO.
5. Pestana v. Pestana, three-day trust administration trial, 2011	☺	Removal of trustee and sanctions against him regarding \$7 million trust.
4. OWD v. Smith, Sonoma County, short-cause court trial, 2008	☺	Collections action.
3. OWD v. Toress, Sonoma County, short-cause court trial, 2008	☺	Workplace violence restraining order.
2. Bonfigli v. Strachan, Sonoma County, 10-day jury trial, 2007* Second chair.	☹	Won on re-trial following appellate reversal due to error in first trial.
1. Gonsalves v. Crabtree, Sonoma County, 5-day jury trial, 2006* Second chair.	☹	Client declined to pay for defective windows.
	12W, 14L	<a href="https://www.andrewwatters.com/law/docs/">https://www.andrewwatters.com/law/docs/</a>

### ACTIVITIES, AWARDS, AND LICENSES

Bar admissions: California (#237990, 11/22/2005); U.S. District Court for the Northern District of California (12/2005); U.S. Bankruptcy Court for the Northern District of California (5/2011). Member, Armed Forces Communications and Electronics Association (AFCEA), 2013-present. Young AFCEA Coordinator, Silicon Valley Chapter, 2016-2018. Guest Lecturer, Stanford University Program in Writing and Rhetoric, 2011-2012. Member, American College of Legal Medicine, 2006-2009. Richard M. Sangster Inn of Court: Member, 2006-2009. Theta Chi International Fraternity: President, Beta Alpha Chapter at UCLA, 2001. UCLA Mock Trial: Attorney, Witness 2001-2002. National Championship participant 2002.

### MISCELLANEOUS

Total trials: twenty-four (four jury trials and twenty court trials), plus three JAMS arbitrations. Total depositions taken: one hundred (median length 150 pages). Total depositions defended: twenty-seven. Proficient in standard Windows/Mac office applications, plus image editors, desktop publishing software, Linux/Unix, HTML/CSS, and PHP/SQL (hand-coded). Part-time inventor and computer vision developer: <https://www.raellic.com>

# Exhibit B

